

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

February 3, 2022

Lyle W. Cayce  
Clerk

---

No. 21-30585  
Summary Calendar

---

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

JOHN EDWARD MCINTYRE,

*Defendant—Appellant.*

---

Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 3:20-CR-213-1

---

Before SMITH, STEWART, and GRAVES, *Circuit Judges.*

PER CURIAM:\*

John Edward McIntyre pleaded guilty to possession with the intent to distribute methamphetamine and possession of a firearm in furtherance of drug trafficking. He now appeals the district court's denial of his motion to suppress evidence, arguing that the incriminating evidence at issue was

---

\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 21-30585

discovered pursuant to a pretextual traffic stop. He correctly concedes that his argument is foreclosed by *Whren v. United States*, 517 U.S. 806 (1996), but he wishes to preserve it for further review. The Government moves for summary affirmance or, in the alternative, for an extension of time to file a brief.

As the Government asserts and as McIntyre concedes, the sole issue raised on appeal is foreclosed by *Whren*. Because the Government's position "is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case," *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158, 1162 (5th Cir. 1969), summary affirmance is proper.

Accordingly, the Government's motion for summary affirmance is GRANTED, and the district court's judgment is AFFIRMED. The Government's alternative motion for an extension of time to file a brief is DENIED.