

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-51140
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

HOMOGONIO RIOS-FUENTES,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. DR-98-CR-252-ALL

November 2, 1999

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Homogonio Rios-Fuentes appeals his guilty plea conviction for intentionally distributing morphine, in violation of 21 U.S.C. § 841(a)(1). Specifically, Rios-Fuentes argues that the district court erred by failing to state at his arraignment that: 1) the court had a duty to consider applicable sentencing guidelines; 2) the court could depart from those guidelines in certain circumstances; 3) Rios-Fuentes' statements under oath could form the basis of a perjury prosecution; and 4) Rios-Fuentes had a Fifth Amendment right not to testify. Rios-Fuentes

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

also argues that the court erred by not inquiring into the factual basis for his plea. Rios-Fuentes argues that these omissions affected his substantial rights and rendered his guilty plea invalid.

We have reviewed the record and the briefs submitted by the parties and find that the errors committed by the district court in its Fed. R. Crim. P. 11 colloquy were harmless. See United States v. Johnson, 1 F.3d 296, 298 (5th Cir. 1993) (en banc); United States v. Bachynsky, 949 F.2d 722, 726 (5th Cir. 1991).

AFFIRMED.