

April 22, 2005

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-10150  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE ARMENTA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:03-CR-145-Y  
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Before REAVLEY, JOLLY and HIGGINBOTHAM, Circuit Judges.

PER CURIAM:\*

José Armenta pleaded guilty to one count of conspiracy to possess with intent to distribute more than 500 grams of a substance containing methamphetamine. He appeals the denial of his motion to withdraw his guilty plea and further asserts that he received ineffective assistance of counsel. We find no error in the district court's application of the factors to be considered in deciding whether to grant a motion to withdraw. See United States v. Carr, 740 F.2d 339, 343-44 (5th Cir. 1984). Armenta's assertion of innocence was equivocal at best, and he

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

provided no good justification for his delay in seeking to withdraw his guilty plea. See id. We also find no error in the district court's determination that withdrawal of the plea would inconvenience the court and would waste judicial resources.

The district court's findings that Armenta had close assistance of counsel and that his plea was made knowingly and voluntarily are supported by the record. The district court conducted a thorough Rule 11 colloquy, and Armenta affirmed that he understood the nature of the charges and denied any coercion. Armenta has failed to overcome the presumption of veracity that attaches to statements made under oath in open court. See United States v. Cervantes, 132 F.3d 1106, 1110 (5th Cir. 1998). Accordingly, we AFFIRM the denial of Armenta's motion to withdraw.

AFFIRMED.