

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-51001
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE EMILIO SILVA, JR.,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-00-CR-200-ALL-DB
- - - - -

June 18, 2002

Before HIGGINBOTHAM, DAVIS, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Jose Emilio Silva, Jr., whose true name is Fernando Badillo, appeals his sentence following a guilty plea to one count of importation of marijuana and one count of possession of marijuana with intent to distribute. He argues that the district court clearly erred when it denied Silva's request for a minor role reduction pursuant to U.S.S.G. § 3B1.2(b).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Silva did not demonstrate by a preponderance of the evidence that he was entitled to a two-level reduction based on his role in the offense. *United States v. Zuniga*, 18 F.3d 1254, 1261 (5th Cir. 1994). Accordingly, the district court did not err when it denied a two-level reduction. Silva's sentence is AFFIRMED.