

United States Court of Appeals For the First Circuit

No. 18-2224

UNITED STATES,

Appellee,

v.

JOSE ANTONIO LUGO-GUERRERO, a/k/a Antonio Moraima, a/k/a Fernando Rivera-Rodriguez, a/k/a Alex,

Defendant - Appellant.

Before

Torruella, Kayatta and Barron,
Circuit Judges.

JUDGMENT

Entered: August 28, 2020

Defendant appeals his 192-month sentence for conspiracy to possess with intent to distribute controlled substances and possession of firearms in furtherance of a drug trafficking crime. Defense counsel argues that the district court erred by accepting a plea that was not voluntary or intelligent, contending that the court (1) did not ensure that defendant clearly understood the nature of his agreement with the government and (2) did not properly advise defendant of the elements of 18 U.S.C. § 924(c). In a supplemental pro se brief, defendant further claims (1) that the district court did not understand its authority, as stated in Dean v. United States, 137 S. Ct. 1170 (2017), to consider a sentence imposed under § 924(c) when calculating a just sentence for the predicate drug crime; (2) that the district court erred by imposing a 4-level enhancement to defendant's offense level for being a leader of the conspiracy; (3) that the district court erred by denying defendant's motion to suppress wiretap evidence; and (4) that the district court erred by not solely relying upon the amount of drugs actually seized during the investigation in determining the drug quantity for the offense. The government has moved for summary affirmance of the district court's decision.

We have carefully reviewed the parties' briefs and the record below and **GRANT** the government's motion for summary disposition and **AFFIRM** the judgment of the district court.

By the Court:

Maria R. Hamilton, Clerk

cc:

Karen A. Pickett

Jose Antonio Lugo-Guerrero

Donald Campbell Lockhart

Theodore Babcock Heinrich