

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

July 7, 2008

No. 06-41138
Summary Calendar

Charles R. Fulbruge III
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

ROLDAN DELACRUZ-ALBARADO, also known as Roldan Albarado Delacruz

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 9:06-CR-1-ALL

Before JONES, Chief Judge, and PRADO and ELROD, Circuit Judges.

PER CURIAM:*

Roldan Delacruz-Albarado (Delacruz) appeals the sentence imposed in connection with his guilty plea conviction for illegal reentry following deportation. Delacruz argues that the district court erred by denying his request for an additional one-level decrease for acceptance of responsibility. He contends that the district court has the authority to award the additional point despite the Government's failure to move for the point under U.S.S.G. § 3E1.1.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Alternatively, Delacruz argues that the power of the Government to withhold the additional point violates the separation-of-powers doctrine.

This court has recently rejected both arguments in *United States v. Newsom*, 515 F.3d 374, 376-79 (5th Cir. 2008), cert. denied (May 27, 2008) (No. 07-10561). A district court cannot award an additional point for acceptance of responsibility absent a motion from the Government pursuant to § 3E1.1. *Newsom*, 515 F.3d at 378. Additionally, Delacruz's argument regarding a violation of the separation-of-powers doctrine is foreclosed by *United States v. Booker*, 543 U.S. 220 (2005). See *id.* at 376.

Accordingly, the judgment of the district court is **AFFIRMED**.