[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-16376

D. C. Docket No. 09-00024-CR-A-N

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JOHN ALBERT FLORES,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Alabama

(December 30, 2010)

Before TJOFLAT, HILL and ALARCON,* Circuit Judges.

PER CURIAM:

* Honorable Arthur L. Alarcon, United States Circuit Judge for the Ninth Circuit, sitting by designation.

Appellant John Albert Flores ("Flores") entered a conditional plea of guilty to one count of knowing and willfully possessing with intent to distribute five kilograms or more of a controlled substance, in this case cocaine hydrochloride, a Schedule II Controlled Substance, in violation of 21 U.S.C. § 841(a)(1). Pursuant to the plea agreement, Flores reserved the right to appeal the district court's denial of his motion to suppress evidence obtained during a search of his tractor trailer performed after a routine traffic stop. He now appeals the denial of his motion to suppress.

Flores filed his motion to suppress on March 17, 2009. The matter was referred to a magistrate judge, and, on April 7, 2009, an evidentiary hearing was held. Following that hearing, on May 14, 2009, the magistrate judge issued a Report and Recommendation recommending that the motion to suppress be denied. Flores objected to that Report and Recommendation on May 28, 2009. The district court conducted a de novo review of the evidence and adopted the magistrate judge's Report and Recommendation.

Our review of the record of the suppression hearing convinces us that the finding of the magistrate judge and the district court that Flores consented to a search of his tractor trailer is not clearly erroneous and that the court properly applied the Fourth Amendment to that finding. The judgment of the district court

is therefore

AFFIRMED.