

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

United States Court of Appeals
Fifth Circuit

FILED

May 12, 2011

Lyle W. Cayce
Clerk

No. 10-50914
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

BEATRIZ NINO-IBARRA,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 2:09-CR-1164-1

Before WIENER, PRADO, and OWEN, Circuit Judges.

PER CURIAM:*

Defendant-Appellant Beatriz Nino-Ibarra appeals the concurrent 70-month sentences she received following her guilty plea convictions for conspiracy and possession with intent to distribute cocaine. She objects to the district court's failure to award her a two-level reduction, pursuant to U.S.S.G. § 3B1.2, for her minor role in the offense. Nino-Ibarra contends that she is entitled to the reduction because she was only a courier and thus far less culpable than the persons who hired her.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 district court's denial of a reduction for a mitigating role is a factual determination that is reviewed for clear error. *United States v. Villanueva*, 408 F.3d 193, 203 (5th Cir. 2005). It is not sufficient for Nino-Ibarra to show that she was less involved than other participants; rather, she must show that she was "peripheral to the advancement of the criminal activity." *United States v. Martinez-Larraga*, 517 F.3d 258, 272 (5th Cir. 2008).

The record reflects that Nino-Ibarra admitted that she knowingly transported narcotics into this country. She acknowledged that she had crossed the border in the vehicle "a couple of times before," including on the evening preceding her arrest. As the district court observed, the instant case involves the transportation of ten kilograms of high purity cocaine secreted in the van that Nino-Ibarra was driving. The district court's finding that Nino-Ibarra's role was not peripheral is plausible in light of the record as a whole. *Villanueva*, 408 F.3d at 203-04.

AFFIRMED.