

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

United States Court of Appeals
Fifth Circuit

FILED

September 14, 2010

Lyle W. Cayce
Clerk

No. 09-41163

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JORGE ENRIQUE MACIAS-NEVAREZ, also known as El Muerto,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:05-CR-926-8

Before WIENER, PRADO and OWEN, Circuit Judges.

PER CURIAM:*

Jorge Enrique Macias-Nevarez pleaded guilty to one count of conspiring to import five kilograms or more of cocaine and 1000 kilograms or more of marijuana, and the district court sentenced him to serve 262 months in prison and a five-year term of supervised release. In this appeal, he challenges his sentence and argues that the district court erred by attributing certain amounts of cocaine to him for sentencing purposes. This court reviews the district court's interpretation and application of the Sentencing Guidelines de novo and its

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

findings of fact, including its factual finding concerning the amount of drugs for which a defendant should be held responsible, for clear error. *United States v. Cisneros-Gutierrez*, 517 F.3d 751, 764 (5th Cir. 2008); *United States v. Posada-Rios*, 158 F.3d 832, 878 (5th Cir. 1998).

Macias-Nevarez adduced no evidence to rebut the facts found in the PSR, which the district court adopted. *See United States v. Ollison*, 555 F.3d 152, 164 (5th Cir. 2009). These facts show that Macias-Nevarez was, contrary to his assertions, connected to the disputed drugs. Consequently, the record shows that the district court's factual findings concerning the drugs with which Macias-Nevarez was involved are plausible and thus not clearly erroneous. *See United States v. Valles*, 484 F.3d 745, 759 (5th Cir. 2007). Macias-Nevarez has not shown that the district court erred with respect to its calculation of the quantity of drugs involved with his offense, nor has he shown that the district court erred by basing his sentence on these calculations. *See id.*

The judgment of the district court is AFFIRMED.