

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 11-2429

United States of America,

Appellee,

v.

William M. Marshall,

Appellant.

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Appeal from the United States
District Court for the
Western District of Arkansas.

[UNPUBLISHED]

Submitted: January 9, 2012

Filed: March 2, 2012

Before MELLOY, ARNOLD, and SHEPHERD, Circuit Judges.

PER CURIAM.

William Marshall appeals from the refusal of the district court¹ to reduce his sentence because of his minimal or minor role in a conspiracy to use an interstate facility to facilitate prostitution. *See* U.S.S.G. § 3B1.2; 18 U.S.C §§ 1952(a)(3)(A), 371. We will uphold the district court's determination unless it is not supported by substantial evidence or resulted from an error of law. *United States v. Weems*, 517 F.3d 1027, 1031 (8th Cir. 2008).

¹The Honorable Jimm Larry Hendren, Chief Judge, United States District Court for the Western District of Arkansas.

A defendant bears the burden of showing that he or she is entitled to the reduction for a minimal or minor role. *United States v. Bustos-Torres*, 396 F.3d 935, 947-48 (8th Cir. 2005), *cert. denied*, 545 U.S. 1109 & 546 U.S. 879 (2005), and a reduction is available only if a defendant is "substantially less culpable than the average participant," U.S.S.G. 3B1.2, comment. (n. 3(A)). In this case, Mr. Marshall, over a considerable period of time and with full knowledge of the prostitution ring in which he was participating, recruited and took applications from women, drove them to and from their assignments, instructed them on how to perform their services, collected and deposited money earned from their actions, and knew and communicated with the principals in the operation. As the district judge noted, Mr. Marshall was involved in virtually all of the necessary work of the enterprise. While he might not have been as culpable as the owner of the enterprise, "merely showing that the defendant was less culpable than other participants is not enough to entitle the defendant to [a minor-role] adjustment if the defendant was deeply involved in the offense." *United States v. Adamson*, 608 F.3d 1049, 1054 (8th Cir. 2010) (internal quotation marks and citations omitted).

Because substantial evidence supported the district court's determination and it committed no legal error, we affirm the judgment.
