

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

February 22, 2008

Charles R. Fulbruge III
Clerk

No. 07-50983
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

GONZALO POLANCO-BALLESTEROS

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:07-CR-954-ALL

Before JOLLY, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

Gonzalo Polanco-Ballesteros appeals his sentences following his guilty plea convictions for importation of marijuana and possession with intent to distribute marijuana. He argues that the district court clearly erred in finding that he was not a minor participant under U.S.S.G. § 3B1.2(b). He further argues that, as a result of the district court's error, a presumption of reasonableness does not apply to his sentence and his case must be remanded for resentencing. The district court's finding that Polanco-Ballesteros was not a minor participant was

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

plausible in light of the record as a whole and, thus, not clearly erroneous. See United States v. Villanueva, [408 F.3d 193, 203-04](#) (5th Cir. 2005).

AFFIRMED.