

June 22, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-51496  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ERIC DANIEL JUAREZ-GUTIERREZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 3:06-CR-2134-1

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Before GARWOOD, DeMOSS and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Eric Daniel Juarez-Gutierrez was convicted of one charge of conspiring to possess marihuana with intent to distribute and in October 2006 was sentenced to serve 18 months in prison. He appeals his sentence and argues that the district court erred by denying his request for an adjustment to his offense level based on his allegedly minor role in the offense. Such an adjustment would

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 R. 47.5 the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

have reduced the advisory guideline confinement range of 18 to 24 months to 12 to 18 months.

Juarez-Gutierrez has not shown that the district court clearly erred by denying the requested adjustment. *See United States v. Deavours*, 219 F.3d 400, 404 (5th Cir. 2000). Juarez-Gutierrez's argument that he was entitled to the adjustment because he was a mere courier is unavailing. *See United States v. Pofahl*, 990 F.2d 1456, 1485 (5th Cir. 1993).

We note that Juarez-Gutierrez was to drive the vehicle with the some 21.8 kilograms of marihuana concealed therein from Mexico to Denver and he recruited a co-conspirator to accompany him, along with her 11 year old daughter, and agreed to pay her \$1,000 out of the \$5,000 he was to be paid.

The judgment of the district court is

AFFIRMED.