

October 29, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 04-20113  
Summary Calendar

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UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

GARY ORNETTE JACKSON

Defendant - Appellant

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. H-02-CR-628-ALL  
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Before KING, Chief Judge, and DAVIS and STEWART, Circuit Judges.

PER CURIAM:\*

Gary Ornette Jackson appeals his conviction and sentence following a bench trial for being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). Jackson argues that the district court erred when it denied his motion to suppress because the police did not obtain valid consent to search his hotel room. Jackson fails to show that the district court's finding that valid consent was given for officers to search his hotel room was clearly erroneous or

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

influenced by an incorrect view of the law. See Illinois v. Rodriguez, 497 U.S. 177, 186-87 (1990); United States v. Outlaw, 319 F.3d 701, 703 (5th Cir. 2003); United States v. Jenkins, 46 F.3d 447, 451 (5th Cir. 1995).

Jackson's alternative argument that the district court erred when it denied his motion to suppress because the search of his hotel room was not made incident to a lawful arrest or due to exigent circumstances does not rise to the level of plain error. See United States v. Olano, 507 U.S. 725, 731-37 (1993); United States v. Calverley, 37 F.3d 160, 162-64 (5th Cir. 1994) (en banc).

Jackson's conviction and sentence are AFFIRMED.