

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

No. 94-41075
(Summary Calendar)

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

MIGUEL ANGEL TORRES,

Defendants-Appellant.

Appeal from United States District Court
for the Western District of Louisiana
USDC No. 92-CR-20035

June 3, 1996

Before JOLLY, JONES, and STEWART, Circuit Judges.

PER CURIAM:*

Miguel Angel Torres argues that the district court erred in denying his motions to suppress evidence and statements without conducting an evidentiary hearing. These motions were wholly conclusory, failing to allege any facts which, if proven, would justify relief. Therefore, the district court did not abuse its discretion in choosing not to hold such a hearing on Torres's motion. United States v. Harrelson, 705 F.2d 733, 737 (5th Cir. 1983).

Torres also contends that the government's seizure of \$75,000.00 constituted double jeopardy. The money was forfeited as drug proceeds under 21 U.S.C. § 881(a)(6). Forfeiture under this section is not punishment under the Fifth Amendment. Consequently, there is no double jeopardy

*Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

violation. United States v. Perez, 70 F.3d 345, 349 (5th Cir. 1995); United States v. Tilley, 18 F.3d 295, 298-99 (5th Cir. 1994).

Finally, Torres pled guilty to “using or carrying” a firearm during and in relation to a drug trafficking crime in violation of 18 U.S.C. § 924(c)(1). While the Supreme Court opinion in Bailey v. United States, 116 S. Ct. 501, 133 L. Ed. 2d 472 (1995), may have invalidated Torres’s guilty plea for the “use” of a firearm, Torres “carried” the gun under United States v. Pineda-Ortuno, 952 F.2d 98, 104 (5th Cir. 1992); and, thus, his guilty plea is valid under the “carry” prong of § 924(c)(1).

AFFIRMED.