

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 16, 2011

No. 10-50461
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ARTURO OLOVERIG AGLIPAY, JR., also known as June,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:09-CR-151-2

Before DAVIS, SMITH and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Arturo Oloverig Aglipay, Jr., appeals the sentence following his guilty plea to conspiracy to commit bank fraud. Aglipay argues that the district court clearly erred in applying the U.S.S.G. § 3B1.1(c) enhancement based on a finding that he was a manager or organizer of the offense.

The district court's finding that Aglipay was an organizer, leader, manager, or supervisor under § 3B1.1(c) is a factual finding reviewed for clear error. *United States v. Gonzales*, 436 F.3d 560, 584 (5th Cir. 2006). A factual

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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finding not clearly erroneous where it is plausible in light of the record as a whole. *United States v. Cooper*, 274 F.3d 230, 238 (5th Cir. 2001).

The record contains evidence of the essential nature of Aglipay's participation, the broad scope of the criminal activity, and his recruitment of Thomas Grant as a coconspirator. Moreover, his coconspirators fingered Aglipay as the head of the conspiracy, and Aglipay admitted to instructing his coconspirators how to work the scheme. The record therefore supports a finding that Aglipay was an organizer, leader, manager, or supervisor of one or more other participants. *See* U.S.S.G. § 3B1.1(c), comment. n.(2); *Gonzales*, 436 F.3d at 584.

AFFIRMED.