

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 98-40150
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

GELACIO ARROYO-BENITEZ
also known as Julio Aguirre-Barrera,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-97-CR-338-1

February 10, 1999

Before JOHNSON, DUHE, and STEWART, Circuit Judges.

PER CURIAM:*

Gelacio Arroyo-Benitez appeals from his guilty-plea conviction for being present illegally in the United States subsequent to deportation. He argues that because the record contains no affirmative showing that he knowingly and voluntarily waived his constitutional rights, the district court failed to comply with Rule 11 of the Federal Rules of Criminal Procedure. He further contends that appellate review of the voluntariness of his plea is impossible as the transcript of rearraignment does not reflect his own answers to the court's questions

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th CIR.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

regarding the waiver of his rights. Arroyo-Benitez asserts that the district court's method of taking his plea violates Rule 11, and as such, his conviction should be reversed.

Arroyo-Benitez does not argue that he did not understand that he was waiving certain constitutional rights by pleading guilty. Because he does not contend that his plea was involuntary, he has not identified any harm or reversible error. See FED. R. CRIM. P. 11(h), 52.

AFFIRMED.