

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

January 4, 2010

No. 08-10990
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ALDO SAENZ,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:06-CR-192-28

Before KING, STEWART, and HAYNES, Circuit Judges.

PER CURIAM:*

Aldo Saenz appeals the 262-month sentence imposed following his guilty plea conviction for conspiracy to possess with intent to distribute and distribution of a controlled substance and money laundering. He argues that the district court erred by denying him a minor-role adjustment. He also contends that his sentence was unreasonable.

The district court did not clearly err in denying the minor-role adjustment. *See United States v. Villanueva*, 408 F.3d 193, 203 n. 9 (5th Cir. 2005). Saenz

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

distributed at least 590 kilograms of cocaine and used his automotive store as a distribution point for large amounts of cocaine and drug proceeds. Moreover, Saenz's sentence was based on conduct in which he was directly involved. A reduction is not required when the defendant's sentence is based upon his own conduct rather than a larger conspiracy. *United States v. Atanda*, 60 F.3d 196, 199 (5th Cir. 1995).

Saenz also argues that his sentence is unreasonable because his criminal behavior was not violent; he has no prior criminal history; and the likelihood of recidivism is low. Because the sentence imposed by the district court was within the advisory guidelines range of 262-327 months of imprisonment, it is entitled to a presumption of reasonableness. *See Rita v. United States*, 551 U.S. 338, 347 (2007); *United States v. Alonzo*, 435 F.3d 551, 554 (5th Cir. 2006). Saenz has not shown sufficient reason for this court to disturb that presumption. Accordingly, the judgment of the district court is AFFIRMED.