

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

August 21, 2015

Ms. Jeannette Clack
Western District of Texas, Pecos
United States District Court
410 S. Cedar Street
U. S. Post Office & Courthouse
Room 203
Pecos, TX 79772-0000

No. 14-51243 USA v. Francisco Duble-Ramos
USDC No. 4:14-CR-355-2

Dear Ms. Clack,

Enclosed is a copy of the judgment issued as the mandate and a copy of the court's opinion.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Nancy F. Dolly, Deputy Clerk
504-310-7683

cc: Mr. Damian Castillo
Mr. Joseph H. Gay Jr.

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

July 30, 2015

Lyle W. Cayce
Clerk

No. 14-51243
Summary Calendar

D.C. Docket No. 4:14-CR-355-2

UNITED STATES OF AMERICA,

Plaintiff - Appellee

v.

FRANCISCO DUBLE-RAMOS,

Defendant - Appellant

Appeal from the United States District Court for the
Western District of Texas, Pecos

Before JOLLY, BENAVIDES, and CLEMENT, Circuit Judges.

J U D G M E N T

This cause was considered on the record on appeal and the briefs on file.

It is ordered and adjudged that the judgment of the District Court is affirmed.



Certified as a true copy and issued
as the mandate on Aug 21, 2015

Attest: *Lyle W. Cayce*
Clerk, U.S. Court of Appeals, Fifth Circuit

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

FRANCISCO DUBLE-RAMOS,

Defendant-Appellant

Appeal from the United States District Court
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USDC No. 4:14-CR-355-2

Before JOLLY, BENAVIDES, and CLEMENT, Circuit Judges.

PER CURIAM:*

Francisco Duble-Ramos pleaded guilty to possession with the intent to distribute 50 to 100 kilograms of marijuana and was sentenced to 18 months of imprisonment. Duble-Ramos entered a plea under Federal Rule of Criminal Procedure 11(a)(2), specifically reserving a challenge to the district court's adverse ruling on his motion to suppress. He argues that the district court erred in denying his motion to suppress his statements regarding his

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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nationality and immigration status. Duple-Ramos contends that these statements should have been suppressed because they were made before he had been advised of his *Miranda* rights but after he was in custody.

In the district court, Duple-Ramos argued that his detention was not supported by reasonable suspicion. He did not argue, as he now does on appeal, that his statements were subject to suppression because they were made while he was detained but before he received *Miranda*¹ warnings. Accordingly, Duple-Ramos waived the only argument he advances on appeal. *See United States v. Pope*, 467 F.3d 912, 914-15, 917-20 (5th Cir. 2006). This court does not review waived errors. *United States v. Rodriguez*, 602 F.3d 346, 350-51 (5th Cir. 2010).

Regardless, Duple-Ramos would not prevail even if this court assumes that he merely forfeited the argument and that plain error review applies. *See Pope*, 467 F.3d at 919 n.20. To establish plain error, an appellant must show a forfeited error that is clear or obvious that affects his substantial rights. *Puckett v. United States*, 556 U.S. 129, 135 (2009). If he makes such a showing, this court has the discretion to correct the error, but only if it seriously affects the fairness, integrity, or public reputation of judicial proceedings. *Id.*

Duple-Ramos's challenge to the district court's ruling denying the suppression of his statements fails because an alien's "INS file and even his identity itself are not suppressible." *United States v. Hernandez-Mandujano*, 721 F.3d 345, 351 (5th Cir. 2013). Moreover, even if the court erred in finding the statements not suppressible, the error would not affect Duple-Ramos's substantial rights because the contested statements regarding his nationality and immigration status were not necessary to establish the elements of the offense of conviction. *See United States v. Solis*, 299 F.3d 420, 446 (5th Cir.

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966).

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2002). Thus, he has not made the required showing that the error affected the outcome. *See United States v. Mondragon-Santiago*, 564 F.3d 357, 364 (5th Cir. 2009).

The judgment of the district court is AFFIRMED.