

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-10271
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PATRICK ERWIN GARNER,

Defendant-Appellant.

Appeal from the United States District Court
for the Northern District of Texas

(7:95-CR-4-1-X)

January 15, 1998

Before POLITZ, Chief Judge, DAVIS and BENAVIDES, Circuit Judges.

PER CURIAM:*

Patrick Erwin Garner entered a conditional guilty plea¹ preserving an appeal

*Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

¹Fed. R. Crim. P. 11(a)(2); **United States v. Bell**, 966 F.2d 914 (5th Cir. 1992).

of the denial of his motion to suppress evidence seized by state officers during an inventory search of his vehicle. Although not decided below, Garner contends that the search was unconstitutional under Texas law; he does not contend that the search was unconstitutional under federal constitutional standards, candidly recognizing that controlling federal authority is to the contrary.

Garner urges us to adopt a rule that a federal conviction cannot rest on evidence seized during a search conducted by state officers which is found to be unconstitutional under state law. We decline to do so. In determining the admissibility of evidence in a federal court, that state law may have been violated in the obtaining of the evidence is not dispositive.² The constitutional validity of the search must be resolved by application of controlling federal standards.

The ruling of the district court in denying the motion to suppress and its acceptance of the guilty plea and sentence are **AFFIRMED**.

²**United States v. Walker**, 960 F.2d 409 (5th Cir. 1992).