

UNITED STATES COURT OF APPEALS  
for the Fifth Circuit

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No. 92-7736  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

ALBERTO GALLEGOS,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
(CR-B92-150-01)

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(September 21, 1993)

Before DAVIS, JONES, and DUHÉ, Circuit Judges.

PER CURIAM:<sup>1</sup>

Following his conditional plea of guilty to a drug offense, Appellant appeals the denial of his motion to suppress evidence. We affirm.

When reviewing denial of a motion to suppress, we review the district court's findings of fact for clear error, and the ultimate determination whether the search or seizure was reasonable under the Fourth Amendment de novo. United States v. Seals, 987 F.2d 1102, 1106 (5th Cir. 1993), petition for cert. filed, 92-9137 (June

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<sup>1</sup> Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

18, 1993). We review the evidence most favorably to the party prevailing in the district court unless that view is inconsistent with the trial court's findings, or is clearly erroneous considering the evidence as a whole. United States v. Shabazz, 993 F.2d 431, 434 (5th Cir. 1993).

Basically, Appellant argues that the evidence should have been suppressed because the search and seizure of his codefendant traveling companion was unlawful. Unfortunately for Appellant, he does not have standing to contest the search or seizure of his codefendant. United States v. Padilla, 113 S.Ct. 1936, 1939 (1993). Fourth Amendment rights are personal. Rakas v. Illinois, 439 U.S. 128 (1978). Appellant must, therefore, show that some Fourth Amendment right of his was violated by the allegedly illegal search and seizure of his codefendant. Padilla, 113 S.Ct. at 1939; United States v. Pierce, 959 F.2d 1297, 1303 (5th Cir.), cert. denied, 113 S.Ct. 621 (1992). Appellant fails because he can show no legitimate expectation of privacy in the drugs found on his codefendant's person.

As to Appellant's own arrest and search, there was clearly probable cause, because there was a clear showing of the probability of criminal activity from all of the circumstances. United States v. Daniel, 982 F.2d 146, 151 (5th Cir. 1993). Appellant was arrested by an officer who had participated in the codefendant's apprehension, and who had witnessed the bundle of drugs strapped around his waist. The arresting officer had spoken with the other assisting officer and knew that Appellant was the

arrested man's companion and that Appellant was seen with the bag which he denied having any connection with. The officer also knew that the bag had been discovered on the same plane as Appellant.

Finally, Appellant lacks standing to challenge the search of and seizure from the bag removed from the plane with him because he disclaimed any interest in it. See United States v. Piaget, 915 F.2d 138, 140 (5th Cir. 1990); United States v. Gutierrez, 849 F.2d 940, 943 (5th Cir. 1988).

AFFIRMED.