

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

United States Court of Appeals  
Fifth Circuit

**FILED**

March 15, 2012

Lyle W. Cayce  
Clerk

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No. 11-40852  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DAVID ARANDA,

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 6:10-CR-95-2

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Before HIGGINBOTHAM, DAVIS, and ELROD, Circuit Judges.

PER CURIAM:\*

David Aranda appeals the sentence imposed following his guilty plea conviction for conspiracy to transport unlawful aliens within the United States in violation of 8 U.S.C. § 1324. He contends that the district court erred when it denied him a minor role reduction pursuant to U.S.S.G. § 3B1.2(b).

Whether Aranda was a minor participant is a factual determination that is reviewed for clear error. *See United States v. Villanueva*, 408 F.3d 193, 203

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\* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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(5th Cir. 2005). There is no clear error if the district court's factual finding is "plausible in light of the record read as a whole." *Id.*

Section 3B1.2(b) provides for a two-level reduction in a defendant's offense level if he was a "minor" participant. The minor-role adjustment applies to defendants who are only peripherally involved in the crime. *Id.* at 204. For purposes of § 3B1.2, a defendant's participation in the offense is not to be evaluated with reference to the entire criminal enterprise of which the defendant was a part. *United States v. Garcia*, 242 F.3d 593, 598-99 (5th Cir. 2001). Rather, § 3B1.2 asks whether a defendant's involvement was minor in relation to the conduct for which he was held accountable. *Id.*

The evidence highlighted by Aranda and contained in the record reflects that Aranda illegally guided aliens across the Mexican border into the United States and that, once in the United States, Aranda drove a truck transporting the illegal aliens. While he may not have been the "mastermind" behind the conspiracy, Aranda's roles of guiding illegal aliens into the United States and driving them to their destination, can hardly be described as peripheral to the advancement of the illicit activity to which Aranda pleaded guilty – conspiracy to transport illegal aliens within the United States. *See Villanueva*, 408 F.3d at 203-04. As a guide and driver, Aranda's roles were central to the agreement to transport illegal aliens and clearly "coextensive with the conduct for which he was held accountable." *Garcia*, 242 F.3d at 598-99. Accordingly, the district court did not clearly err in failing to grant Aranda a minor role adjustment under § 3B1.2(b).

The district court's judgment therefore is AFFIRMED.