

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

United States Court of Appeals
Fifth Circuit

FILED

August 20, 2010

Lyle W. Cayce
Clerk

No. 09-40860

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

EDIS EDGARDO GUZMAN-HERNANDEZ, also known as Rafael Perez,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 1:09-CR-530-1

Before JONES, Chief Judge, and JOLLY and SOUTHWICK, Circuit Judges.

PER CURIAM:*

Edis Edgardo Guzman-Hernandez appeals his guilty plea conviction for being unlawfully present in the United States following deportation, in violation of 8 U.S.C. § 1326. Guzman-Hernandez argues for the first time on appeal that his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966), were violated and that the district court violated FED. R. CRIM. P. 11 by failing to inquire whether Guzman-Hernandez was interrogated in violation of *Miranda*.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

By pleading guilty, Guzman-Hernandez waived his argument regarding any violation of his *Miranda* rights. *See United States v. Bell*, 966 F.2d 914, 915 (5th Cir. 1992). Rule 11 has no requirement that the district court inquire about possible *Miranda* violations.

He also argues that his counsel provided ineffective assistance by failing to “hold the government to its burden of proof [regarding compliance with *Miranda*] or raise the issue of admissibility to the court.” The record is insufficiently developed to allow consideration at this time of Guzman-Hernandez’s claims of ineffective assistance of counsel; such claims generally “cannot be resolved on direct appeal when [they have] not been raised before the district court since no opportunity existed to develop the record on the merits of the allegations.” *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006) (internal quotation marks and citation omitted).

The district court’s judgment is AFFIRMED.