

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-51308  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

CESAR AGUSTO HERNANDEZ

Defendant - Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. A-00-CR-59-ALL-JN  
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August 10, 2001

Before KING, Chief Judge, and JONES and STEWART, Circuit Judges.

PER CURIAM:\*

Cesar Augusto Hernandez appeals his conviction and sentence for possession with intent to distribute cocaine base in violation of 21 U.S.C. § 841(a)(1). He argues the district court erred by admitting a police officer's testimony about information he received from an informant. He argues the testimony was inadmissible hearsay, that it was not relevant, and that it was unduly prejudicial. We review a district court's evidentiary rulings for abuse of discretion. United States v. Torres, 114 F.3d 520, 526 (5th Cir. 1997).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

We conclude that the challenged testimony was offered to explain the officer's actions in investigating Hernandez and was not offered for the truth of the matter asserted. See Fed. R. Evid. R. 801. The prosecution is entitled to give the jury background information on why the officers acted in investigating a possible crime. See United States v. Carrillo, 20 F.3d 617, 620 (5th Cir. 1994).

Moreover, after reviewing the evidence as a whole, we are persuaded that the challenged testimony was not prejudicial and that even if it were prejudicial, there is not a significant possibility that it had a substantial impact on the jury verdict. See United States v. Rodriguez, 524 F.2d 485, 487 (5th Cir. 1975).

AFFIRMED.