

April 17, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-41653
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE ANGEL GONZALEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:04-CR-2258-4

Before HIGGINBOTHAM, BENAVIDES, and PRADO, Circuit Judges.

PER CURIAM:*

Jose Angel Gonzalez appeals his 135-month sentence following his guilty plea to possession with intent to distribute in excess of five kilograms of cocaine. He avers that the district court erred by denying him a minor-role adjustment pursuant to U.S.S.G. § 3B1.2.

Following United States v. Booker, 543 U.S. 220 (2005), this court reviews the district court's application of the Sentencing Guidelines de novo and reviews factual findings for clear error. United States v. Villanueva, 408 F.3d 193, 203 & n.9 (5th Cir.),

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

cert. denied, 126 S. Ct. 268 (2005); United States v. Villegas, 404 F.3d 355, 359 (5th Cir. 2005). Although Gonzalez asserts that he merely held the cocaine for a short period of time and contacted the eventual courier, the record reveals that Gonzalez recruited the courier, directed the movements of the courier, and was responsible for paying the courier. Moreover, the large amount of cocaine involved mitigates against granting the adjustment. United States v. Rojas, 868 F.2d 1409, 1410 (5th Cir. 1989) (defendant entitled to neither minimal nor minor participant status based on significant quantity of cocaine defendant possessed). Based on these facts, we conclude that the district court did not clearly err in denying a minor-role adjustment.

AFFIRMED.