

United States Court of Appeals
Fifth Circuit

FILED

April 13, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-40699
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ARMANDO LUGO,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:03-CR-204-ALL

Before Barksdale, Stewart, and Clement, Circuit Judges.

PER CURIAM:*

Armando Lugo appeals his sentence following a guilty plea to possession of cocaine with intent to distribute. Lugo challenges a sentence enhancement for obstruction of justice based on the sentencing court's finding that Lugo testified falsely at a suppression hearing. Disagreeing with Lugo's contention that he preserved this argument in the district court, we review the claim for plain error and find none. United States v. Holmes, 406 F.3d 337, 362 (5th Cir.), cert. denied, 126 S. Ct. 375

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

(2005); United States v. Mares, 402 F.3d 511, 520-21 (5th Cir.), cert. denied, 126 S. Ct. 43 (2005).

Lugo correctly points out that the district court plainly erred in sentencing him under a mandatory guideline system; however, he has failed to show that his sentence would have been "significantly different" if he had been sentenced "under an advisory scheme rather than a mandatory one." Mares, 402 F.3d at 521. Accordingly, we affirm the conviction and sentence. United States v. Villaneuva, 408 F.3d 193, 203 (5th Cir.), cert. denied, 126 S. Ct. 268 (2005).

AFFIRMED.