

July 10, 2007

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 06-50505  
Summary Calendar

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RICARDO VEGA-NIETO,

Defendant-Appellant.

-----  
Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 4:05-CR-240-3  
-----

Before DeMOSS, STEWART and PRADO, Circuit Judges.

PER CURIAM:\*

Ricardo Vega-Nieto was charged, along with three co-defendants, with possessing with the intent to distribute 50 kilograms or more of marijuana and aiding and abetting. On the morning of his trial, Vega-Nieto attempted to enter a guilty plea. After substantially complying with FED. R. CRIM. P. 11, the district court determined that Vega-Nieto's plea was not entered voluntarily and that Vega-Nieto did not admit the elements of his offense. The district court thus refused to accept Vega-Nieto's guilty plea, and Vega-Nieto was convicted by a jury and sentenced

---

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

to 46 months of imprisonment, three years of supervised release, and a \$100 special assessment.

Vega-Nieto argues that the district court abused its discretion in refusing to accept his plea. "A court may reject a plea in the exercise of sound judicial discretion." Santobello v. New York, 404 U.S. 257, 262 (1971). A district court's "broad discretion" in deciding whether to reject a guilty plea "is limited only by the procedural requirements of Rule 11." United States v. Wild, 92 F.3d 304, 308 (5th Cir. 1996). "A district court 'abuses its discretion if it bases its decision on an error of law or a clearly erroneous assessment of the evidence.'" United States v. Smith, 417 F.3d 483, 486-87 (5th Cir.), cert. denied, 126 S. Ct. 713 (2005).

Vega-Nieto concedes that the district court substantially complied with Rule 11. Vega-Nieto has not addressed the district court's reasons for rejecting his plea. He has therefore not shown that the district court's findings were clearly erroneous or that the decision to reject his plea was an abuse of discretion. The judgment of the district court is AFFIRMED.