

**United States Court of Appeals**  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**No. 08-3113**

**September Term, 2009**

FILED ON: DECEMBER 22, 2009

UNITED STATES OF AMERICA,  
APPELLEE

v.

JUAN JOSE SEGOVIA,  
APPELLANT

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Appeal from the United States District Court  
for the District of Columbia  
(No. 1:08-cr-00018-CKK-3)

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Before: ROGERS and GRIFFITH, *Circuit Judges*, and RANDOLPH, *Senior Circuit Judge*.

**J U D G M E N T**

This appeal from a judgment of the United States District Court for the District of Columbia was presented to the court, and briefed and argued by counsel. The court has accorded the issues full consideration and has determined that they do not warrant a published opinion. It is

**ORDERED AND ADJUDGED** that the judgment of conviction be affirmed.

Appellant appeals his conviction upon a plea to one count of distributing 500 grams or more of cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B)(ii). He contends the district court misapplied United States Sentencing Guidelines § 3B1.2 in denying him a downward departure for his minor role in the offense. However, the district court stated that “even if [it] had ruled that [appellant] was entitled to a role adjustment, the sentence is going to be different.” Sentencing Tr. 30-31, Nov. 25, 2008.

The district court noted that appellant’s Guidelines range was 37 to 46 months, and with a two-point reduction for his minor role the range would be 30 to 37 months. Upon departing downward pursuant to *United States v. Smith*, 27 F.3d 649 (D.C. Cir. 1994), in view of appellant’s status as a deportable alien, and in consideration of the factors under 18 U.S.C. § 3553(a), the district court imposed a sentence of 24 months’ imprisonment, with credit for time served, five years’ supervised release, and a \$100 special assessment. The district court waived imposition of a fine in view of appellant’s inability to pay the fine, and dismissed the remaining count of the indictment.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.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 rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

*Per Curiam*

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/  
Michael C. McGrail  
Deputy Clerk