

August 24, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 05-31032
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RODNEY HUEY,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 3:05-CR-30009-ALL

Before SMITH, WIENER, and OWEN, Circuit Judges.

PER CURIAM:*

Rodney Huey appeals his guilty-plea conviction for possession with the intent to distribute 50 grams or more of a mixture containing cocaine base. Huey argues that the district court erred when it failed to adequately inform him of the mandatory minimum sentence as required by FED. R. CRIM. P. 11(b)(1)(I). Where, as here, a defendant fails to object to a Rule 11 error in the district court, this court reviews for plain error. United States v. Vonn, 535 U.S. 55, 58-59 (2002).

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

Although the plea documents and the statements made by the district court at the guilty-plea hearing could have been more artfully phrased, they reflected that Huey was facing a sentence of 20 years to life. Moreover, the presentence report correctly reflected that, due to Huey's prior drug conviction, Huey faced a mandatory minimum sentence of 20 years in prison. The fact that Huey did not attempt to withdraw his guilty plea after the presentence report was disclosed suggests that the court's failure to succinctly inform him of the mandatory minimum sentence was not a significant factor in his decision to plead guilty. See United States v. Johnson, 1 F.3d 296, 302 (5th Cir. 1993) (en banc). Considering the record as a whole, Vonn, 535 U.S. at 68, the district court's failure to succinctly advise Huey of the mandatory minimum sentence does not constitute plain error. The judgment of the district court is AFFIRMED.