

No. 25 - _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

DARWIN JOSE MARTINEZ ANCHUNDIA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals
for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the Eleventh Circuit's categorical exclusion of defendant crewmembers in a maritime drug smuggling venture from consideration for a minor-role downward adjustment under the United States Sentencing Guidelines, on the sole basis that they are accountable for significant drug quantities, is appropriate, given that no such categorical exclusion finds support in U.S.S.G § 3B1.2(b) or its commentary.

LIST OF PARTIES TO THE PROCEEDINGS

The parties to the Eleventh Circuit case of which review is sought in this case are:

Darwin Jose Martinez Anchundia

United States of America

LIST OF PROCEEDINGS RELATED TO THE CASE

1. *United States v. Fienco Quijije, et al.*, Case No. 8:24-cr-500-SDM-TGW (M.D. Fla. 2024) (trial proceedings).
2. *United States v. Martinez Anchundia*, Case No. 25-1224 (11th Cir. July 2, 2026) (unpublished).

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United States v. Martinez Anchundia, Case No. 25-1224 (11th Cir. July 2, 2026)
(unpublished).

STATEMENT OF JURISDICTION

The Eleventh Circuit issued its opinion on July 2, 2026.

Jurisdiction is conferred on this Court by 28 U.S.C. § 1254.

SECTION OF THE UNITED STATES SENTENCING GUIDELINES

According to U.S.S.G. § 3B1.2 (Nov. 1, 2024),

§3B1.2. Mitigating Role

Based on the defendant's role in the offense, decrease the offense level as follows:

(a) If the defendant was a minimal participant in any criminal activity, decrease by 4 levels.

(b) If the defendant was a minor participant in any criminal activity, decrease by 2 levels.

In cases falling between (a) and (b), decrease by 3 levels.

Commentary

Application Notes:

1. **Definition.**—For purposes of this guideline, “*participant*” has the meaning given that term in Application Note 1 of §3B1.1 (Aggravating Role).

2. **Requirement of Multiple Participants.**—This guideline is not applicable unless more than one participant was involved in the offense. See the Introductory Commentary to this Part (Role in the Offense). Accordingly, an adjustment under this guideline may not apply to a defendant who is the only defendant convicted of an offense unless that offense involved other participants in addition to the defendant and the defendant otherwise qualifies for such an adjustment.

3. **Applicability of Adjustment.**—

(A) **Substantially Less Culpable than Average Participant.**—This section provides a range of adjustments for a defendant who plays a part in committing the offense that makes him substantially less culpable than the average participant in the criminal activity.

A defendant who is accountable under §1B1.3 (Relevant Conduct) only for the conduct in which the defendant personally was involved and who performs a limited function in the criminal activity may receive an adjustment under this guideline. For example, a defendant who is convicted of a drug trafficking offense, whose participation in that offense was limited to transporting or storing drugs and who is accountable under §1B1.3 only for the quantity of drugs the defendant personally transported or stored may receive an adjustment under this guideline.

Likewise, a defendant who is accountable under §1B1.3 for a loss amount under §2B1.1 (Theft, Property Destruction, and Fraud) that greatly exceeds the defendant’s personal gain from a fraud offense or who had limited knowledge of the scope of the scheme may receive an adjustment under this guideline. For example, a defendant in a health care fraud scheme, whose participation in the scheme was limited to serving as a nominee owner and who received little personal gain relative to the loss amount, may receive an adjustment under this guideline.

(B) **Conviction of Significantly Less Serious Offense.**—If a defendant has received a lower offense level by virtue of being convicted of an offense significantly less serious than warranted by his actual criminal conduct, a reduction for a mitigating role under this section ordinarily is not warranted because such defendant is not substantially less culpable than a defendant whose only conduct involved the less serious offense. For example, if a defendant whose actual conduct involved a minimal

role in the distribution of 25 grams of cocaine (an offense having a Chapter Two offense level of level 12 under §2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy)) is convicted of simple possession of cocaine an offense having a Chapter Two offense level of level 6 under §2D2.1 (Unlawful Possession; Attempt or Conspiracy)), no reduction for a mitigating role is warranted because the defendant is not substantially less culpable than a defendant whose only conduct involved the simple possession of cocaine.

(C) Fact-Based Determination.—The determination whether to apply subsection (a) or subsection (b), or an intermediate adjustment, is based on the totality of the circumstances and involves a determination that is heavily dependent upon the facts of the particular case.

In determining whether to apply subsection (a) or (b), or an intermediate adjustment, the court should consider the following non-exhaustive list of factors:

- (i) the degree to which the defendant understood the scope and structure of the criminal activity;
- (ii) the degree to which the defendant participated in planning or organizing the criminal activity;
- (iii) the degree to which the defendant exercised decision-making authority or influenced the exercise of decision-making authority;
- (iv) the nature and extent of the defendant's participation in the commission of the criminal activity, including the acts the defendant performed and the responsibility and discretion the defendant had in performing those acts;
- (v) the degree to which the defendant stood to benefit from the criminal activity.

For example, a defendant who does not have a proprietary interest in the criminal activity and who is simply being paid to perform certain tasks should be considered for an adjustment under this guideline.

The fact that a defendant performs an essential or indispensable role in the criminal activity is not determinative. Such a defendant may receive an adjustment under this guideline if he or she is substantially less culpable than the average participant in the criminal activity.

4. Minimal Participant.—Subsection (a) applies to a defendant described in Application Note 3(A) who plays a minimal role in the criminal activity. It is intended to cover defendants who are plainly among the least culpable of those involved in the conduct of a group. Under this provision, the defendant’s lack of knowledge or understanding of the scope and structure of the enterprise and of the activities of others is indicative of a role as minimal participant.

5. Minor Participant.—Subsection (b) applies to a defendant described in Application Note 3(A) who is less culpable than most other participants in the criminal activity, but whose role could not be described as minimal.

6. Application of Role Adjustment in Certain Drug Cases.—In a case in which the court applied §2D1.1 and the defendant’s base offense level under that guideline was reduced by operation of the maximum base offense level in §2D1.1(a)(5), the court also shall apply the appropriate adjustment under this guideline.

Historical Note: Effective November 1, 1987. Amended effective November 1, 1992 (amendment 456); November 1, 2001 (amendment 635); November 1, 2002 (amendment 640); November 1, 2009 (amendment 737); November 1, 2011 (amendments 749 and 755); November 1, 2014 (amendment 782); November 1, 2015 (amendment 794).

U.S.S.G. § 3B1.2 (Nov. 1, 2024)

STATEMENT OF THE CASE

The basis for federal jurisdiction in the Eleventh Circuit was 28 U.S.C. § 1291.

On October 27, 2024, Petitioner Darwin Jose Martinez Anchundia was one of nine crewmembers seized on a vessel located in international waters about 600 nautical miles west of Mexico, and who were then charged in a November 8, 2024, criminal complaint filed in the United States District Court for the Middle District of Florida. Martinez Anchundia and the same crewmen – but no other alleged coconspirators by name - were then charged as defendants in a November 19, 2024, Indictment charging them in two Counts.

Count One charged Martinez Anchundia, while on the high seas onboard a vessel subject to the jurisdiction of the United States, with conspiring “with other persons, both known and unknown to the Grand Jury,” to possess with intent to distribute five kilograms of more of cocaine, in violation of 46 U.S.C. §§ 70503(a) and 70506(a) & (b), and 21 U.S.C. § 960(b)(1)(B)(ii). Count Two charged Martinez Anchundia, on the high seas onboard a vessel subject to the jurisdiction of the United States and while aiding and abetting “each other and other persons unknown to the Grand Jury,” with possessing with intent to distribute five kilograms or more of cocaine,

in violation of 46 U.S.C. §§ 70503(a) & 70506(a), 21 U.S.C. § 960(b)(1)(B)(ii), and 18 U.S.C. § 2.

On March 11, 2025, Martinez Anchundia, without a written plea agreement pled guilty to Counts One and Two. On March 28, 2025, the district court accepted his guilty plea and adjudicated Martinez Anchundia guilty.

Before sentencing, Martinez Anchundia timely filed objections to the initial Presentence Report (PSR) dated May 8, 2025. In pertinent part, the Offense Conduct in his PSR stated as follows:

The Offense Conduct

7. On or about October 27, 2024, United States Coast Guard Cutter (USCGC) *Hamilton* was on routine patrol in the Eastern Pacific Ocean approximately 600 nautical miles west of Mexico in international waters. *Hamilton*'s helicopter observed a go-fast vessel (GFV) with three outboard engines, multiple packages on the deck of the GFV, and the crew jettisoning multiple packages and other items from its deck. [The] *Hamilton* launched a small, unmanned aircraft system (SUAS) and the Over-the-Horizon small boat (OTH) with a law enforcement boarding team. The helicopter was authorized to use force up to and including warning shots or disabling fire. The helicopter proceeded to fire warning shots which successfully halted the GFV.

8. The USCG boarding team conducted a right of approach and observed nine crewmembers on board. The GFV vessel was not flying a flag and displayed no other indicia of nationality. The boarding team identified the crewmembers on the GFV as Henry Paul Fienco Quijije (Fienco Quijije), Juan Carlos Zambrano Lopez (Zambrano Lopez), Cesar Daniel Perez Vera (Perez Vera), Darwin Jose Martinez Anchundia (Martinez Anchundia), Jose Luis Alonzo

Anchundia (Alonzo Anchundia), Hernan Moises Alvarez Mero (Alvarez Mero), Jesus Yoizair Ahumada Armenta (Jesus), Jesus Jaen Ahumada Quintero (Ahumada Quintero), and Jean Carlos Ahumada Armenta (Jean). Fienco Quijije claimed to be the master of the vessel and claimed Mexican nationality of the vessel. Initially, Mexico confirmed the nationality of the GFV and approved the authority of the boarding team to conduct a law enforcement boarding. However, Mexico revised their assessment and stated that they could not confirm or deny the nationality of the GFV. Thus, the GFV was permitted to be treated as one without nationality and became subject to the laws of the United States under the Maritime Drug Law Enforcement Act. Although Fienco Quijije made a claim of being the master of the vessel and claimed Mexican nationality of the vessel, Fienco Quijije's role in the offense was not corroborated as the master for the voyage as envisioned by USSG §2D1.1(b)(3).

The USCG boarding team retrieved several packages jettisoned near the GFV and several packages on the GFV. The boarding team conducted two narcotics identification kit field tests on the packages, and they were positive for cocaine. In total, the boarding team recovered 76 packages of suspected cocaine which had an at sea weight of approximately 4,230 kilograms of cocaine.

9. No post-*Miranda* statements were made.

Martinez Anchundia had no objections to the Offense Conduct in his Presentence Report.

Instead, his timely objections, in pertinent part, asserted that he “should receive a mitigating role reduction under U.S.S.G. § 3B1.2(b), as he occupied merely a minor role in the conspiracy.” Specifically, Martinez Anchundia timely objected to ¶ 19 of the initial PSR, which reflected the absence of a mitigating role downward adjustment pursuant to USSG § 3B1.2(b). Martinez Anchundia submitted that a 2-level downward

adjustment accurately represented his actual, minor role in the conspiracy. In addition, he objected to ¶ 19 because of the absence of an additional 4-level reduction under USSG § 2D1.1(a)(5)(iii), which applies in the event a defendant in Martinez Anchundia's circumstances received a mitigating role downward adjustment. In sum, Martinez Anchundia's objection to ¶ 19 asserted that his total offense level should have been reduced by a total of 6 levels.

The Addendum to the final version of the Presentence Report, dated June 5, 2025, declined to adopt this objection. Relying exclusively on the Eleventh Circuit's opinion *United States v. De Varon*, 175 F. 3d 930 (11th Cir. 1999) (*en banc*), the Addendum, authored by a United States Probation Officer, reasoned that, first, "a downward role adjustment should be applied only if the defendant can establish that he or she played a relatively minor role in the conduct for which he or she is held accountable – not a minor role in any larger criminal conspiracy." Second, the Addendum reasoned that a defendant should be compared only with other participants who are "identifiable or discernible" from the evidence. Third, the Addendum asserted that "the only nine participants who are discernible from the evidence are the defendant and his eight codefendants," and "when determining whether a mitigating role adjustment is appropriate, these [nine] defendants should be compared with each other." The Addendum characterized Martinez Anchundia as an average participant in the conspiracy and not substantially less culpable than his codefendants and asserted that

they were all entrusted with the same large quantity of cocaine and are accountable for “only” the quantity of cocaine located on the vessel.

Persisting in his objection to the absence of a minor-role downward adjustment, Martinez Anchundia then proceeded to his sentencing hearing. He clarified, first, that his argument in support of a minor-role reduction was not that his role should be compared with the much broader drug trafficking organization. But at the same time, he also clarified that his role should be compared not simply with his codefendants on the vessel, as the Addendum concluded, but with *all* of the conspirators, known and unknown, in the discrete, charged conspiracy. He noted that the charged conspiracy included many other conspirators, both known and *unknown* to the Grand Jury, including all persons responsible for placing the load of cocaine on the high seas and those responsible for accepting that load. He argued that the analysis “is all about framing.” He asserted that the analytical frame for determining qualification for a minor-role reduction should not be placed over only the nine mariners physically in the vessel when it was seized, and then charged by name in the Indictment, but *all* of the participants in the charged conspiracy, including the owners of the shipment, the intended recipients, all persons who would profit from the venture, the organizers of the crew, and the recruiters in the scheme. With this framing, Martinez Anchundia argued, the defendants all played a minor role.

Arguing further, Martinez Anchundia asserted that it is not known how many

individuals had a pecuniary interest in the drug shipment, whether just one or two, or whether 20 or 30 (or more). But what is known, he continued, is that Martinez Anchundia and other crew members had no pecuniary interest in the cocaine, and only received one-time payments for their roles as transporters or “mules.” The district court agreed that the relevant legal authority does not reason in terms of numbers, but in terms of “average” participants. Continuing his argument to the district court, Martinez Anchundia contended that it is not inconceivable that this conspiracy involved hundreds of people. Agreeing, the district court responded, “I think it almost surely did, but we can’t discern them.” Relying on *De Varon*, the district court noted that the standard is whether others are “identifiable or discernible” from the evidence. The court continued,

But once you get off that vessel, the analysis of these particular conspiracies, not the average conspiracy that occurs inside the United States and the average drug case in the average city, but these singular cartel-driven, transoceanic, ultra-large quantity ventures get almost impossible to analyze coherently for relative culpability once you get off that vessel.

The court also added that the other low-level participants in the conspiracy – like the mechanics, fuelers, and recruiters – were likely involved on an ongoing basis on behalf of the drug trafficking organization, and thus are difficult to use as comparators with Martinez Anchundia.

The government responded that *De Varon* requires “record evidence” to support the minor role analysis. The government cited *De Varon*’s non-exhaustive factors,

namely the quantity of drugs, their fair market value, the money paid to the individuals, the equity interest in the drugs, and the role in planning; the government conceded that the last two factors are not its strong points in these circumstances. The government contended, though, that the strong points are the quantity of drugs involved, their fair market value, and Martinez Anchundia's compensation.

The court then noted that, after *De Varon*, the Sentencing Guidelines have adopted a similar, but not identical, set of non-exclusive factors that fit more comfortably the average domestic, modest-quantity conspiracy, and less comfortable with transoceanic conspiracies like the one in this case. The court reasoned that, in determining relative culpability, the court must consider a wide array of participants responsible for sending the cocaine: engine workers, boat preparers, cargo preparers, fuel workers, recruiters, cashiers, accountants, owners, electricians, GPS coordinators, and more, as well as the corresponding types of workers who are employed by the recipients of the load. Unlike mariners like Martinez Anchundia, though, the court noted that these other workers do not handle or possess the drugs, nor do they have exclusive possession or control of the drugs for an extended time, often many days. He and his fellow defendants had possession of 4,230 kilograms of cocaine, worth many scores of millions of dollars. Because of this exclusive control, for days, of such a high quantity of cocaine, requiring interdiction by the United States military by way of discharge of

a cannon, the court reasoned that the defendants cannot be summarily described as “mere couriers.” The court also noted that *De Varon* observed that the quantity of drugs is a relevant factor and under some circumstances it may be dispositive. The court reasoned further that the quantity of drugs, and Martinez Anchundia’s knowledge of what he was doing, and the need for military interdiction, leads to the conclusion that his role is not minor. Hauling a few thousand kilograms over hundreds of miles over open ocean, and the substantial market value of the drugs, the court reasoned, would lead one arrested by law enforcement to be unsurprised that his role was a minor one. Although Martinez Anchundia did not have an equity interest in the drugs, he had a contingent interest in a successful venture, as he was likely paid one-half his fee up front, with the second half payable upon his successful return. Although he did not participate in planning the venture, this role in the distribution was not minor. Martinez Anchundia has not borne the burden, the court reasoned, of proving that he is materially less culpable than the average participant. But the court also acknowledged that these standards do not comfortably work with the one percent of the conspiracies that involve such considerable quantities of cocaine.

Thus, the district court denied Martinez Anchundia’s request for a minor role reduction. The court then calculated Martinez Anchundia’s advisory Guidelines as a Level 31, Criminal History Category I, which yielded a range of 108-135 months. Martinez Anchundia requested a downward variance of eleven months, but the court

declined, imposing a sentence at the extreme low end of the applicable advisory range, 108 months.

In a brief, unpublished opinion, the Eleventh Circuit Court of Appeals affirmed the district court's denial of a minor-role downward adjustment. The court initially found that the standard of review was clear error. *United States v. Martinez-Anchundia*, __ Fed. App'x __ (11th Cir. July 2, 2026) (unpublished), *slip op.*, 2 (attached as Appendix A). The court noted that the district court has "'considerable discretion' in determining whether a role reduction is appropriate." *Id.*, quoting *United States v. Boyd*, 291 F. 3d 1274-77-78 (11th Cir. 2002). As long as the district court's determination is supported by the record and does not reflect a misapplication of the law, the court's choice between two permissible views of the evidence regarding a defendant's role will rarely amount to clear error. *Id.*, citing *Boyd*, at 939.

Section 3B1.2 of the Sentencing Guidelines, the court continued, provides for a two-level reduction if the defendant was a minor participant in the criminal activity. *Id.* A minor participant "is someone 'who is less culpable than most other participants in the criminal activity, but whose role could not be described as minimal.'" *Id.* at 2-3, quoting *United States v. Gruezo*, 66 F. 4th 1284, 1293 (11th Cir. 2023), (quoting U.S.S.G. § 3B1.2, cmt. 5). The application of a minor-role adjustment is based on the totality of the circumstances. *Id.* at 3, citing *United States v. Cruikshank*, 837 F. 3d 1182, 1195

(11th Cir. 2016) (*citing DeVaron*, 175 F. 3d at 945). The district court must first measure the defendant’s role against the relevant conduct for which he has been held accountable, and second, ““may also measure the defendant’s culpability in comparison to that of other participants in the relevant conduct.”” *Id.*, *quoting De Varon*, 175 F. 3d at 940.

The Eleventh Circuit acknowledged that it had recently affirmed a district court’s finding that a crewmember of a Colombian vessel importing 375 kilograms of cocaine was not entitled to a minor-role adjustment. *Id.*, *citing United States v. Martinez*, 172 F. 4th 1306, 1314 (11th Cir. 2026).¹ According to the *Martinez Anchundia* court, “We reasoned that, first, the district court was holding him accountable for this ‘actual conduct of transporting nearly half a ton of cocaine along an international trafficking route,’ and second, he understood the nature of his conduct in trafficking the drugs’ even if he ‘may not have understood the full scope of the conspiracy or exerted decision-making power.’” *Id.*, *quoting Martinez*, at 1315.

The Eleventh Circuit found that, like the deckhand in *Martinez*, Martinez Anchundia was not entitled to a minor-role adjustment. *Id.* The court acknowledged that Martinez Anchundia contends that his role is minor compared to all of the participants in the criminal venture, and not merely compared with his crewmates. *Id.* Yet, the court

¹ While his appeal was pending, Martinez Anchundia disclosed the *Martinez* opinion in a notice of supplemental authority to the Eleventh Circuit.

reasoned that the district court held him accountable for his actual conduct, transporting the 4,230 kilograms of cocaine found on the vessel. *Id.* According to the Eleventh Circuit, “And ‘where the relevant conduct attributed to a defendant is identical to [his] actual conduct, [he] cannot prove that [he] is entitled to a minor role adjustment simply by pointing to some broader criminal scheme in which [he] was a minor participant but for which [he] was not held accountable.’” *Id.* at 3-4, *quoting De Varon*, 175 F. 3d at 941 (brackets added by *Martinez Anchundia* court).

In addition, according to the Eleventh Circuit, the district court did not clearly err in finding Martinez Anchundia as culpable as the “average participant” because he was responsible for transporting, with an expectation of compensation, a few thousand kilograms of cocaine worth scores of millions of dollars. *Id.* at 4. The court concluded, “*We’ve said before that one’s ‘involvement ... as a crewmember of a vessel that was smuggling a large quantity of drugs ...[is] serious and important enough to warrant the denial of a minor-role reduction under § 3B1.2.’*” *Id.*, *quoting Gruezo*, 66 F. 4th at 1294 (emphasis added). The court found no clear error. *Id.* In a final footnote, the *Martinez Anchundia* court noted that it had previously affirmed a district court’s denial of a minor-role adjustment for one of his codefendants. *Id.* at 4, n. 1, *citing United States v. Perez Vera*, 2026 WL 1122133 (11th Cir., April 24, 2026).²

² Martinez Anchundia also disclosed *Perez Vera* to the Eleventh Circuit in a notice of supplemental authority while the appeal was pending.

REASONS FOR GRANTING THE WRIT

The Petition should be granted so that this Court can reverse the Eleventh Circuit's affirmance of the district court's judgment rejecting Martinez Anchundia's request for a minor-role reduction as authorized by U.S.S.G. § 3B1.2. Pursuant to Rule 10(c), a United States court of appeals has decided an important question of federal law that have not been, but should be, settled by this Court.

The *Martinez Anchundia* court, relying on a prior decision of the Eleventh Circuit, *United States v. Gruezo*, 66 F. 4th 1284 (11th Cir. 2023), categorically determined that the status of a crewmember of a vessel smuggling a large quantity of drugs “[is] serious and important enough to warrant the denial of a minor-role reduction under § 3B1.2.” *Martinez Anchundia*, slip op. at 4, quoting *Gruezo*, 66 F. 4th at 1294. Section 3B1.2 contains no such categorical exclusion for defendants like Martinez Anchundia, and the Eleventh Circuit's carveout finds no support in the language of the guideline or its commentary.

Clearly, the minor-role comparison required by Section 3B1.2 is not limited to the nine defendants convicted in this case. The number of participants who are criminally responsible for the maritime transshipment of over 4,000 kilograms of cocaine can, quite plausibly, be in the triple figures. They include, among many others, the human infrastructure of a drug trafficking organization responsible for this

astounding quantity of narcotics. These include cultivators, processors, lab workers, transporters, guards, bookkeepers, supply-chain and logistic personnel, armed guards, recruiters, and communications personnel, enforcers in the source country, and all their corresponding criminal counterparts in the intended receiving nation.³ More important, all these categories of necessary participants plausibly require complex hierarchies of supervisors and managers. All are every much as “criminally responsible” for the charged conspiracy as Martinez Anchundia and his named codefendants, and are thus fellow “participants” against whom his role must be compared. The guideline provides that a minor-role reduction applies to a defendant “who is less culpable than most other participants in the criminal activity.” U.S.S.G. § 3B1.2, comment. (n.5). All of these participants in the conspiracy are discernable.

More important, the drug quantity is not pertinent to the minor-role analysis, as Martinez-Anchundia’s heightened base offense level, Level 38, more than adequately punishes him for this factor of drug quantity. Section 3B1.2 does not carve out an exception for significant drug quantity.

The pertinent guideline commentary provides a list of five non-exhaustive factors that must be applied in determining whether Martinez Anchundia occupied a minor role,

³ Rather than the more common “wheel conspiracy,” maritime transshipments might be described as a “barbell conspiracy,” with the named defendants occupying only the slender bar portion of the barbell shape, and a much greater number of participants found at either end of the barbell.

that is, whether he is “less culpable than most other participants in the criminal activity,” as compared with all the “discernable” participants in the conspiracy. U.S.S.G. § 3B1.2, comment. (n. 3(C)).

All the factors weigh in his favor:

- (i) the degree to which the defendant understood the scope and structure of the criminal activity;
- (ii) the degree to which the defendant participated in planning or organizing the criminal activity;
- (iii) the degree to which the defendant exercised decision-making authority or influenced the exercise of decision-making authority;
- (iv) the nature and extent of the defendant’s participation in the commission of the criminal activity, including the acts the defendant performed and the responsibility and discretion the defendant had in performing those acts;
- (v) the degree to which the defendant stood to benefit from the criminal activity.

U.S.S.G. § 3B1.2, comment. (n. 3(C)).

The governing offense conduct, to which neither Martinez Anchundia nor the government objected, appeared in identical form in ¶¶ 7-10 of the Presentence Report. *See supra*. Again, these facts recount the October 27, 2024, interception of a go-fast boat by the U.S. Coast Guard Cutter *Hamilton*, and Martinez Anchundia’s presence as one of the nine crewmembers aboard the go-fast vessel. The undisputed facts recount the recovery of 4,230 kilograms of cocaine, some jettisoned and some remaining on

board. There are no facts that would disqualify Martinez Anchundia from eligibility for a minor-role adjustment.

There was no evidence that the five factors governing the minor-role analysis disfavor Martinez Anchundia's eligibility for the downward departure. There was no evidence that he understood the scope and structure of the criminal activity, which given the substantial drug quantity, could only have been conducted by a significant drug trafficking organization. There was likewise no evidence that Martinez Anchundia participated in planning or organizing the criminal activity. Third, no evidence exists that supports a finding that Martinez Anchundia either exercised decision-making authority himself or influenced another participant's decision-making authority. Similarly, there was no evidence that the extent of Martinez Anchundia's participation in the commission of the offense was anything other than being one of nine crewmembers aboard a go-fast vessel when it was intercepted. There was no evidence that he had enhanced discretion or responsibility for performing the criminal acts. Fifth and finally, the degree to which Martinez Anchundia would benefit from the criminal activity was merely receiving payment for joining the crew; he had no pecuniary interest in the considerable value of the narcotics.

In conclusion, according to the plain language of the governing guideline and the clarifying commentary, Martinez Anchundia is entitled to a minor-role reduction, and the court of appeals erroneously decided an important question of federal law that have

not been, but should be, settled by this Court. The Eleventh Circuit has created a categorical exclusion for minor-role consideration only for defendants who are held accountable for significant drug quantity. This special carveout has no support in the language of Section 3B1.2 or its commentary, and it is clearly erroneous.

CONCLUSION

For the foregoing reasons, respectfully requests that his Petition for Writ of Certiorari be granted.

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APPENDIX A

[NOT FOR PUBLICATION]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-12448
Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

DARWIN JOSE MARTINEZ ANCHUNDIA,
a.k.a. Jose Martinez Anchundia Hernan,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:24-cr-00500-SDM-TGW-4

Before JILL PRYOR, NEWSOM, and WILSON, Circuit Judges.

PER CURIAM:

Darwin Martinez Anchundia appeals his 108-month sentence for (1) conspiracy with intent to distribute five or more kilograms of cocaine while on board a vessel subject to the jurisdiction of the United States, and (2) possessing five or more kilograms of cocaine with intent to distribute. He argues that the district court imposed a procedurally unreasonable sentence when it failed to apply a minor-role reduction in calculating his offense level and advisory sentencing range. We affirm.

We review the district court’s finding that a defendant did not merit a minor-role adjustment for clear error. *United States v. De Varon*, 175 F.3d 930, 937 (11th Cir. 1999) (en banc). The district court has “considerable discretion” in determining whether a role reduction is appropriate. *United States v. Boyd*, 291 F.3d 1274, 1277–78 (11th Cir. 2002). So long as the court’s decision is “supported by the record and does not involve a misapplication of a rule of law,” the “choice between ‘two permissible views of the evidence’” as to the defendant’s role in the offense will rarely constitute clear error. *De Varon*, 175 F.3d at 945 (emphasis omitted). The defendant bears the burden of proving his minor role in the offense by a preponderance of the evidence. *Id.* at 939.

Section 3B1.2 of the Sentencing Guidelines provides for a

two-level reduction if a defendant was a minor participant in the criminal activity. U.S.S.G. § 3B1.2(b). A minor participant is someone “who is less culpable than most other participants in the criminal activity, but whose role could not as described as minimal.” *United States v. Gruezo*, 66 F.4th 1284, 1293 (11th Cir. 2023) (quoting U.S.S.G. § 3B1.2, cmt. 5). Application of a minor-role adjustment is based on the “totality of the circumstances.” *United States v. Cruickshank*, 837 F.3d 1182, 1195 (11th Cir. 2016) (citing *De Varon*, 175 F.3d at 945). In determining whether to grant a minor-role reduction, the district court (1) “must measure the defendant’s role against the relevant conduct for which [he] has been held accountable,” *De Varon*, 175 F.3d at 940, and (2) “may also measure the defendant’s culpability in comparison to that of other participants in the relevant conduct[.]” [*I*]d. at 944.

A panel of this Court recently upheld a district court’s finding that a deckhand who was on board a vessel from Colombia that was carrying 375 kilograms of cocaine wasn’t entitled to a minor-role adjustment. *United States v. Martinez*, 172 F.4th 1306, 1314 (11th Cir. 2026). We reasoned that, first, the district court was holding him accountable for his “actual conduct of transporting nearly half a ton of cocaine along an international trafficking

route,” and second, he understood “the nature of his conduct in trafficking the drugs,” even if he “may not have understood the full scope of the conspiracy or exerted decision-making power.” *Id.* at 1315.

Like the deckhand in *Martinez*, Martinez Anchundia is not entitled to a minor-role adjustment. Though he contends that his role is minor compared to all the participants in the criminal venture, if not compared to his boatmates, the district court was holding him accountable for his “actual conduct”—transporting the 4,230 kilograms of cocaine found on the vessel. And “where the relevant conduct attributed to a defendant is identical to [his] actual conduct, [he] cannot prove that [he] is entitled to a minor role adjustment simply by pointing to some broader criminal scheme in which [he] was a minor participant but for which [he] was not held accountable.” *De Varon*, 175 F.3d at 941.

Additionally, the district court didn’t clearly err in finding Martinez Anchundia as culpable as the “average participant” because he was, after all, responsible for transporting “a few thousand kilograms of cocaine” worth “scores of millions of dollars” and knew he would be paid for it. Sent’g Tr. 19, 21, 23, Dkt. No. 283.

We’ve said before that one’s “involvement . . . as a crewmember of a vessel that was smuggling a large quantity of drugs . . . [is] serious and important enough to warrant the denial of a minor-role reduction under § 3B1.2.” *Gruezo*, 66 F.4th at 1294.

Accordingly, we hold that the district court didn’t clearly err[] when it declined to apply a minor-role adjustment because Martinez Anchundia failed to show that he played a minor role in the conduct for which he was held accountable. [1]

AFFIRMED.

[1] We also upheld the district court’s denial of minor-role adjustment for one of Martinez Anchundia’s codefendants in *United States v. Perez Vera*, 2026 WL 1122133 (11th Cir. Apr. 24, 2026).