

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

November 22, 2023

Lyle W. Cayce
Clerk

No. 22-40816
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JULIO CESAR GONZALEZ-HERNANDEZ,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:22-CR-137-1

Before WIENER, STEWART, and DOUGLAS, *Circuit Judges.*

PER CURIAM:*

Julio Cesar Gonzalez-Hernandez pleaded guilty, pursuant to a written plea agreement, to possession of a firearm by an individual illegally in the United States, in violation of 18 U.S.C. § 922(g)(5), and illegal reentry, in violation of 8 U.S.C. § 1326. He was sentenced within the guidelines range to 87 months of imprisonment.

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

No. 22-40816

On appeal, Gonzalez-Hernandez challenges the district court's denial of his pretrial motion to suppress. However, because his guilty plea is not a conditional plea and there is no evidence suggesting that he intended to enter a conditional plea, reserving his right to appeal the denial of his motion to suppress, his challenge to the denial of his motion to suppress is waived. *See United States v. Olson*, 849 F.3d 230, 231 (5th Cir. 2017); *United States v. Bell*, 966 F.2d 914, 917-18 (5th Cir. 1992).

Gonzalez-Hernandez also challenges the district court's assessment of a two-level sentencing increase, pursuant to U.S.S.G. § 2K2.1(b)(1)(A), because his offense involved between three and seven firearms. He contends that the term "involved" is not clearly defined and that the Guideline is therefore void for vagueness.

The argument is unavailing. The Supreme Court has held that "the advisory Guidelines are not subject to vagueness challenges under the Due Process Clause." *Beckles v. United States*, 580 U.S. 256, 259 (2017).

Gonzalez-Hernandez's convictions and sentence are **AFFIRMED**. The Government's motion for a 30-day extension to file a supplemental brief addressing the merits of the denial of the motion to suppress is **DENIED** as unnecessary.