

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-10969
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DORY HERNANDEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(4:00-CR-239-17-A)

February 28, 2002

Before HIGGINBOTHAM, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Dory Hernandez challenges the sentence imposed following his guilty-plea conviction for possession with intent to distribute marijuana, in violation of 21 U.S.C. § 841(a)(1), and use of a communications facility to cause or facilitate a controlled-substance offense, in violation of 21 U.S.C. § 843(b). Hernandez contends the district court should have adjusted his offense level pursuant to the "safety valve" provision, U.S.S.G. § 5C1.2, and should have adjusted the offense level for his minor participation, 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

The district court's findings are reviewed only for clear error. Its finding that Hernandez had not truthfully provided information to the Government was not clearly erroneous, see **United States v. Miller**, 179 F.3d 961, 964 (5th Cir. 1999); nor was its finding that Hernandez was not a minor participant, see **United States v. Buenrostro**, 868 F.2d 135, 138 (5th Cir. 1989), cert. denied, 495 U.S. 923 (1990).

AFFIRMED