

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-50494
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

VIRTIS LEE GIBSON;
JAY LAVONE LLOYD,

Defendants-Appellants.

Appeals from the United States District Court
for the Western District of Texas
USDC No. MO-96-CR-149-1

June 2, 1998

Before JONES, SMITH and STEWART, Circuit Judges.

PER CURIAM:*

Virtis Lee Gibson and Jay Lavone Lloyd appeal their convictions for conspiracy, possession of cocaine base with intent to distribute, and possession of cocaine with intent to distribute. Gibson and Lloyd argue that the district court should have suppressed evidence because the affidavit supporting the search warrant was lacking in probable cause, and Lloyd argues that his incriminating

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

statements should have been excluded because they were made without the benefit of Miranda^{**} warnings. Both defendants challenge the sufficiency of the evidence supporting their conspiracy convictions, and Lloyd also challenges the sufficiency of the evidence supporting his possession convictions. Gibson argues that the district court abused its discretion by denying his motion for severance, and Lloyd argues that the district court abused its discretion by denying a mistrial based on the accidental publication to the jury of a police report.

Having reviewed the record and the briefs of the parties, we HOLD that the district court did not err by denying the defendants' motions to suppress evidence. United States v. Pena-Rodriguez, 110 F.3d 1120, 1129 (5th Cir. 1997), cert. denied, 118 S. Ct. 72 (1997); United States v. Broussard, 80 F.3d 1025, 1034 (5th Cir.), cert. denied, 117 S. Ct. 264 (1996). The evidence supports the defendants' convictions. United States v. Jaramillo, 42 F.3d 920, 923 (5th Cir. 1995). The district court did not abuse its discretion by denying Gibson's motion for severance and Lloyd's motion for a mistrial. See United States v. Tencer, 107 F.3d 1120 (5th Cir. 1997); United States v. Ramirez, 963 F.2d 693, 699 (5th Cir. 1992).

AFFIRMED.

^{**} Miranda v. Arizona, 384 U.S. 436 (1966).