

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

FILED
March 26, 2013

Lyle W. Cayce
Clerk

No. 12-50617
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CARLOS ALBERTO HOLGUIN-MARTINEZ,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:12-CR-247-1

Before WIENER, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:*

Carlos Alberto Holguin-Martinez appeals his 18-month concurrent prison terms for conspiracy to import marijuana, importation of marijuana, conspiracy to possess with intent to distribute marijuana, and possession with intent to distribute marijuana. He acted as the driver in a scheme to bring marijuana across the border from Mexico and was paid \$1,000 per load. He challenges the district court's finding that he was not a minor participant in the offense conduct under U.S.S.G. § 3B1.2.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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According to Holguin-Martinez, others who recruited him, registered the car in his name, and loaded the car had a more significant role. He asserts that, as a mere courier, he was less culpable. He contends that his friend who vouched for him to the recruiters and assisted him in crossing the border, Christian Davila, had an equal or more significant role.

We review the district court's finding on the defendant's role for clear error. *United States v. Villanueva*, 408 F.3d 193, 203 (5th Cir. 2005). As the person whose role it was to transport the marijuana across the border, Holguin-Martinez has not shown that he was "substantially less culpable than the average participant" or that his actions were peripheral to the criminal activity for which he was held accountable. *Id.* at 203-04 (internal quotation marks and citation omitted); *United States v. Garcia*, 242 F.3d 593, 598-99 (5th Cir. 2001). Although Holguin-Martinez may have been merely a courier, he has not shown that the district court clearly erred in denying the minor role adjustment. *Villanueva*, 408 F.3d at 203-04 ; *United States v. Buenrostro*, 868 F.2d 135, 138 (5th Cir. 1989).

AFFIRMED.