

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-41491
Summary Calendar

RUBEN PASTRANA,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. B-97-CV-216

November 20, 2001

Before KING, Chief Judge, and DAVIS and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Ruben Pastrana appeals the dismissal of his complaint for damages filed pursuant to the Federal Torts Claims Act. Pastrana contends that the magistrate judge clearly erred in finding that the arrest occurred on June 29, 1995. He asserts that this finding affected the magistrate judge's conclusion that Pastrana was not entitled to relief on his claim that he was not given meals for two days while in custody. Pastrana contends also that

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

the magistrate judge abused his discretion by denying counsel's motions to withdraw and for a continuance.

The record demonstrates that the error in the recitation of the date of Pastrana's arrest was merely a mistake that caused the record to fail to reflect what was intended at the time of trial and did not affect Pastrana's substantial rights. We will not re-evaluate the magistrate judge's credibility determination. Glass v. Petro-Tex Chemical Corp., 757 F.2d 1554, 1559 (5th Cir. 1985).

Pastrana has not shown that the magistrate judge's decision on the motions to withdraw and for a continuance was an abuse of discretion. See United States v. Wild, 92 F.3d 304, 306 (5th Cir. 1996); United States v. Davis, 61 F.3d 291, 298 (5th Cir. 1995).

Pastrana has abandoned his claims that he was treated roughly during his arrest and that he was denied requested medical treatment by failing to assert them in this court. See Brinkmann v. Dallas County Deputy Sheriff Abner, 813 F.2d 744, 748 (5th Cir. 1987) (issues not asserted on appeal are abandoned).

Accordingly, the judgment is AFFIRMED.