

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

March 5, 2012

Lyle W. Cayce
Clerk

No. 11-40569
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

LUSIANO GUADALUPE JASSO,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:09-CR-1635-3

Before SMITH, GARZA, and DeMOSS, Circuit Judges.

PER CURIAM:*

Lusiano Guadalupe Jasso appeals from his conviction of possession with intent to distribute marijuana. Jasso raises two related issues for appeal. First, he argues that the district court erred by failing to adjust his offense level due to his status as a minor participant. Second, he contends that the district court erred by failing to articulate any reasons for the denial of a mitigating role adjustment.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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The sentence was based on the amount of marijuana found at the residence where he was wrapping marijuana for distribution. A mitigating role adjustment is unwarranted if a sentence is based on conduct in which the defendant is directly involved. *United States v. Garcia*, 242 F.3d 593, 598-99 (5th Cir. 2001). The district court did not err when it did not grant Jasso a downward adjustment.

As for the failure to articulate reasons, an unobjected-to procedural error at sentencing is reviewed for plain error. *United States v. Esparza-Gonzalez*, 268 F.3d 272, 274 (5th Cir. 2001). To show plain error, the appellant must show a forfeited error that is clear or obvious and that affects his substantial rights. *Puckett v. United States*, 556 U.S. 129, 135 (2009). If the appellant makes such a showing, this court has the discretion to correct the error but only if it seriously affects the fairness, integrity, or public reputation of judicial proceedings. *Id.* Because Jasso was not entitled to a mitigating role adjustment, he cannot demonstrate any prejudice.

AFFIRMED.