

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-50963
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSÉ LUIS VARGAS-RIOS,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-99-CR-795-DB

June 14, 2000

Before JOLLY, DAVIS, and STEWART, Circuit Judges.

PER CURIAM:*

José Luis Vargas-Rios argues that the district court erred in refusing to adjust his offense level based on his minimal role in the offense. Vargas argues that the district court failed to make factual findings to support its decision.

Vargas knowingly and voluntarily waived his right to appeal his sentence in his plea agreement, except for three expressly reserved issues, which are not raised by his appeal. See United States v. Portillo, 18 F.3d 290, 292 (5th Cir. 1994). Therefore, the issue raised by Vargas is not subject to review.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

This appeal is without arguable merit and thus frivolous. See Howard v. King, 707 F.2d 215, 219-20 (5th Cir. 1983). It is therefore dismissed. 5th Cir. R. 42.2.

DISMISSED.