

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA v. JASON DANIEL GANDY

District Court No. 4:12-CR-503-1

AUTHORITIES SUPPORTING GANDY'S RULE 52(b) MOTION

Proposed court-facing reference - not designated as Rule 30 record excerpts. The motion itself must contain the legal argument necessary to support the requested relief. This reference separates neutral statements of authority from factual application.

Filing-format note

FRAP 27 governs motions. A computer-produced motion or response is limited to 5,200 words absent permission, and Fifth Circuit Rule 27.4 requires the motion to state whether the other parties were contacted and whether opposition will be filed. The Fifth Circuit checklist also calls for a certificate of compliance and certificate of service. This authorities reference does not replace those requirements or the argument in the motion.

I. Rule 52(b) / Plain-Error Framework

United States v. Olano, 507 U.S. 725, 732-37 (1993). Rule 52(b) review ordinarily asks whether there is (1) error, (2) that is plain, (3) affecting substantial rights; even then, correction is discretionary and generally reserved for error seriously affecting the fairness, integrity, or public reputation of judicial proceedings.

Henderson v. United States, 568 U.S. 266, 273-79 (2013). For Rule 52(b), whether an error is 'plain' is assessed at the time of appellate review.

Greer v. United States, 593 U.S. 503, 507-10 (2021). A defendant seeking plain-error relief ordinarily bears the burden of showing an effect on substantial rights.

II. Voluntariness Hearing - Fifth Circuit Authority

United States v. Renteria, 625 F.2d 1279, 1282-83 (5th Cir. 1980). When the evidence clearly raises a genuine question about the voluntariness of a confession, Fifth Circuit precedent recognizes a duty to address voluntariness even without a properly preserved defense request.

United States v. Iwegbu, 6 F.3d 272, 274-75 (5th Cir. 1993). Reaffirmed the Renteria sua-sponte principle when the evidence clearly raises voluntariness. The court nevertheless applied plain-error analysis and affirmed because the required showing for relief was not made.

United States v. Guanespen-Portillo, 514 F.3d 393, 399-402 (5th Cir. 2008). Discussed Renteria and Iwegbu and the narrow sua-sponte duty. The court found no error there because the evidence did not clearly raise a genuine voluntariness question.

III. Coerced Statements / Derivative Evidence

Jackson v. Denno, 378 U.S. 368, 376-77, 391-96 (1964). A defendant has a constitutional right to a reliable determination of voluntariness uninfluenced by the truth or falsity of the confession.

Mincey v. Arizona, 437 U.S. 385, 397-402 (1978). An involuntary statement is inadmissible for substantive use and may not be used for impeachment.

Brown v. Illinois, 422 U.S. 590, 599-604 (1975). The exclusionary-rule inquiry considers whether evidence was obtained by exploitation of illegality or instead by means sufficiently distinguishable to purge the taint.

Murray v. United States, 487 U.S. 533, 537-44 (1988). The independent-source doctrine permits evidence genuinely obtained from an independent lawful source; the later source must in fact be independent of the earlier illegality.

United States v. Ceccolini, 435 U.S. 268, 274-80 (1978). Live-witness testimony requires a careful attenuation analysis. Relevant considerations include the causal connection, the witness's free will, elapsed time, and whether the government already knew the witness and relationship.

IV. Counsel / Structural-Error Authorities

Arizona v. Fulminante, 499 U.S. 279, 306-10 (1991). Distinguished trial errors subject to harmless-error review from a limited class of structural defects affecting the framework within which the trial proceeds. Fulminante treated admission of a coerced confession as trial error, not as structural error.

United States v. Gonzalez-Lopez, 548 U.S. 140, 146-50 (2006). Erroneous deprivation of the Sixth Amendment right to retained counsel of choice is structural error and does not require a separate showing of prejudice.

Waller v. Georgia, 467 U.S. 39, 46-50 (1984). The Sixth Amendment public-trial right extends to suppression hearings. Waller concerns improper closure of a suppression hearing; it should not be cited for the broader proposition that every suppression motion automatically requires an evidentiary hearing.

V. Additional Persuasive Authority Requiring Careful Use

United States v. Ramirez-Sandoval, 872 F.2d 1392 (9th Cir. 1989). Corrected citation. Addresses suppression and derivative evidence following an unlawful stop/search. This is persuasive, not controlling, Fifth Circuit authority.

Hamilton v. Nix, 809 F.2d 463 (8th Cir. 1987) (en banc). Use the en banc disposition when describing the final result. The earlier panel decision, 781 F.2d 619 (8th Cir. 1986), was superseded by the en banc decision.

VI. How to Use This Reference

The Rule 52(b) motion should cite the controlling Supreme Court and Fifth Circuit authorities directly in its argument and tie each proposition to specific record material. This reference should not characterize disputed facts as judicial findings. Any factual discussion should be separately labeled as Gandy's contention or record application. Unpublished authorities should comply with FRAP 32.1 and Fifth Circuit Rule 28.7.

Priority order: (1) Supreme Court; (2) published Fifth Circuit; (3) unpublished Fifth Circuit when useful and properly cited; (4) persuasive out-of-circuit authority only where controlling authority does not resolve the point.

Verification status

This draft intentionally includes only authorities that were prioritized during the initial accuracy audit. It is not a representation that all 72 authorities from the public-facing research compilation have been independently verified. The separate 72-case website document should remain a research/explanatory document and should not be presented as the court-required record appendix.