

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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No. 95-20790  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JULIO ANTONIO ALVAREZ,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. CR-H-94-281-1

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September 20, 1996

Before EMILIO M. GARZA, STEWART and PARKER, Circuit Judges.

PER CURIAM:\*

The government does not argue that the plea agreement signed by Julio Antonio Alvarez waives his right to appeal his sentence. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993). Alvarez has failed to show that the government breached the plea agreement by relying on his assertion that he was unwilling to testify without giving him an opportunity to refuse to testify in open court. United States v. Garcia-Bonilla, 11 F.3d 45, 46-47 (5th Cir. 1993); see also United States v.

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\*Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

Laday, 56 F.3d 24, 25-26 (5th Cir. 1995). The government's motion to supplement the record is

DENIED AS MOOT.

AFFIRMED.