

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 05-4399

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

ANTONIO S. HURTADO,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, District Judge. (CR-04-307)

Submitted: July 28, 2006

Decided: August 22, 2006

Before TRAXLER, KING, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

James B. Craven, III, Durham, North Carolina, for Appellant. Frank DeArmon Whitney, United States Attorney, Anne Margaret Hayes, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

Antonio S. Hurtado pled guilty to possession of a firearm by an illegal alien and was sentenced to five months in prison. Hurtado now appeals. He claims that his conviction must be overturned because, upon arrest, he was not advised of his right to contact his consulate, in violation of Article 36 of the Vienna Convention on Consular Relations. The United States moves to dismiss the appeal on the ground that Hurtado unconditionally waived his right to appeal.

We deny the motion to dismiss because Hurtado plainly reserved his right to raise the Vienna Convention issue on appeal. However, we conclude that Sanchez-Llamas v. Oregon, 126 S. Ct. 2669 (2006), is dispositive of the issue, and we therefore affirm the conviction.

In Sanchez-Llamas, the Supreme Court held that Article 36, which "addresses communication between an individual and his consular officers when the individual is detained by authorities in a foreign country," id. at 2674, does not require suppression of incriminating statements when an arrestee is not notified of his right to contact his consulate. Id. Just as a violation of Article 36 does not warrant suppression of incriminating statements, it does not require reversal of a conviction. We accordingly affirm. 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. The motion to place case in abeyance for Sanchez-Llamas and Hurtado's motion to dismiss pursuant to Fed. R. App. P. 42(b) are denied.

AFFIRMED