

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-10406
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANDRES PEREZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:94-CR-101-A(1)
- - - - -

(October 18, 1995)

Before POLITZ, Chief Judge, and REAVLEY and SMITH, Circuit Judges.

PER CURIAM:*

Andres Perez objects to the district court's three-level increase in his offense level for being a manager or supervisor in the offense, stating that without the unreliable evidence of his co-defendant Magdalena Garcia, there was no evidence to support the district court's finding regarding his role in the offense.

* 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 Pursuant to that Rule, the court has determined that this opinion should not be published.

This court disturbs a district court's determination regarding a defendant's role in a criminal activity only if it is clearly erroneous. United States v. Barreto, 871 F.2d 511, 512 (5th Cir. 1989).

The testimony at the sentencing hearing revealed that Perez had discussed the different brands of cocaine and the possibility of making large cocaine purchases. The presentence report (PSR) also reported that co-defendant Rene Morelos-Rocha told agents that Perez paid him for storing cocaine and that Agent DeLaFlor believed that Perez directed Morelos-Rocha and another defendant. Perez does not demonstrate that this evidence was materially untrue. United States v. Santiago, 993 F.2d 504, 506-07 (5th Cir. 1993). Even considering any unreliability of Garcia's statements regarding Perez's involvement, the district court had sufficient evidence to find that Perez was a manager or supervisor. The district court did not clearly err in its finding.

AFFIRMED.