

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-40873  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DOMINGO SAN MIGUEL, JR.,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. C-00-CR-139-1  
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February 26, 2001

Before HIGGINBOTHAM, DUHÉ, and WIENER, Circuit Judges.

PER CURIAM:<sup>1</sup>

Domingo San Miguel, Jr., appeals the sentence imposed following his guilty plea to a charge of knowingly transporting an unlawful alien in the United States. San Miguel asserts that the district court erred by denying him a three-level reduction in his offense level pursuant to U.S.S.G. § 2L1.1(b)(1) for an offense committed other than for profit. San Miguel asserts that the record is devoid of evidence that he was the intended recipient of payment or that he received any sort of compensation for the offense. He asserts that the reduction applies if the defendant

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<sup>1</sup> Pursuant to 5<sup>TH</sup> 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5<sup>TH</sup> CIR. R. 47.5.4.

does not profit from the offense or was not intended to profit from the offense.

"The defendant bears the burden of proving that he is entitled to a downward adjustment." *United States v. Thomas*, 120 F.3d 564, 574-75 (5th Cir. 1997). San Miguel requested the downward adjustment at sentencing; however, he did not bear his burden of proving his entitlement to the adjustment. Accordingly, the judgment of the district court is AFFIRMED.