

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-41048
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ARTURO REYNOSO-ORTIZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-98-CR-417-1
- - - - -

July 23, 1999

Before HIGGINBOTHAM, JONES, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Arturo Reynoso-Ortiz appeals the sentence imposed by the district court after he pleaded guilty to illegally transporting aliens within the United States. He argues that the district court erred by declining to award him a three-level reduction pursuant to U.S.S.G. § 2L1.1(b)(1) because he committed the offense in return for his own transportation into the U.S. and thus "other than for profit." Reynoso-Ortiz bears the burden of proof to show the lack of any profit motive. See United States v. Cuellar-Flores, 891 F.2d 92, 93 (5th Cir. 1989).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The district court concluded that because Reynoso-Ortiz did not have to pay a fee of several hundred dollars in exchange for his driving the van, the offense was not "other than for profit" within the meaning of § 2L1.1(b)(1). Although he challenges the district court's interpretation of the guideline as illogical, Reynoso-Ortiz has not met his burden of showing that he was entitled to the reduction. See Cuellar-Flores, 891 F.2d at 93; see also United States v. Perez-Ruiz, 169 F.3d 1075, 1076 (7th Cir. 1999). Accordingly, the judgment of the district court is AFFIRMED.