

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-31134
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

CLARENCE A. NUGENT,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 95-CR-10005-03
- - - - -

June 25, 1996

Before WIENER, EMILIO M. GARZA and PARKER, Circuit Judges.

PER CURIAM:*

Clarence A. Nugent appeals his guilty-plea conviction for using and carrying a firearm during and in relation to a drug-trafficking offense. Nugent argues that in light of the intervening change to the law defining an offense under 18 U.S.C. § 924(c)(1), his guilty plea was unknowing based on the factual basis no longer supporting his plea. The portion of the factual basis which was undisputed is sufficient to support criminal

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

liability under § 924(c)(1). See Bailey v. United States, 116 S. Ct. 501, 508 (1995).

Nugent argues that Fed. R. Crim. P. 11(c)(1) was violated by the district court failing to explain adequately the mandatory nature of the five-year term of imprisonment and the court failing to determine whether Nugent understood the mandatory sentence. Our review of the record confirms that the court's explanation of the penalties was adequate under Rule 11 and that any error by the court by its failure to inquire whether Nugent understood was harmless. See United States v. Johnson, 1 F.3d 296, 302 (5th Cir. 1993) (en banc).

AFFIRMED.