

June 21, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-51199
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE LUIS GUZMAN-REYES,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-02-CR-1180-6-PRM

Before WIENER, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:*

Jose Luis Guzman-Reyes (Guzman) appeals his sentence from a guilty plea conviction for conspiracy to possess with intent to distribute marijuana. 21 U.S.C. §§ 841, 846. Guzman argues that the district court committed clear error by failing to grant him a downward departure based upon § 5C1.2 of the Sentencing Guidelines.

This court reviews a district court's refusal to apply the safety-valve provision, based on factual findings, for clear

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

error. See United States v. Ridgeway, 321 F.3d 512, 516 (5th Cir. 2003); see also United States v. Angeles-Mendoza, 407 F.3d 742, 753 (5th Cir. 2005). The district court denied Guzman a downward departure pursuant to U.S.S.G. § 5C1.2 based upon Guzman's inconsistent answers over the course of numerous interviews with federal agents. The record supports the district court's finding that Guzman was ineligible for a sentencing reduction under U.S.S.G. § 5C1.2(5). See Ridgeway, 321 F.3d at 516; see also Angeles-Mendoza, 407 F.3d at 753.

AFFIRMED.