

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1458
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GUADALUPE ANDRES SANCHEZ-MORALES,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 6:93-CR-04-01
- - - - -
(March 25, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

Guadalupe Andres Sanchez-Morales had no "absolute right" to have the district court accept an unconditional guilty plea. Santobello v. New York, 404 U.S. 257, 262, 92 S.Ct. 495, 30 L.Ed.2d 427 (1971). The acceptance or rejection of a guilty plea is within the trial court's sound discretion. United States v. Hamilton, 492 F.2d 1110, 1114 (5th Cir. 1974). Further, the record shows that Sanchez-Morales' guilty plea, entered pursuant to a plea agreement, was knowing and voluntary.

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Title 8 U.S.C. § 1326(b)(1) is a sentencing enhancement provision rather than a separate criminal offense. United States v. Vasquez-Olvera, 999 F.2d 943, 945-47 (5th Cir. 1993), cert. denied, 114 S.Ct. 889 (1994). Accordingly, the indictment need not allege that the defendant has a prior felony conviction in order for an enhanced sentence to be imposed under § 1326(b)(1). See id. at 944-47.

AFFIRMED.