

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 02-3099

September Term, 2003

00cr00425-09

Filed On: January 15, 2004 [797160]

United States of America,  
Appellee

v.

Larry Ashton,  
Appellant

## APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

**BEFORE:** Henderson, Randolph, and Tatel, Circuit Judges

### J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). It is

**ORDERED AND ADJUDGED** that the district court's judgment filed October 22, 2002 be affirmed. This court reviews the district court's factual findings under the clearly erroneous standard, and accords due deference to the district court's application of the United States Sentencing Guidelines to the facts in deciding whether to grant an adjustment. United States v. Edwards, 98 F.3d 1364, 1371 (D.C. Cir. 1996). The record in this case indicates that appellant played an active and ongoing role in the conspiracy and had knowledge of the nature and extent of the conspiracy. Accordingly, the district court properly determined that appellant was not entitled to a downward adjustment for being a minor participant in the offense. See United States v. Gaviria, 116 F.3d 1498 (D.C. Cir. 1997) (affirming denial of minor role adjustment where appellants, though not organizers or supervisors, were active participants in the conspiracy); U.S.S.G. § 3B1.2.

Pursuant to D.C. Cir. Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam