

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 98-40164  
Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellant,

versus

JOSE LUIS MARTINEZ,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Southern District of Texas  
UDC No. V-96-CR-12-1  
- - - - -

December 10, 1998

Before WISDOM, DUHE', and DeMOSS, Circuit Judges.

PER CURIAM:\*

Jose Luis Martinez (Martinez) pleaded guilty to possession of more than five kilograms of cocaine with the intent to distribute. 21 U.S.C. § 841(a)(1). He appealed the denial of a motion to suppress evidence, which he argued was obtained as the result of an invalid traffic stop pursuant to the Fourth Amendment prohibition against unreasonable searches and seizures.

The district court concluded that Martinez violated Tex. Transp. Code Ann. § 502.404(a), failure to display a license

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

plate, providing probable cause for the traffic stop that led to the discovery of illegal narcotics. Even assuming that the traffic stop was not valid, the district court determined that Martinez voluntarily consented to a search of his vehicle, dissipating the taint of the alleged Fourth Amendment violation.

Assuming the initial stop was improper, Martinez voluntarily consented to a search of the vehicle. His consent was unsolicited; there was no evidence of police coercion; he was told that he was free to go; and he was informed of his right to refuse consent. In light of this court's decision in *United States v. Kelley*, 981 F.2d 1464, 1471-72 (5th Cir. 1993), these particular circumstances demonstrate that Martinez's consent was in fact voluntary. See also *Brown v. Illinois*, 422 U.S. 590 (1975); *United States v. Olivier-Becerril*, 861 F.2d 424 (5th Cir. 1988). Any defect in the initial traffic stop was cured by the consent. See *Kelley*, 981 F.2d at 1470. Accordingly, Martinez's motion to suppress was properly denied.

AFFIRMED.