

United States Court of Appeals for the Fifth Circuit

No. 23-40667
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

July 12, 2024

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

FRANCISCO EDUARDO BRISENO,

Defendant—Appellant.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 4:22-CR-138-2

Before SMITH, STEWART, and DUNCAN, *Circuit Judges.*

PER CURIAM:*

Francisco Eduardo Briseno appeals his guilty plea convictions for conspiracy to transport undocumented aliens into or within the United States and conspiracy to conceal or harbor undocumented aliens. Briseno asserts that his guilty plea was not knowing and voluntary because the district court committed error under Federal Rule of Criminal Procedure 11 by failing to

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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advise him that he was subject to a \$5,000 special assessment, on each count, under 18 U.S.C. § 3014(a). *See* FED. R. CRIM. P. 11(b)(1)(H), (L).

We review Briseno's Rule 11 argument, which was raised for the first time on appeal, for plain error. *See United States v. Brown*, 328 F.3d 787, 789 (5th Cir. 2003). Even if the district court's omission constitutes clear or obvious error, Briseno has not shown that the failure to advise him of the possibility of the \$5,000 special assessments affected his substantial rights. *See United States v. Dominguez Benitez*, 542 U.S. 74, 83 (2004); *see also United States v. Hughes*, 726 F.3d 656, 662 (5th Cir. 2013). Thus, Briseno's Rule 11 argument fails on plain error review. *See Puckett v. United States*, 556 U.S. 129, 135 (2009).

AFFIRMED.