

United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 07-3012

September Term, 2007

Filed On: March 17, 2008

UNITED STATES OF AMERICA,  
APPELLEE

v.

WENDELL HARRIS-RORIE,  
APPELLANT

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Appeal from the United States District Court  
for the District of Columbia  
(No. 06cr00174-01)

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Before: RANDOLPH and TATEL, *Circuit Judges*, and WILLIAMS, *Senior Circuit Judge*.

**J U D G M E N T**

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs by the parties and oral arguments of counsel. It is

**ORDERED AND ADJUDGED** that the judgment of the District Court be affirmed.

Wendell Harris-Rorie appeals his conviction as relying on evidence derived from an unlawful seizure. On appeal, for the first time, he describes this seizure as taking the form of a police officer's order not to leave the scene without providing identification. Assuming *arguendo* that this claim is not waived under Fed. R. Crim. P. 12(e), his forfeiture mandates plain error review, and we affirm the judgment as not plainly erroneous. The district court found as a matter of historical fact, cf. *Ornelas v. United States*, 517 U.S. 690, 699 (1996), that the officer's statements were not in the nature of an order to remain, and there is no clear error in this finding.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

**FOR THE COURT:**  
Mark J. Langer, Clerk

BY: /s/

Deputy Clerk