

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

EZEQUIEL ANDAYA-DUARTE; JAVIER
SANCHEZ-DUARTE, a/k/a Javier
Duarte-Sanchez,
Defendants-Appellants.

No. 01-4320

Appeal from the United States District Court
for the Middle District of North Carolina, at Durham.
Frank W. Bullock, Jr., District Judge.
(CR-00-342)

Submitted: December 21, 2001

Decided: January 24, 2002

Before WILKINS, NIEMEYER, and MOTZ, Circuit Judges.

Affirmed by unpublished per curiam opinion.

COUNSEL

Benjamin D. Porter, MORROW, ALEXANDER, TASH, KURTZ & PORTER, Winston-Salem, North Carolina, for Appellants. Benjamin H. White, Jr., United States Attorney, Steven H. Levin, Assistant United States Attorney, Bradley Staley, Third Year Law Student, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

OPINION

PER CURIAM:

Ezequiel Andaya-Duarte and Javier Sanchez-Duarte were charged with conspiracy to distribute cocaine hydrochloride and possession with intent to distribute cocaine hydrochloride. Andaya-Duarte was additionally charged with illegally re-entering the United States after deportation. After the district court denied their motion to suppress, Defendants pled guilty to the charges, reserving their right to appeal the district court's denial of his motion to suppress. Andaya-Duarte and Sanchez-Duarte were sentenced to a total of 148 months and 134 months imprisonment, respectively.

On appeal, Defendants claim that their encounter with the police officers in the parking lot constituted a seizure for purposes of the Fourth Amendment that was unsupported by reasonable suspicion. They thus claim that the evidence found during the search of their property should have been suppressed as tainted fruit of the illegal seizure. This court reviews the factual findings underlying a motion to suppress for clear error, while reviewing the legal determinations de novo. *United States v. Rusher*, 966 F.2d 868, 873 (4th Cir. 1992). When a suppression motion has been denied, review of the evidence is made in the light most favorable to the government. *United States v. Seidman*, 156 F.3d 542, 547 (4th Cir. 1998).

We have reviewed the briefs, the material submitted in the joint appendix, and the transcript of the district court's hearing on the motion to suppress. We find that the district court properly concluded that even assuming Defendants' encounter with the police constituted a seizure for purposes of the Fourth Amendment, the stop was supported by reasonable suspicion. *See* J.A. at 178-95. Hence, we find no error in the district court's denial of the motion to suppress.

Accordingly, we affirm Andaya-Duarte's and Sanchez-Duarte's convictions and sentences. We dispense with oral argument because

the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED