

April 4, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-20456
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

ENRIQUE GARCES-CARMONA

Defendant - Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-00-CR-661-1

Before KING, Chief Judge, and SMITH and DENNIS, Circuit Judges.

PER CURIAM:*

Enrique Garces-Carmona (Garces) appeals his sentence following his guilty-plea conviction for aiding and abetting the transportation of illegal aliens. He argues that the district court erred by denying his motion to present a witness at the sentencing hearing and by denying a two-level downward adjustment for acceptance of responsibility.

Prior to sentencing, Garces' counsel was allowed to question the witness he sought to question at sentencing. His counsel

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

admitted at sentencing that the witness had provided the same information given to the probation officer. This witness was not the only person who provided information regarding Garces' relevant conduct, and Garces has not argued that this witness would have provided further relevant testimony at the sentencing hearing. Thus, the district court did not abuse its discretion in denying the motion. See United States v. Henderson, 19 F.3d 917, 927 (5th Cir. 1994).

Garces denied having sexually assaulted aliens who had not paid their smuggling fees. The district court determined that Garces had engaged in such conduct and did not clearly err in denying an adjustment for acceptance of responsibility. See United States v. Cabrera, 288 F.3d 163, 175-77 (5th Cir. 2002).

AFFIRMED.