UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, Foley Square, in the City of New York, on the 7th day of October, two thousand and four.

Present: HON. JON O. NEWMAN,
HON. JOSEPH M. McLAUGHLIN,
HON. RICHARD C. WESLEY,
Circuit Judges.

UNITED STATES OF AMERICA,

Appellee,

- v - (03-1654)

EDWIN VELEZ,

Defendant-Appellant.

For Defendant-Appellant: STEVEN A. FELDMAN, Feldman & Feldman, Happauge, New York (on submission).

For Appellee: RITA M. GLAVIN, Assistant United States Attorney for the Southern District of New York (David N. Kelley, United States Attorney for the Southern District of New York, Adam B. Siegel, *on the brief*), New York, New York (on submission).

Appeal from the United States District Court for the Southern District of New York (Chin, *J.*).

1 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED** that the judgment of
2 the district court be **AFFIRMED**.
3 Familiarity by the parties is assumed as to the facts, the procedural context, and the
4 specification of appellate issues. After reviewing the trial transcript below and the district court
5 judgment, we now affirm. Velez brings several claims to this Court and argues, among other
6 things: that the district court provided an improper limiting instruction regarding Velez's prior
7 felony conviction; that the district court improperly instructed the jury regarding Velez's alleged
8 flight; that the government's summation constituted reversible error; that the district court
9 incorrectly designated Velez's burglary conviction as a qualifying offense; and that the district
10 court erred in failing *sua sponte* to grant Velez a downward departure. We have considered all of
11 appellant's arguments in this case and find each of them to be either unpreserved, not plain error,
12 or without merit.
13 Accordingly, for the reasons set forth above, the judgment of the district court is hereby
14 **AFFIRMED**.
15
16 For the Court
17 Roseann B. MacKechnie, Clerk
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1 By: