UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-1887
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LILIANA MARIN,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas
(4:92-CR-078 K)

(August 1, 1994)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

EDITH H. JONES, Circuit Judge:[*]

Appellant Liliana Marin was apprehended at DFW International Airport when it was suspected, on the basis of incriminating statements from her brother who was travelling with her, that she had ingested heroin for importation. A brief hospital stay revealed that she had ingested over 60 packets of heroin weighing 680 grams, and her brother had ingested about 1,200 grams of the drug to bring into the United States from Guatemala.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Approximately 90 days after their arrest, Liliana and her brother were arraigned and, over objections of their separate counsel, chose to plead guilty to the two-count importation indictment. After being sentenced to the minimum ten year term, Liliana had second thoughts. Assisted by new, bilingual counsel, she filed a motion to withdraw guilty plea. The court denied her motion after a hearing, and she has appealed. We find that the guilty plea complied with Fed. R. Crim. Proc. 11 and the court did not err in denying withdrawal of the plea and so affirm the conviction and sentence.

Contrary to the parties' understanding, the sufficiency of the Rule 11 hearing itself, rather than simply the judge's order refusing to allow withdrawal of the guilty plea, is at issue in this court. Within ten days after sentence was pronounced, Liliana had a letter written to the U.S. Probation Office in Fort Worth requesting that the judge appoint her a bilingual lawyer for purposes of appeal. The letter requested that a copy be forwarded to Judge Belew. The judge obviously received this letter, because he did appoint such a lawyer. The letter provided sufficient information to comply with Fed. R. App. Proc. 3(c) as a timely notice of appeal, particularly in light of Garcia v. Wash, ____ F.3d ____ (5th Cir. Apr. 27, 1994, No. 93-8071).

Neither of the parties is disserved by our considering the adequacy of the Rule 11 colloquy on direct appeal, because both parties have addressed that issue to support their arguments

concerning the constitutional voluntariness of the plea and the court's decision denying withdrawal.

After a complete review of the transcripts of the arraignment/guilty plea hearing and the hearing on motion to withdraw the guilty plea, we are convinced that the plea was voluntarily entered after adequate compliance by the court with Rule 11. Liliana's appellate brief points out the obvious circumstance that she and her brother both pled guilty over the contrary advice of their appointed counsel and the repeated admonitions by the court. The court repeatedly informed Liliana and her brother that if they pled guilty right away, they would be subject to a ten-year minimum sentence, whereas their lawyers might be able to strike a better bargain if they waited awhile. The court carefully interrogated Liliana as to all matters covered by Rule 11 and specifically pursued the question whether she might have been unduly influenced or threatened by her brother when pleading guilty. The judge was satisfied with her denials of coercion. At one point, the judge may not have heard her state that she had not had much time to consult with her lawyer. Nevertheless, reading the entire transcript, it is evident that she knew her lawyer was counseling her against pleading guilty, and she chose to disregard his advice.

Liliana's brief does not question the court's compliance with the particulars of Rule 11 so much as with the court's ultimate finding of voluntariness. Liliana suggests instead that she was improperly influenced by the interpreter at the

arraignment, that she did not understand what was being told her, and that the judge's statements would have been untranslatable to her because of cultural and language differences. While ingenious, we believe these arguments are either not supported in the record or were properly rejected by the court at its subsequent hearing on the motion to withdraw plea. Read in context, Liliana's statements at the arraignment and at the later hearing evidence sufficient understanding of the proceedings to belie her late-made claim of ignorance. In sum, the Rule 11 plea colloquy was satisfactory, and the guilty plea was entered voluntarily and knowingly on June 13.

As counsel are aware, a motion to withdraw a guilty plea made after sentencing may only be granted to correct a fundamental defect which inherently results in a complete miscarriage of justice or an omission inconsistent with the rudimentary demands of fair procedure. United States v. Hoskins, 910 F.2d 309, 311 (5th Cir. 1990). From the foregoing discussion, it is clear that appellant's motion did not meet this demanding standard, and the district court did not abuse his discretion in denying it.

For these reasons, the conviction and sentence issued by the district court are **AFFIRMED**.