

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-5737

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

GEORGE ESCAMILLA,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
(SA 80 CR 102 2 (SA 91 CA 1150))

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October 27, 1993

Before REYNALDO G. GARZA, KING and DEMOSS, Circuit Judges.

PER CURIAM:\*

The most that can be said for the violation of Rule 11 that occurred here is that it was a technical violation. In the context of a claim under 28 U.S.C. § 2255, the question is whether such a violation resulted in a "complete miscarriage of justice" or in a proceeding "inconsistent with the rudimentary demands of fair procedure." United States v. Timmreck, 441 U.S. 780, 783 (1979). The opinion of the magistrate judge makes it

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\*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

perfectly clear that no such miscarriage of justice has occurred here.

The petitioner's affidavit suggests that if he had been fully advised by the trial judge of the effect of special parole on the term that he would actually spend in prison, he would not have plead guilty. The transcript of Escamilla's guilty plea hearing belies his affidavit. We note that this court had earlier reversed Escamilla's conviction and sentence for the conduct at issue here. That sentence included a life special parole term. The transcript of the guilty plea hearing makes it clear that Escamilla was attempting to bargain away a special parole term by pleading guilty to a charge that would not have permitted a special parole term. When Escamilla was unsuccessful in doing that, his lawyer advised that he was considering the special parole implications of the charge that he agreed to plead guilty to. Further, the district court clearly admonished Escamilla that the special parole term would be left to the discretion of the court and could be as long as life. The transcript, in our view, conclusively establishes that Escamilla was acutely aware of the possibility that he could receive a life special parole term and that he well understood it. In summary, we agree with the magistrate judge and the district court that Escamilla cannot reasonably claim that he has been the victim of a complete miscarriage of justice.

AFFIRMED.