

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50037
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSÉ FERMIN ALONSO-ALONSO,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Western District of Texas
- - - - -

September 9, 1997

Before DUHÉ, DeMOSS, and DENNIS, Circuit Judges.

PER CURIAM:¹

José Fermin Alonso-Alonso (Alonso) has appealed his conviction of unlawfully having brought an alien to the United States, in violation of 8 U.S.C. § 1324(a)(1)(A)(i). He contends that the district court reversibly abused its discretion by permitting a government witness to testify that he had stated previously that he had been threatened. Alonso contends that this testimony should have been excluded as inadmissible hearsay.

It would be improper for a jury to consider such testimony as tending to prove that a defendant is guilty. As a prior

¹ 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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.

inconsistent statement, however, the testimony was admissible to impeach the credibility of the witness. See United States v. Sisto, 534 F.2d 616, 622 (5th Cir. 1976).

Accordingly, the question is whether the district court reversibly erred by not giving a limiting instruction. Since none was requested, Alonso is not entitled to relief unless this was plain error. There was no plain error because the testimony was not "extremely damaging" and it did not violate any of Alonso's substantial rights. See id. at 623; United States v. Calverley, 37 F.3d 160, 164 (5th Cir. 1994) (en banc).

JUDGMENT AFFIRMED.