

May 30, 2008

UNITED STATES COURT OF APPEALS  
TENTH CIRCUIT

Elisabeth A. Shumaker  
Clerk of Court

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GERALDO ANTONIO PLANELLS-  
GUERRA,

Defendant - Appellant.

No. 07-4186  
(D.C. No. 2:06-CR-00617-PGC-1)  
(D. Utah)

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**ORDER AND JUDGMENT\***

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Before **KELLY, EBEL, and O'BRIEN**, Circuit Judges.\*\*

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Defendant-Appellant Geraldo Planells-Guerra appeals from the denial of his motion to suppress evidence police officers seized from his car. Following the denial of his motion to suppress, Mr. Planells-Guerra entered a conditional guilty plea. The district court sentenced him to 108 months' imprisonment followed by 60 months' supervised release. In denying Mr. Planells-Guerra's

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

\*\* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a); 10th Cir. R. 34.1 (G). The cause therefore is ordered submitted without oral argument.

motion to suppress, the district court concluded (1) the police officers did not violate Utah law when they arrested him without a warrant for the misdemeanor of driving on a suspended license; (2) even if the arrest violated Utah law, the federal exclusionary rule does not apply to state law violations; and (3) even if the exclusionary rule did apply, the good-faith exception would bar application of the exclusionary rule in this case. United States v. Planells-Guerra, 509 F. Supp. 2d 1000, 1001–02 (D. Utah 2007). On appeal, Mr. Planells-Guerra argues that the district court erred in its three alternative holdings. In his reply brief, he concedes that the Supreme Court’s recent opinion in Virginia v. Moore, 128 S. Ct. 1598 (2008), decided after his brief-in-chief and the government’s response brief were filed, forecloses his argument that an arrest supported by probable cause nevertheless violates the Fourth Amendment if it violates some aspect of state law. Aplt. Reply Br. at 2–3. We appreciate the candor and agree that the premise of this appeal is no longer viable.

AFFIRMED.

Entered for the Court

Paul J. Kelly, Jr.  
Circuit Judge