

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 95-50454
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE MUNOZ-MONREAL,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-94-CR-261-DB
- - - - -

February 2, 1996

Before DAVIS, BARKSDALE, and DeMOSS, Circuit Judges.

PER CURIAM:*

Jose Munoz-Monreal appeals from his conviction for conspiracy to possess with intent to distribute cocaine. He argues that the district court abused its discretion by admitting hearsay evidence and that the prosecutor improperly vouched for the credibility of a government witness. Given the fact that Munoz-Monreal first introduced the challenged hearsay testimony upon his redirect examination of Agent Martinez, the district court did not abuse its discretion by admitting the testimony.

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

See United States v. Deisch, 20 F.3d 139, 154 (5th Cir. 1994).

In any event, any error from the admission of the testimony was harmless. See United States v. Sanchez-Sotelo, 8 F.3d 202, 210 (5th Cir. 1993), cert. denied, 114 S. Ct. 1410 (1994). Further, because the prosecutor's comment was "invited" by defense counsel's implication that a government witness had violated the terms of his plea agreement and "did no more than respond substantially in order to `right the scale,'" reversal on this issue is not warranted. See United States v. Arce, 997 F.2d 1123, 1130 (5th Cir. 1993).

AFFIRMED.