

February 13, 2007

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-41620
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARIO CORTEZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:04-CR-2511-4

Before BARKSDALE, GARZA, and CLEMENT, Circuit Judges.

PER CURIAM:*

Mario Cortez appeals the 57-month sentence imposed following his plea of guilty to conspiracy with intent to distribute more than 100 kilograms of marijuana. He argues that the district court erred by refusing to reduce his advisory guidelines offense level for a minor or minimal role in the offense.

Although Cortez may have had the status of a "hired hand," he was apprehended while loading 363 kilograms of marijuana, and he accompanied a shipment to its destination. Cortez knew the leader of the drug conspiracy, knew that person to be a marijuana

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

distributor, and resumed his association with that person as soon as he was released from prison. The record shows that Cortez was involved with more than 700 kilograms of marijuana; he assisted with the transportation of at least two loads; and he did whatever the leader told him to do. The district court did not commit clear error by refusing to reduce Cortez's offense level for his role in the offense. See United States v. Garcia, 242 F.3d 593, 598 (5th Cir. 2001); United States v. Zuniga, 18 F.3d 1254, 1261 (5th Cir. 1994).

The judgment of the district court is AFFIRMED.