

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 94-30702  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JUAN DELACRUZ RODAS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. CR-94-0201-F  
- - - - -

June 29, 1995

Before JONES, WIENER, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Juan Delacruz Rodas pleaded guilty to one count of knowingly importing more than five kilograms of cocaine into the United States and was sentenced to 108 months imprisonment, the bottom of the applicable guideline range. The district court rejected the argument that Rodas be given a downward adjustment pursuant to U.S.S.G. § 3B1.2 in his criminal offense level because he was a minimal participant in the overall drug importation scheme.

This court reviews the sentencing court's determination that

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

a defendant did not play a minor or minimal role in the offense for clear error. United States v. Zuniga, 18 F.3d 1254, 1261 (5th Cir.), cert. denied, 115 S. Ct. 214 (1994). Rodas suggests that the clearly-erroneous standard is inappropriate in a criminal case because it prohibits an appellate court from finding error if it would have decided the case differently. This view is completely at odds with the law of this circuit that will not allow this court to substitute its judgment of the facts for that of the district court. See United States v. Fields, 906 F.2d 139, 142 (5th Cir.) cert. denied, 498 U.S. 874 (1990).

Section 3B1.2 provides for a four-level reduction for a minimal participant. A minimal participant is one who is "plainly among the least culpable of those involved in the conduct of the group" and who demonstrates a "lack of knowledge or understanding of the scope and structure of the enterprise." § 3B1.2, comment. (n.1); United States v. Mitchell, 31 F.3d 271, 278 (5th Cir. 1994), cert. denied, 115 S. Ct. 953 (1995); Zuniga, 18 F.3d at 1260 n.10.

The district court found that Rodas was entrusted with a large amount of cocaine, that he knew he was transporting drugs, and that he was to be well paid for it. The district court rejected the argument that Rodas was a small player in the Columbian drug importation scheme because Rodas was not charged with the overall scheme. The district court found that Rodas had "direct and intentional" participation in the importation of the 22 kilograms. The district court's finding that Rodas was not a minimal or minor participant is not clearly erroneous.

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AFFIRMED.