

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-40104

Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee,

versus

JOSE RAUL ALVAREZ-PAZ,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
(M-00-CR-430)

October 17, 2001

Before HIGGINBOTHAM, WIENER, and BARKSDALE, Circuit Judges.

PER CURIAM:*

Alvarez-Paz appeals his sentence for possession with intent to distribute marijuana. He argues that his sentence should not have been enhanced for possession of a dangerous weapon because the firearms found near him were not in plain view. He also claims that he did not know that firearms were located nearby or that his co-defendant possessed firearms.

Alvarez-Paz's allegations at most establish that it is

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

possible that the firearms present at the time of his arrest were not connected with the offense, not that it is clearly improbable that the firearms were connected with the offense, as is required.¹

The district court's determination was not clearly erroneous.
AFFIRMED.

¹ U.S.S.G. § 2D1.1 cmt. n.3.