

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-21274
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANK MORALES,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. H-00-CR-876-ALL

January 27, 2003

Before BARKSDALE, DEMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Frank Morales appeals his guilty-plea conviction for possession with intent to distribute 100 grams or more of heroin and importation of that amount of heroin. Morales contends that his sentence should be vacated and the case remanded for resentencing because the district court failed to consider Amendment 635 to the Sentencing Guidelines in denying his request for a reduction for his minor role in the offense under U.S.S.G.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

§ 3B1.2. Morales also avers that the district court failed to make sufficient factual findings with regard to this issue so as to allow this court to properly review the issue.

First, the district court's findings were sufficient. United States v. Melton, 930 F.2d 1096, 1099 (5th Cir. 1991); see also FED. R. CRIM. P. 32(c)(1). Second, the district court specifically stated at sentencing that it had considered Amendment 635 in denying Morales a role reduction. Lastly, the district court did not clearly err by denying Morales a role reduction because it is clear from the record that Morales was not substantially less culpable than the average participant in the offense and that his role was not peripheral to the advancement of the illicit activity. United States v. Deavours, 219 F.3d 400, 404 (5th Cir. 2000); United States v. Gallardo-Trapero, 185 F.3d 307, 324 (5th Cir. 1999); United States v. Miranda, 248 F.3d 434, 446-47 (5th Cir. 2001).

AFFIRMED.