

February 15, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 06-40169  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GABRIEL BENJAMIN ILLESCAS-DIAZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
(5:04-CR-2515-ALL)  
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Before SMITH, WIENER, and OWEN, Circuit Judges.

PER CURIAM:\*

Defendant-Appellant Gabriel Benjamin Illescas-Diaz (Illescas) appeals the sentence imposed following his guilty plea to possession with intent to distribute cocaine. He argues that the district court clearly erred in denying him a role adjustment pursuant to U.S.S.G. § 3B1.2 (2004).

We hold that the record does not establish that Illescas, whose role was, at a minimum, to transport 18.41 kilograms of cocaine from Mexico to Dallas, Texas, was "plainly among the least culpable of those involved in the conduct of a group."

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

See § 3B1.2, comment. (n.4). He has therefore not shown that the district court clearly erred in denying him a minimal-role adjustment. See United States v. Villanueva, 408 F.3d 193, 203 n.9 (5th Cir.), cert. denied, 126 S. Ct. 268 (2005).

Similarly, Illescas's self-proclaimed role as courier was not peripheral to the advancement of the offense. The district court therefore did not clearly err in denying him an adjustment for a minor role in the offense. See United States v. Miranda, 248 F.3d 434, 446-47 (5th Cir. 2001).

AFFIRMED.