

July 1, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-51121
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JESUS HERMILLO RODRIGUEZ-RENTERIA,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. P-03-CR-128-2

Before SMITH, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:*

Jesus Hermillo Rodriguez-Renteria ("Rodriguez") entered a conditional guilty plea to possession with intent to distribute marijuana, and aiding and abetting, in violation of 21 U.S.C. § 841(a)(1), and was sentenced to 60 months' imprisonment and four years' supervised release. Rodriguez reserved the right to appeal the denial of his motion to suppress.

It is the duty of this court to raise jurisdictional issues sua sponte, if necessary. Mosley v. Cozby, 813 F.2d 659, 660 (5th

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Cir. 1987). The magistrate judge recommended that Rodriguez's motion to suppress be denied, and Rodriguez objected. In their supplemental briefs requested by this court, both parties concede that the district court has not entered an order regarding the motion to suppress and that this issue is not ripe for appeal. See 28 U.S.C. § 636(b)(1)(C); United States v. Raddatz, 447 U.S. 667, 681-82 (1980).

The district court has not ruled on the suppression motion, and the magistrate judge's recommendation that the motion be denied is not appealable to this court. See United States v. Cooper, 135 F.3d 960, 961 (5th Cir. 1998) (citing Trufant v. Autocon, Inc., 729 F.2d 308, 309 (5th Cir. 1984)). Accordingly, Rodriguez's appeal, which addresses only suppression issues, is DISMISSED for lack of jurisdiction.

APPEAL DISMISSED.