

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4913

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FRANK ESQUIVEL,

Defendant - Appellant.

No. 06-4070

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FRANK ESQUIVEL,

Defendant - Appellant.

Appeals from the United States District Court for the Eastern
District of North Carolina, at Raleigh. James C. Fox, Senior
District Judge. (5:05-cr-00026-F-1)

Submitted: January 31, 2007

Decided: July 9, 2007

Before MOTZ, TRAXLER, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Anthony Mark Brannon, BRANNON STRICKLAND, PLLC, Raleigh, North Carolina, for Appellant. George E.B. Holding, Acting United States Attorney; Anne M. Hayes, Christine Witcover Dean, Assistant United States Attorneys, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Frank Esquivel appeals from his conviction and 264-month sentence and the order of forfeiture* imposed following Esquivel's guilty plea to one count of conspiracy to distribute and possess with intent to distribute cocaine base and cocaine, 21 U.S.C. § 846 (2000). Finding no merit to his appeals, we affirm.

Esquivel claims that his guilty plea was not knowing and voluntary because, although he stipulated in his plea agreement "that the readily provable quantity of the controlled substance to be used for the purpose of establishing the base offense level is . . . more than 50 kilograms of cocaine," he did not realize that he could be sentenced based on a quantity exceeding fifty kilograms of cocaine. We find that the district court conducted a thorough inquiry pursuant to Rule 11 of the Federal Rules of Criminal Procedure. Absent extraordinary circumstances, an appellant is bound by his statements at the plea hearing. Beck v. Angelone, 261 F.3d 377, 395-96 (4th Cir. 2001). The record in this case does not support Esquivel's claim that he was confused about the consequences of his plea.

Accordingly, we affirm. 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

*Although he filed a notice of appeal from the forfeiture order, Esquivel did not challenge the order in his brief and therefore has waived the issue. Edwards v. City of Goldsboro, 178 F.3d 231, 241 (4th Cir. 1999).