

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

United States Court of Appeals  
Fifth Circuit

**FILED**

August 19, 2008

\_\_\_\_\_  
No. 07-51277  
Conference Calendar  
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Charles R. Fulbruge III  
Clerk

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

PABLO GALLEGOS-URIAS

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 4:07-CR-115-ALL  
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Before GARZA, CLEMENT, and SOUTHWICK, Circuit Judges.

PER CURIAM:\*

Pablo Gallegos-Urias appeals his 33-month sentence following his conviction for aiding and abetting in the importation of and possession with intent to distribute marijuana. He argues that the district court erred in denying a U.S.S.G. § 3B1.2 reduction for his minor role in the offense based on its finding that there were no other participants in the offense. Gallegos-Urias contends that the evidence at trial established at least one other participant in

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the offense. He also contends that he was entitled to the reduction because he merely acted as a courier.

The district court's refusal to grant Gallegos-Urias a two-level reduction for being a minor participant was not clearly erroneous. See *United States v. Villanueva*, 408 F.3d 193, 203 n.9 (5th Cir. 2005). Gallegos-Urias's courier status did not entitle him to a role adjustment because a defendant may be a courier without being "substantially less culpable than the average participant." See *United States v. Brown*, 54 F.3d 234, 241 (5th Cir. 1995); *United States v. Nevarez-Arreola*, 885 F.2d 243, 245 (5th Cir. 1989). Gallegos-Urias's attempt to import 49 kilograms of marijuana provided an indispensable service to the drug trafficking offense and was essential to its success. See *Brown*, 54 F.3d at 241; see also *United States v. Buenrostro*, 868 F.2d 135, 138 (5th Cir. 1989). Moreover, Gallegos-Urias was actually involved in importing and possessing a distributable quantity of marijuana. See *United States v. Atanda*, 60 F.3d 196, 199 (5th Cir. 1995). Accordingly, the judgment of the district court is AFFIRMED.