

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

March 26, 2012

Lyle W. Cayce
Clerk

No. 11-50323
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

CHARLES LEWIS MITCHELL,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:09-CR-204-1

Before WIENER, STEWART, and HAYNES, Circuit Judges.

PER CURIAM:*

Defendant-Appellant Charles Lewis Mitchell pleaded guilty to receipt of child pornography and two counts of possession of child pornography, reserving the right to appeal the district court's denial of his motion to suppress evidence. He contends that (1) the government improperly used warrantless administrative summonses to identify him and his alleged actions; (2) the Tariff Act and the Patriot Act, which the government relied on, do not authorize the use of such summonses in criminal investigations; and (3) without the

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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information thus obtained, there was not probable cause sufficient to support the government's application for a warrant to search his residence.

The government counters that, even if the administrative summonses were not used properly, the good faith exception to the exclusionary rule is applicable, as the district court held. In his appellate brief, Mitchell does not assert that the district court erred in determining alternatively that the good faith exception to exclusionary rule applied. By failing to brief any challenge to the district court's alternative holding that the good faith exception applies, Mitchell abandoned that contention. *See United States v. Thibodeaux*, 211 F.3d 910, 912 (5th Cir. 2000).

AFFIRMED.