

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

October 4, 2007

Charles R. Fulbruge III
Clerk

No. 07-10013
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

CARLOS ADAN UMANA

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:06-CR-90-ALL

Before KING, DAVIS and CLEMENT, Circuit Judges.

PER CURIAM:*

Carlos Adan Umana (Umana) appeals the sentence imposed following his conviction for securities fraud. Umana argues that the Government breached its promise in the plea agreement to recommend a sentence at the low end of the applicable guidelines range. Because Umana did not raise this issue in the district court, review is limited to plain error. See *United States v. Munoz*, 408 F.3d 222, 226 (5th Cir. 2005).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

The Government's sentencing recommendation was included in his presentence report, and the Government's statements at sentencing were not contrary to the recommendation. See *United States v. Reeves*, 255 F.3d 208, 211 (5th Cir. 2001). We also reject Umana's assertion that the Government's statements triggered a "duty" to reiterate the recommendation at sentencing pursuant to our prior decisions in *United States v. Saling*, 205 F.3d 764, 767 n.11 (5th Cir. 2000), and *Reeves*, 255 F.3d at 211. As Umana has not shown that the Government breached the plea agreement, he has not shown plain error.

AFFIRMED.