

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-30740
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

LLOYD A. DOMINGUEZ,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Louisiana
(USDC No. 96-CR-35-R)
- - - - -

November 14, 1997

Before WIENER, BARKSDALE and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Lloyd A. Dominguez appeals from his conviction and sentence for possession with intent to distribute, and for conspiracy to distribute, cocaine. He complains of (1) the inadequacy of the indictment, (2) an evidentiary ruling, and (3) the length of his sentence. Our review of the record and of the arguments and authorities convinces us that no reversible error was committed. Dominguez fails to establish that the district court plainly erred

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

by failing to dismiss the indictment sua sponte. See United States v. Gaytan, 74 F.3d 545, 551 (5th Cir. 1996). The district court did not abuse its discretion by allowing a case agent to testify that the pen registers that were installed on one of Dominguez's coconspirator's phones showed that, between November 1994 and April 1995, Dominguez called that coconspirator's home 63 times. See United States v. Fagan, 821 F.2d 1002, 1008 n.1 (5th Cir. 1987). Neither did the district court commit plain error in sentencing Dominguez to 280 months' imprisonment. See United States v. Calverley, 37 F.3d 160, 162-64 (5th Cir. 1994) (en banc).

AFFIRMED.