

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-50110  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ENRIQUE IBARRA-DAVALOS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. DR-99-CR-362-1  
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January 23, 2001

Before SMITH, BENAVIDES, and DENNIS, Circuit Judges.

PER CURIAM:\*

Enrique Ibarra-Davalos appeals his guilty-plea conviction for conspiracy to transport illegal aliens within the United States. He argues that his counsel had a conflict of interest because he represented both Ibarra-Davalos and his wife, Leticia Parra de Ibarra. He argues that his counsel's joint representation of himself and his wife adversely affected his counsel's representation in that he received a greater sentence based on his wife's statements to the Government.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

At a hearing, the magistrate judge advised Ibarra-Davalos of the conflict of interest, of the potential consequences of continued representation under such a conflict, and that he had a right to counsel unfettered by the conflict of interest. See United States v. Plewniak, 947 F.2d 1284, 1287 (5th Cir. 1991). After Ibarra-Davalos was advised of these rights, he stated affirmatively on the record that he still wished to continue to be represented by the same attorney despite the possible conflict of interest. Therefore, the record demonstrates that Ibarra-Davalos waived any possible conflict of interest and that the waiver was knowing and voluntary. See id.

AFFIRMED.