

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-41266
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS MARTINEZ, also known as Jesus Martinez-Leanos,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. L-99-CR-535-1

October 17, 2000

Before SMITH, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Jesus Martinez appeals following his conviction of possession with intent to distribute marijuana. His sole argument on appeal is the he was denied his right to allocution at the sentencing hearing when the district court refused to consider a letter from Martinez's ex-wife which purportedly discussed hardships the family would suffer due to Martinez's incarceration.

Under Fed. R. Crim. P. 32, the district court, before imposing sentence, must "address the defendant personally and

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

determine whether the defendant wishes to make a statement and to present any information in mitigation of the sentence." Fed.

R. Crim. P. 32(c)(3)(C). To comply with this rule, there must be some type of interaction between the sentencing court and the defendant demonstrating that the defendant understood that he had the right to speak on any subject before being sentenced. United States v. Myers, 150 F.3d 459, 462 (5th Cir. 1998).

The record illustrates not only that Martinez was afforded his right to allocution at sentencing but also that he addressed the court and that the district court considered the information Martinez presented.

AFFIRMED.