IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit
FILED
December 17, 2010
Lyle W. Cayce
Clerk

No. 10-10156
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

ANTONIO M. GUZMAN, also known as Compadre,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:08-CR-229-1

Before REAVLEY, DENNIS, and CLEMENT, Circuit Judges.

PER CURIAM:[*]

Antonio M. Guzman pleaded guilty to conspiracy to possess with the intent to distribute and distribution of cocaine and was sentenced to 235 months of imprisonment and five years of supervised release. He argues on appeal that the district court abused its discretion in denying his motion to withdraw his guilty plea. He contends that he was entitled to have his plea withdrawn because his plea was unknowing and involuntary as he was being sentenced on information

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

that was not contained within the indictment and that was not seized within the time period of the conspiracy as defined by the indictment.

When determining whether to allow a defendant to withdraw his guilty plea, the district court should consider whether: (1) the defendant has asserted his innocence; (2) withdrawal would prejudice the Government; (3) the defendant has delayed in filing his withdrawal motion; (4) withdrawal would substantially inconvenience the court; (5) close assistance of counsel was available; (6) the original plea was knowing and voluntary; and (7) withdrawal would waste judicial resources. *United States v. Carr*, 740 F.2d 339, 343-44 (5th Cir. 1984). Guzman has not shown that the district court abused its discretion in determining that he was not entitled under the *Carr* factors to have his guilty plea withdrawn. *See id.* Furthermore, because Guzman's guilty plea was knowing and voluntary, the appeal waiver therein that the Government seeks to invoke bars Guzman's claim on appeal that his sentence is unreasonable.

AFFIRMED.