

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 97-1769

United States of America,

Appellee,

v.

Michael Johnson,

Appellant.

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Appeal from the United States
District Court for the
Eastern District of Missouri.

[UNPUBLISHED]

Submitted: September 5, 1997
Filed: September 10, 1997

Before FAGG, BOWMAN, and MURPHY, Circuit Judges.

PER CURIAM.

St. Louis, Missouri narcotics officers arrested Michael Johnson and his girlfriend after discovering marijuana in luggage belonging to the two on a Greyhound bus bound for New York. Johnson later pleaded guilty to possessing more than forty-seven kilograms of marijuana with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) (1994). The District Court¹ reduced Johnson's base offense by two levels for being a "minor participant," see U.S. Sentencing Guidelines Manual § 3B1.2(b) (1995); and

¹The Honorable Carol E. Jackson, United States District Judge for the Eastern District of Missouri.

sentenced Johnson to twenty-four months' imprisonment and three years' supervised release. Johnson appeals, and we affirm.

Johnson argues, as he did below, that he was entitled to a four-level reduction as a “minimal participant” under U.S. Sentencing Guidelines Manual § 3B1.2(a) (1995). We conclude that the District Court did not err in denying him such a reduction. See United States v. McCarthy, 97 F.3d 1562, 1574, 1579 (8th Cir. 1996) (standard of review), cert. denied, 117 S. Ct. 1011, 1284 (1997). The record shows that although Johnson was recruited by his girlfriend--who was recruited by another person--both Johnson and his girlfriend expected to be paid for transporting a relatively large amount of marijuana from California to Rhode Island. See U.S. Sentencing Guidelines Manual § 3B1.2 cmt. 2 (1995) (minimal-participant reduction is to be used “infrequently”); United States v. Garvey, 905 F.2d 1144, 1146 (8th Cir. 1990) (per curiam) (participant status turns on culpability not courier status; drug quantity is relevant factor in determining culpability).

Accordingly, we affirm.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.