

UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-8474  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

TED HUGH MITCHELL,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Western District of Texas  
(A-90-CR-43-ALL)

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(June 22, 1994)

Before POLITZ, Chief Judge, JONES and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Ted Hugh Mitchell, convicted on a guilty plea of one count of money laundering and one count of conspiracy to commit bank fraud, appeals *pro se* his conviction and sentence. We affirm.

Mitchell, an attorney, assisted a money laundering and bank

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

fraud operation culminating in the instant charges. Mitchell pled guilty pursuant to a plea agreement and, after significant cooperation with the government that earned him a downward departure, was sentenced to concurrent 33-month terms of imprisonment, a period of supervised release, and a restitution obligation. Mitchell timely appealed.

Mitchell first argues that the district court failed to comply with Fed.R.Crim.P. 11 which, among other things, requires the judge accepting a guilty plea to explain in open court the nature of the charge. The court must determine that a defendant understands the nature of the charges. The degree of explanation required will vary depending on a number of factors, including the defendant's sophistication.<sup>1</sup> Mitchell's training as an attorney militates against a finding that the straightforward charges against him were beyond his comprehension absent a detailed explanation by the court. Additionally, the transcript of the plea colloquy refutes the assertion of ignorance. Mitchell told the court under oath that he was a lawyer and that he had read the information charging him with the two offenses. After the information was again read to Mitchell, he testified that he understood the charges, that he had no questions about their meaning, that he had committed the acts charged, and that he voluntarily was pleading guilty.<sup>2</sup>

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<sup>1</sup>**United States v. Corbett**, 742 F.2d 173 (5th Cir. 1984).

<sup>2</sup>Mitchell's novel suggestion that his plea was involuntary because it was "bought" with lenience and because the agents with whom he had agreed to cooperate were in court is meritless and does not overcome the strong presumption of verity favoring his sworn testimony that the plea was voluntary. **United States v. Smith**, 844

Mitchell next claims the district court abused its broad discretion in denying his request at sentencing to withdraw his guilty plea. Mitchell offered no reason to support the request and, given the implausibility of any claim of innocence and the three-year span between the entry of his plea and the motion, the district court did not abuse its discretion in denying same.<sup>3</sup>

Mitchell challenges the district court's adoption of the Presentence Report. Mitchell's only unwaived and unabandoned objections are his claims that he was reluctant to participate in the charged crimes and that the PSR's tenor was unfavorable. The district court was free to adopt the PSR over these vague objections: "When a defendant objects to his PSR but offers no rebuttal evidence to refute the facts, the district court is free to adopt the facts in the PSR without further inquiry."<sup>4</sup>

Finally, Mitchell maintains that he was denied his right to

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F.2d 203 (5th Cir. 1988).

Mitchell also maintains that the government breached its plea agreement by failing to secure for him a sentence shorter than the terms facing his codefendants. No such obligation appears in the plea agreement. Even had such a duty existed, the government likely satisfied it. The prosecution explained at sentencing that Mitchell's "part in this thing was certainly on a lower level than Mr. Patillo's . . . [and that] his punishment ought to be less than Patillo's."

<sup>3</sup>**United States v. Rinard**, 956 F.2d 85 (5th Cir. 1992).

<sup>4</sup>**United States v. Sherbak**, 950 F.2d 1095, 1099-1100 (5th Cir. 1992). Mitchell suggests that the district court should have afforded him an evidentiary hearing on this issue but, notably, he did not request one at sentencing. Importantly, at sentencing the government acknowledged Mitchell's limited role in the offense and recommended a downward departure on that basis, obviating any need for a hearing on that issue.

effective counsel. That issue was not raised in the trial court and we will not entertain it on appeal in the absence of a sufficiently developed record.<sup>5</sup>

AFFIRMED.

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<sup>5</sup>**United States v. Higdon**, 832 F.2d 312 (5th Cir. 1987), cert. denied, 484 U.S. 1075 (1988).