

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20142
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ROGELIO MENDEZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Southern District of Texas
USDC No. CR H 93-0230-2
- - - - -

December 1, 1995

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Rogelio Mendez appeals his convictions of conspiracy to possess with intent to distribute heroin, possession with intent to distribute heroin, distribution of heroin, and aiding and abetting. Mendez contends that the district court erred by denying his suppression motion; admitting co-conspirator hearsay; admitting the English-language transcript of a Spanish-language taped conversation; admitting the audio and video tapes of the

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

transactions on which his convictions are based; denying his motion for a judgment of acquittal; and attributing to him for sentencing an excessive amount of drugs and drugs seized from Jernigan's residence.

Mendez has failed to brief adequately his contentions regarding his suppression motion, the admission of co-conspirator hearsay, and the admission of audio and video tapes. He has abandoned those contentions and we do not consider them. *Yohey v. Collins*, 985 F.2d 222, 225 (5th Cir. 1993).

Mendez did not object at trial to the admission of the English-language transcript of the Spanish-language tape on the grounds he urges on appeal. We review his contention regarding the transcript under the plain-error standard of review. See *United States v. Calverley*, 37 F.3d 160, 162-64 (5th Cir. 1994)(en banc), *cert. denied*, 115 S. Ct. 1266 (1995). Mendez has not demonstrated plain error. First, a district court may allow introduction of an English-language transcript without admitting the foreign-language audio tape that has been translated and transcribed. *United States v. Valencia*, 957 F.2d 1189, 1194 (5th Cir.), *cert. denied*, 113 S. Ct. 254 (1992); see *United States v. Rizk*, 842 F.2d 111, 112 (5th Cir.), *cert. denied*, 488 U.S. 832 (1988). Second, the burden of proving inaccuracy was on Mendez. *Rizk*, 842 F.2d at 112. Third, Lieutenant Cavazos, who indicated that he is bilingual, testified that he had compared the transcript to the tape and had determined that the transcript was accurate. Mendez had an opportunity to cross-examine Cavazos and

chose not to question his testimony regarding the accuracy of the transcript.

The evidence was sufficient to support Mendez's convictions. Evidence indicates that Rogelio and Homero Mendez collaborated to sell heroin to confidential informant Jernigan and Lieutenant Cavazos. Jernigan's involvement did not render a conspiracy impossible. See *United States v. Manotas-Mejia*, 824 F.2d 360, 365 (5th Cir. 1987), *cert. denied*, 484 U.S. 957 (1987). We have reviewed the record and found the evidence sufficient to support Mendez's conviction on all counts.

Finally, Mendez did not object in the district court to the amount of drugs attributed to him for sentencing. The presentence report supports the attribution of 586.2 kilograms of marijuana to Mendez for sentencing; Mendez cannot demonstrate plain error regarding the quantity of drugs attributed to him.

AFFIRMED.