

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-31140
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MILCIADES MINA-CUERO,
also known as Minea Miliades,

Defendant-Appellant.

Appeal from the United States District Court
For the Eastern District of Louisiana
(96-CR-116-L)

September 5, 1997

Before POLITZ, Chief Judge, HIGGINBOTHAM and PARKER, Circuit Judges.

PER CURIAM:*

Convicted on a guilty plea of unlawful reentry after deportation, 8 U.S.C. § 1326(b)(1), Milciades Mina-Cuero appeals his sentence, challenging the use of a prior conviction in Texas state court. Mina-Cuero claims that his inability to

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

understand English rendered his state court conviction of a drug violation invalid and he contends that it should not have been used in the calculation of his sentence. Our review of the record and briefs persuades that the district court's finding and conclusion that the testimony of Mina-Cuero lacked credibility is not clearly erroneous¹ and that the trial court did not err in considering the prior state felony conviction in determining the sentence imposed.²

The judgment appealed is AFFIRMED.

¹ **United States v. Garza**, _____ F.3d _____ (5th Cir. July 16, 1997, No. 95-21094) 1997 WL 400812 at *4.

² **United States v. Howard**, 991 F.2d 195 (5th Cir. 1993).