

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-8682

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

OCTAVIO CARREON, and  
ARMANDO MELENDEZ,

Defendants-Appellants.

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Appeal from the United States District Court  
For the Western District of Texas

(EP-92-CR-133-4)

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April 19, 1994

Before VAN GRAAFEILAND\*, SMITH, and WIENER, Circuit Judges

PER CURIAM\*\*:

SUPPLEMENTAL OPINION

Defendant-Appellant Armando Melendez requested access to the Presentence Investigation Reports ("PSRs") of all government coconspirators-witnesses who testified against him. Melendez

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\*Senior Judge for the Second Circuit Court of Appeals, sitting by designation.

\*\*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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

premised his request on the theory that these witnesses switched from implicating his father (who is now dead) to implicating him as the head of the marijuana-smuggling Melendez organization in order to increase the value of their testimony to the government))hence the size of their downward departures under a 5K1.1 motion.

Working from the established premise that information contained in a PSR is confidential, the district court denied this request. Subsequent to trial, in United States v. Jackson,<sup>1</sup> we held that the trial court should examine in camera any requested PSRs of government witnesses, and should release any exculpatory or impeachment information contained therein to the defendant, while protecting the confidentiality of the rest of the PSR.

In our original opinion for this appeal,<sup>2</sup> we remanded))but did not reverse))the conviction of Melendez to permit the district court to make in camera findings regarding the possible presence of material Brady or Giglio information in the requested PSRs. We also asked the district court to make the requested PSRs a part of the record. The district court has now done so under seal.

The district court found that these PSRs contained no material Brady or Giglio information. Our independent review of the same PSRs leads us to the same conclusion. We also specifically note that these PSRs offer no support for Melendez's "switching leader" theory.

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<sup>1</sup>978 F.2d 903, 908-09 (5th Cir. 1992), cert. denied, 113 S.Ct. 2429 (1993).

<sup>2</sup> United States v. Carreon, 11 F.3d 1225, 1238 (5th Cir. 1994).

For the foregoing reasons, Melendez's judgment of conviction  
is  
AFFIRMED.