

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4654

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MARIO SIMUEL, a/k/a Jamie, a/k/a Darryl Brown,
a/k/a Blue,

Defendant - Appellant.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. Benson Everett Legg, Chief District Judge.
(CR-03-483-BEL)

Submitted: April 26, 2006

Decided: May 15, 2006

Before GREGORY and SHEDD, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.

David Paul Henninger, Bel Air, Maryland, for Appellant. Rod J.
Rosenstein, United States Attorney, Bonnie S. Greenberg, Assistant
United States Attorney, Baltimore, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Mario Simuel appeals his conviction and sentence following a guilty plea to armed bank robbery, in violation of 18 U.S.C. § 2113 (2000). Simuel alleges that the district court erred in denying his motion to withdraw his guilty plea. Finding no reversible error, we affirm.

A defendant who seeks to withdraw his guilty plea before sentencing must demonstrate a "fair and just reason" for withdrawal of the plea. Fed. R. Crim. P. 11(d)(2)(B). A "fair and just" reason is one that essentially "challenges the fairness of the Fed. R. Crim. P. 11 proceeding" or "challenges the fulfillment of a promise or condition emanating from the proceeding." United States v. Lambey, 974 F.2d 1389, 1394 (4th Cir. 1992). A court should closely scrutinize the Rule 11 colloquy and attach a strong presumption that the plea is final and binding if the Rule 11 proceeding is adequate. Id. We review the district court's denial of a motion to withdraw a guilty plea for abuse of discretion. United States v. Wilson, 81 F.3d 1300, 1305 (4th Cir. 1996). After reviewing the record, we find that the district court did not abuse its discretion by finding no fair and just reason for the withdrawal of Simuel's guilty plea.

Accordingly, we affirm Simuel's conviction and sentence. We dispense with oral argument because the facts and legal

contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED