

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

Charles R. Fulbruge III  
Clerk

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No. 05-41270  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

MICHAEL TEJEDA

Defendant-Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. 7:00-CR-613-1

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Before WIENER, GARZA, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Michael Tejada appeals the sentence imposed upon his guilty-plea conviction for conspiracy to possess with intent to distribute five kilograms or more of cocaine. See 21 U.S.C. §§ 841, 846. Tejada argues that the Government breached an implied promise, or bargained away its discretion, to file a motion for downward departure pursuant to U.S.S.G. § 5K1.1. However, there is nothing in the record to indicate that the Government made, much less breached, a promise to file a § 5K1.1 motion for a downward departure or that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

it “bargained away its discretion” to file such a motion. See *United States v. Hernandez*, 17 F.3d 78, 82 (5th Cir. 1994). Tejada’s argument to the contrary is without merit.

AFFIRMED.