

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 99-40891  
(Summary Calendar)

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANTONIO CASARES-MARTINEZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
(99-CR-143-1)  
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March 8, 2000

Before POLITZ, JOLLY, and WIENER, Circuit Judges.

PER CURIAM:\*

Defendant-Appellant Antonio Casares Martinez argues that the district court erred in enhancing his offense level for reckless endangerment pursuant to U.S.S.G. § 2L1.1(b)(5). Casares contends that driving his vehicle containing alien passengers in the wrong direction on a highway for a short time was not sufficiently egregious conduct to warrant the enhancement. We disagree.

Enhancement adjustment is appropriate if the offense involves the intentional or reckless creation of a substantial risk of death or serious bodily harm to another person. See § 2L1.1(b)(5).

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Driving on a highway in the direction of oncoming traffic to avoid apprehension by law enforcement authorities most assuredly is reckless conduct that creates a substantial risk of death or serious deadly harm to the occupants of the vehicle in question. See United States v. Reyna, 130 F.3d 104, 112 (5th Cir. 1997) (interpreting U.S.S.G. § 3C1.2). The district court's determination that the enhancement was warranted was not clearly erroneous.

AFFIRMED.