

FILED

August 21, 2007

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III
Clerk

No. 06-41469
Conference Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JESUS VELASQUEZ, JR

Defendant-Appellant

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:05-CR-96-52

Before HIGGINBOTHAM, SMITH, and CLEMENT, Circuit Judges.

PER CURIAM:*

Jesus Velasquez, Jr., appeals the 188-month sentence imposed following his guilty plea for conspiracy to distribute and possess with intent to distribute a controlled substance. Velasquez argues that the district court erred by not finding that he played a minor or minimal role in the offense and sentencing him accordingly. See U.S.S.G. § 3B1.2. Velasquez further argues that the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Sentencing Guidelines are unconstitutionally vague with respect to what constitutes minor or minimal participant status.

Velasquez's unconstitutional vagueness argument is unfounded because it challenges a Sentencing Guideline, not a criminal statute. See *United States v. Pearson*, 910 F.2d 221, 223 (5th Cir. 1990).

The record indicates that Velasquez played an integral role in transporting substantial quantities of marijuana from Mexico to the United States and that his actions were important to the success of the drug venture. Velasquez has not shown that the district court clearly erred in finding that he was not entitled to a reduction for a minor or minimal role in the offense. See *United States v. Franco-Torres*, 869 F.2d 797, 801 (5th Cir. 1989).

The judgment of the district court is **AFFIRMED**.