

May 5, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-50174  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VICTOR MANUEL ARROYO-BALDERAS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. EP-03-CV-168-5-PRM  
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Before JONES, BARKSDALE and PRADO, Circuit Judges.

PER CURIAM:\*

Victor Manuel Arroyo-Balderas pleaded guilty to a superseding information charging him with misprision of a felony. Arroyo has appealed his conviction, arguing that his guilty plea was involuntarily entered because the factual basis does not support his guilty plea to misprision of a felony. Arroyo concedes that this court's review is for plain error. See United States v. Calverley, 37 F.3d 160, 162-64 (5th Cir. 1994) (en banc).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Arroyo has not shown that the district court plainly erred in determining that the guilty plea had a basis in fact establishing the essential elements of the offense. The record reflects that Arroyo understood that he was pleading guilty to failing to disclose to an FBI agent that he knew of a violation of 42 U.S.C. § 6928(d)(2)(A). Moreover, any error on the part of the district court did not affect Arroyo's substantial rights. Arroyo's plea was to a substantially reduced charge after the Government had presented its evidence and after Arroyo's motion for a judgment of acquittal was denied. The facts and charges were well understood by the parties at that stage of the proceeding. The judgment is AFFIRMED.