

June 24, 2003

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-40826
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSÉ PABLO RIOS-RAMIREZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. M-01-CR-750-1

Before DeMOSS, DENNIS, and PRADO, Circuit Judges.

PER CURIAM:*

José Pablo Rios-Ramirez appeals his guilty plea conviction and sentence for importing more than five kilograms of cocaine in violation of 21 U.S.C. §§ 952 and 960. Rios contends that he was entitled to a "mitigating role" sentence reduction under U.S.S.G. § 3B1.2 because he was a "mere courier." His role as a courier does not alone entitle him to a reduction under § 3B1.2, and the district court did not clearly err by declining to award the reduction where Rios transported over 30 kilograms of cocaine into the United States in exchange for a negotiated fee of at

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

least \$10,000. See United States v. Buenrostro, 868 F.2d 135, 137-38 (5th Cir. 1989).

Rios also contends that the statutes under which he was convicted are facially unconstitutional under Apprendi v. New Jersey, 530 U.S. 466 (2000). As Rios acknowledges, his contention is foreclosed by this court's precedent, and he raises the issue solely to preserve it for possible Supreme Court review. See United States v. Slaughter, 238 F.3d 580, 582 (5th Cir. 2000), cert. denied, 532 U.S. 1045 (2001).

The district court's judgment is AFFIRMED.