

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

No. 14-40278
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

December 31, 2014

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE BACILIO TREJO,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:13-CR-1667-1

Before PRADO, OWEN, and GRAVES, Circuit Judges.

PER CURIAM:*

Jose Bacilio Trejo appeals the sentence imposed following his guilty plea conviction for transporting an undocumented alien within the United States for the purpose of commercial advantage and private financial gain in violation of 8 U.S.C. § 1324(a)(1)(A)(ii), (a)(1)(A)(v)(II), and (a)(1)(B)(i). He contends that the district court clearly erred when it denied him a minor role reduction pursuant to U.S.S.G. § 3B1.2(b).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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Whether Trejo was a minor participant is a factual determination that is reviewed for clear error. *See United States v. Villanueva*, 408 F.3d 193, 203 (5th Cir. 2005). There is no clear error if the district court’s factual finding is “plausible in light of the record read as a whole.” *Id.*

Section 3B1.2(b) provides for a two-level reduction in a defendant’s offense level if he was a “minor” participant. The minor-role adjustment applies to defendants who are only peripherally involved in the crime. *Villanueva*, 408 F.3d at 204. The applicability of § 3B1.2 rests on whether the defendant’s role was minor in relation to the conduct for which he was held accountable, not in relation to the criminal enterprise as a whole. *United States v. Garcia*, 242 F.3d 593, 598 (5th Cir. 2001).

The record evidence reflects that Trejo illegally transported seven undocumented aliens, including an unaccompanied minor, from Mission, Texas, to a motel in Pharr, Texas. Trejo’s role of driving the illegal aliens to the motel was not peripheral to the advancement of the criminal activity to which Trejo pleaded guilty—transporting an undocumented alien within the United States for the purpose of commercial advantage and private financial gain. *See Villanueva*, 408 F.3d at 203-04. As the driver, Trejo’s role was central to the operation of transporting aliens and clearly “coextensive with the conduct for which he was held accountable.” *Garcia*, 242 F.3d at 598-99. In addition, the record evidence indicated that Trejo had been given other responsibility that contributed to the success of the offense; he was found in possession of money as well as a key to the motel room where he left the aliens, and he was told to buy food. The district court’s factual finding is “plausible in light of the record read as a whole.” *Villanueva*, 408 F.3d at 203. Accordingly, the district court did not clearly err in rejecting Trejo’s request for a minor role adjustment under § 3B1.2(b). *Id.* The district court’s judgment is AFFIRMED.