

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-10540
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

FRANCISCO RIVERA TOLEDO, also known
as Frankie, also known as Francisco
Toledo Rivera,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:00-CR-239-26-A
- - - - -
February 20, 2002

Before JOLLY, JONES, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Francisco Rivera-Toledo (Rivera) appeals his sentence from his guilty-plea conviction for conspiracy to possess with intent to distribute more than 100 kilograms of marijuana. He argues that the district court erred in not applying the "safety valve" provision in U.S.S.G. § 5C1.2 because he timely provided to the Government all information and evidence he had concerning his offense.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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 shall sentence a defendant according to the applicable guidelines, rather than the statutory minimum sentence if, among other things, the defendant truthfully provided the Government with "all information and evidence the defendant has concerning the offense[.]" U.S.S.G. § 5C1.2(5). A district court's refusal to apply the "safety valve" provision is a factual finding reviewed for clear error. United States v. Edwards, 65 F.3d 430, 433 (5th Cir. 1995). We perceive no such error here.

Accordingly, the judgment is AFFIRMED.