

**IN THE UNITED STATES COURT OF APPEALS**  
**FOR THE FIFTH CIRCUIT**

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No. 95-50784  
(Summary Calendar)

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LUIS HERRERA-AGUIRRE, a/k/a Luis Herrera,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
(EP-95-CR-111)

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December 13, 1996

Before DAVIS, EMILIO M. GARZA, and STEWART, Circuit Judges.

PER CURIAM:\*

Luis Herrera-Aguirre appeals his conviction of conspiracy to possess with intent to distribute more than five kilograms of cocaine. He argues that the district court erred in administering a charge to the jury in accordance with Allen v. United States, 164 U.S. 492 (1896), without first consulting counsel and that the district court erred in repeating the Allen charge. The record, however, does not reflect that any of the designated errors were prejudicial. The court's actions were not coercive and,

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\*Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

thus, any error was harmless. United States v. McDuffie, 542 F.2d 236, 241 (5th Cir. 1976); United States v. Fossler, 597 F.2d 478, 483-85 (5th Cir. 1979).

Herrera-Aguirre also argues that the district court abused its discretion in admitting testimony of extrinsic evidence. We have reviewed the record and the briefs of the parties and hold that the district court did not abuse its discretion. United States v. Prati, 861 F.2d 82, 86 (5th Cir. 1988).

AFFIRMED.