

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-50370
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MARIO ALBERTO CIRIZA,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-99-CR-1066-2-DB

December 23, 2002

Before JONES, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:*

Mario Alberto Ciriza, federal prisoner # 48308-080, appeals the district court's denial of his motion for arrest of judgment and dismissal of the indictment pursuant to FED. R. CRIM. P. 12(b)(2) and FED. R. CRIM. P. 34, relating to his 2000 conviction for various drug offenses. He contends that because the indictment did not allege a specific drug quantity, the district court lacked jurisdiction over the case.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

A defect in an indictment does not deprive the district court of jurisdiction over the criminal proceeding. United States v. Cotton, 122 S. Ct. 1781, 1784-85 (2002). Therefore, Ciriza's challenge had to be raised before he entered his guilty plea. See FED. R. CRIM. P. 12(b)(2). Because he did not file his motion within seven days of pleading guilty, Ciriza's motion for arrest of judgment under FED. R. CRIM. P. 34 is untimely. The judgment of the district court is AFFIRMED.