

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-40640
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ALLEN JIOMAR MEJIA-PORTILLO,
also known as Allen Jiomar
Medina-Fuentes, also known as
Cesar Medina-Fuentes,

Defendant-Appellant.

Appeal from the United States District Court for the
Southern District of Texas
USDC No. B-99-CR-24-1

August 7, 2000

Before JOLLY, BARKSDALE, and DENNIS, Circuit Judges.

PER CURIAM:*

Allen Jiomar Mejia-Portillo appeals the district court's sentence following his guilty plea to illegal reentry after deportation. Mejia argues that the district court erred in increasing his sentence by 16 levels because the PSR does not show that his prior conviction was a felony under state law. Because

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Mejia did not object to this increase in district court, review is for plain error only.

Such error is not demonstrated by the record. The record does not reflect whether Mejia's second crack-related offense was a felony or misdemeanor, and it could well have fallen into either classification. Because this issue is unclear, there is no "clear" or "obvious" error. United States v. Calverley, 37 F.3d 160, 162-64 (5th Cir. 1994) (en banc). Consequently, the judgment of the district court is

A F F I R M E D.