

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

January 2, 2014

Lyle W. Cayce
Clerk

No. 12-11281
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DOMINGO RODRIGUEZ-NOYOLA,

Defendant-Appellant

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 4:12-CR-148-1

Before DAVIS, SOUTHWICK, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Domingo Rodriguez-Noyola appeals from the sentence imposed following his guilty plea conviction for possession with intent to distribute a controlled substance. After declining to decrease his sentence pursuant to U.S.S.G. § 3E1.1 for acceptance of responsibility, the district court sentenced Rodriguez-Noyola to 210 months of imprisonment and five years of supervised release.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 12-11281

On appeal, Rodriguez-Noyola argues that the district court erred by concluding that he did not warrant the adjustment for acceptance of responsibility because he frivolously challenged relevant conduct in his objections to the presentence report. Because he did not object on this basis while before the district court, we review this issue for plain error. *See United States v. Medina-Anicacio*, 325 F.3d 638, 647 (5th Cir. 2003). Rodriguez-Noyola has not shown that the district court plainly erred in determining that his objections to the PSR were frivolous. The district court therefore did not err by concluding that he acted in a manner inconsistent with acceptance of responsibility by frivolously challenging relevant conduct that the district court determined to be true. *See* U.S.S.G. § 3E1.1, cmt. n.1(A).

The judgment of the district court is AFFIRMED.