

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-9186  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOSE GAMBOA GUERRA,

Defendant-Appellant.

- - - - -  
Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 3:93-CR-209-T (01)  
- - - - -  
(September 22, 1994)

Before KING, SMITH, and BENAVIDES, Circuit Judges.

PER CURIAM:\*

Jose Gamboa Guerra pleaded guilty to unlawful possession with intent to distribute heroin. The district court sentenced Guerra to a prison term of 72 months, imposed a three-year term of supervised release, and ordered a special assessment of \$50.

Guerra argues that his due process rights were violated because it was possible that the district court relied upon erroneous information when it ruled upon his pre-plea agreement motion to suppress evidence.

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\* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

A valid guilty plea waives an appellant's right to challenge any non-jurisdictional defects in the proceedings leading to the conviction. United States v. Smallwood, 920 F.2d 1231, 1240 (5th Cir.), cert. denied, 111 S. Ct. 2870 (1991). Guerra does not challenge the voluntariness of his guilty plea. The plea was not conditioned on his ability to challenge the suppression issue on appeal. See Fed. R. Crim. P. 11(a)(2). Thus, the district court's judgment and sentence is AFFIRMED.