

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

September 12, 2013

Lyle W. Cayce
Clerk

No. 12-11257

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

NOE DELAROSA,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:12-CR-152-2

Before KING, DAVIS, and ELROD, Circuit Judges.

PER CURIAM:*

Noe Delarosa appeals from his conviction of illegal possession of a machine gun and aiding and abetting. He argues that the district court erred by denying him a three-level downward adjustment to his offense level pursuant to U.S.S.G. § 3E1.1 for acceptance of responsibility. He asserts that the district court incorrectly characterized as frivolous his objection to a four-level upward adjustment under § 2K2.1(b)(6)(A) for knowing or having reason to know that

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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the firearms his group purchased from undercover agents were intended to be transported to Mexico.

The denial of the adjustment for acceptance of responsibility was not without foundation. *See United States v. Juarez-Duarte*, 513 F.3d 204, 211 (5th Cir. 2008). First, Delarosa refused to answer questions during his interview with the probation officer about the destination of the firearms or the purpose for which they were being purchased. Second, the transcripts of surveillance videos indicated that Delarosa either knew or should have known that the firearms were destined for Mexico.

AFFIRMED.