

May 2, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-41572  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ANGEL SIERRA, also known as Fernando,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Eastern District of Texas  
USDC No. 4:05-CR-210-1  
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Before KING, HIGGINBOTHAM, and GARZA, Circuit Judges,

PER CURIAM:\*

Angel Sierra appeals the sentence imposed following his guilty plea conviction for conspiracy to possess with the intent to distribute heroin where the offense resulted in a death. Sierra argues that the district court clearly erred by imposing a three level adjustment pursuant to U.S.S.G. § 3B1.1(b) for his being a manager or supervisor of a criminal activity involving five or more participants. He contends that the evidence before the district court did not show that he managed or directed others.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

According to the presentence report and the indictment, Sierra negotiated the sale of heroin with an undercover agent and instructed other individuals to deliver the heroin. Based on the facts presented in the indictment and the presentence report, we find that the district court did not clearly err in imposing the enhancement. See United States v. Rose, 449 F.3d 627, 633 (5th Cir. 2006).

Accordingly, the judgment of the district court is AFFIRMED.