

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 13-3198

UNITED STATES OF AMERICA

v.

JOEL DIAZ-HINIRIO,  
Appellant

(D.V.I. No. 3-11-cr-00035-002)

Present: CHAGARES, JORDAN and SHWARTZ, Circuit Judges

**JUDGMENT ORDER**

Joel Diaz-Hinirio pleaded guilty to violations of the federal drug and firearms laws, but preserved his right to appeal the District Court's order that denied his motions to suppress the evidence seized from a premises, his identification, and his statements to law enforcement.<sup>1</sup>

The District Court heard testimony from law enforcement witnesses and Diaz-Hinirio. In addition, the District Court had before it other evidence, including photographs and the affidavit submitted in support of the search warrant ultimately

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<sup>1</sup>Diaz Hinirio also sought to appeal the denial of his motions to withdraw his guilty plea and to dismiss based upon a violation of the Speedy Trial Act as well as his sentence. He knowingly and voluntarily entered a waiver of his right to appeal all issues other than the suppression issues. Because he entered an enforceable appellate waiver, we conclude that he has waived his right to appeal the rulings on those issues. United States v. Wilson, 707 F.3d 412, 414 (3d Cir. 2013).

obtained for the premises. Based upon this evidence, the District Court denied the motions. Factual issues were involved in deciding the motion. The District Court, however, did not state the factual basis for its order denying the motions to suppress as required under Fed. R. Crim. P. 12 (d). Among other things, the District Court made no findings concerning whether Diaz-Hinirio had a privacy interest in the location searched or provide the facts that it found supported its conclusion that the initial search of the premises was permissible under an exception to a warrant requirement, such as common authority.

As a result, we will remand for the District Court to “state its essential findings for the record” as required by Rule 12(d).

By the Court,

s/Patty Shwartz  
Circuit Judge

Attest:

s/Marcia M. Waldron,  
Clerk

Dated: December 11, 2014