

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

United States Court of Appeals
Fifth Circuit

FILED

March 22, 2012

Lyle W. Cayce
Clerk

No. 11-40745
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DANIEL LEYJA,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:10-CR-1631-3

Before REAVLEY, SMITH, and PRADO, Circuit Judges.

PER CURIAM:*

Daniel Leyja appeals his 46-month sentence for making a false statement in connection with the acquisition of a firearm. Leyja purchased six firearms on behalf of a codefendant, Osbel Grimaldo, who fronted the money for the transactions. Leyja also accompanied another codefendant, Roberto Ramon, who purchased 10 firearms on behalf of Grimaldo. Leyja and Ramon transferred the 16 firearms to Grimaldo, who intended to export the weapons to members of a Mexican drug cartel. Leyja admitted that he assumed the weapons would be

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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exported to Mexico. He challenges the district court's finding that he was not a minor participant in the offense under U.S.S.G. § 3B1.2.

The district court held Leyja accountable for the six firearms he purchased and the 10 firearms purchased by Ramon. The court also held him accountable for trafficking the firearms because they were transferred to Grimaldo with the assumption that they would be exported to Mexico.

Leyja's role with respect to the conduct for which he was accountable was only slightly less than that of Ramon. *See United States v. Garcia*, 242 F.3d 593, 598-99 (5th Cir. 2001). Without Leyja, nearly half of the weapons would not have been available for export. He was not "substantially less culpable" than Ramon, and his role was not peripheral. *See United States v. Villanueva*, 408 F.3d 193, 203-04 (5th Cir. 2005). We find no clear error. *See id.* The judgment of the district court is AFFIRMED.