

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-20188  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

EDISON ABADIA-CALERO, a/k/a Edison Abadia,  
a/k/a Edison Calero Abadia,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. CR-H-94-60-2  
- - - - -

December 21, 1995

Before DAVIS, STEWART, and PARKER, Circuit Judges.

PER CURIAM:\*

Edison Abadia-Calero appeals his conviction by guilty plea of conspiracy to possess with intent to distribute cocaine and aiding and abetting. Abadia contends that the Government breached his plea agreement by not recommending a 15-year sentencing cap and that the district court erred by not allowing him to withdraw his guilty plea because of the breach of the plea agreement.

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\* Local Rule 47.5.1 provides: "The publication of opinions that 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 Pursuant to that Rule, the court has determined that this opinion should not be published.

Abadia's plea agreement linked the 15-year sentencing cap to Abadia's substantial cooperation, and reserved to the Government the discretion to move for a downward departure based on substantial cooperation. The district court explained to Abadia at the plea hearing that the Government reserved the discretion to move for a downward departure, 15-year sentencing cap, and three-level reduction based on Abadia's assistance. Abadia, who was represented by counsel, indicated that he understood the substantial-assistance provision. Additionally, Abadia did not question the district court when the court solicited questions. The Government did not breach the plea agreement by not recommending a 15-year sentencing cap. See *Santobello v. United States*, 404 U.S. 257, 262 (1971); *United States v. Valencia*, 985 F.2d 758, 760-61 (5th Cir. 1993).

AFFIRMED.