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Opinions of the United  
States Court of Appeals  
for the Third Circuit

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6-14-2002

## USA v. Montano-Betancourt

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 01-3155

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UNITED STATES OF AMERICA

v.

JOSE HENRY MONTANO-BETANCOURT,  
Appellant

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On Appeal from the United States District Court  
for the District of New Jersey  
D.C. Criminal No. 99-cr-00209-02  
(Honorable John C. Lifland)

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Submitted Pursuant to Third Circuit LAR 34.1(a)  
April 22, 2002

Before: SCIRICA, RENDELL and NOONAN\*, Circuit Judges

(Filed June 14, 2002)

\*The Honorable John T. Noonan, Jr., United States Circuit Judge for the Ninth  
Judicial Circuit, sitting by designation.

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OPINION OF THE COURT

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SCIRICA, Circuit Judge.

This is a sentencing appeal. Defendant Jose Henry Montano-Betancourt, who pled guilty to conspiring to import heroin, contends the District Court erred in sentencing him under U.S.S.G. 2D1.1(c). Montano-Betancourt contends the District Court should not have held him accountable for the full 1.78 kilograms of heroin seized in Ecuador. Our review is for clear error. *United States v. Gibbs*, 190 F.3d 188, 197 (3d Cir. 1999), cert. denied, 120 S. Ct. 969 (2000). Here, two DEA reports (Government Exhibits 1 and 2) stated that the weight of the heroin seized was 1.78 kilograms and that the couriers intercepted carrying this heroin intended to deliver all the contraband to one contact (an undercover agent) in the United States. Montano-Betancourt was actively engaged in the transportation of this 1.78 kilograms of heroin from Ecuador. He managed the drug

couriers involved and provided them with funds for travel expenses. Thus, the District Court did not clearly err in sentencing the defendant for more than one kilogram of heroin under U.S.S.G. 2D1.1(c).

For these reasons, the judgment of conviction and sentence will be affirmed.

TO THE CLERK:

Please file the foregoing opinion.

Circuit Judge

/s/ Anthony J. S