

1 UNITED STATES COURT OF APPEALS  
2 FOR THE SECOND CIRCUIT  
3

4 **SUMMARY ORDER**  
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6 **THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL**  
7 **REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS**  
8 **OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS**  
9 **OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A**  
10 **RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL**  
11 **OR RES JUDICATA.**  
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13 At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the  
14 Thurgood Marshall United States Courthouse, at Foley Square, in the City of New York, on the  
15 17th day of September, two thousand and four.  
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17 PRESENT:

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19 HON. JON O. NEWMAN,  
20 HON. GUIDO CALABRESI,  
21 HON. PETER W. HALL,  
22 *Circuit Judges.*  
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27 UNITED STATES OF AMERICA,  
28 *Appellee,*

29 v.

No. 03-1475

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31  
32 GLEN NORRIS,  
33 *Defendant-Appellant.*  
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38 For Defendant-Appellant:

LAWRENCE D. GERZOG, New York, NY.

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41 For Appellee:

THOMAS FALLATI, Assistant United States  
Attorney, for ROSLYNN R. MAUSKOPF, United  
States Attorney for the Eastern District of New  
York (Emily Berger, Assistant United States  
Attorney, on the brief).  
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2 Appeal from the United States District Court for the Eastern District of New York  
3 (Weinstein, J.).  
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8 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND**  
9 **DECREED** that the judgment of the District Court is **AFFIRMED**.  
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13 Defendant-Appellant Glen Norris appeals the judgment of the district court (Weinstein,  
14 J.). Norris's claims are three-fold: (1) the district court improperly failed to allow him to  
15 withdraw his plea; (2) he received ineffective assistance of counsel that resulted in an unknowing  
16 and involuntary plea; and (3) this involuntary plea violated his Fifth Amendment right to due  
17 process because the magistrate judge failed to inform him specifically of his right to seek to  
18 suppress evidence.

19 As to the first two claims, we affirm for substantially the reasons given by the district  
20 court. And, as to the third, which Norris raises for the first time on appeal, we review only for  
21 plain error, *see United States v. Yu-Leung*, 51 F.3d 1116, 1121 (2d Cir. 1995), and find none.

22 The mandate in this case will be held pending the Supreme Court's decision in *United*  
23 *States v. Booker*, No. 04-104, – S.Ct. –, 2004 WL 1713654 (Aug. 2, 2004), and *United States v.*  
24 *Fanfan*, No. 04-105, – S. Ct. –, 2004 WL 1713655 (Aug. 2, 2004). Should any party believe there  
25 is a need for the district court to exercise jurisdiction prior to the Supreme Court's decision, it  
26 may file a motion seeking issuance of the mandate in whole or in part. Although any petition for  
27 rehearing should be filed in the normal course pursuant to Rule 40 of the Federal Rules of  
28 Appellate Procedure, the court will not reconsider those portions of its opinion that address the  
29 defendant's sentence until after the Supreme Court's decision in *Booker* and *Fanfan*. In that

1 regard, the parties will have until fourteen days following the Supreme Court's decision to file  
2 supplemental petitions for rehearing in light of *Booker* and *Fanfan*.

3 We have considered all of Defendant's claims and find them to be without merit. The  
4 district court's judgment is therefore AFFIRMED.

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6 For the Court,  
7 ROSEANN B. MACKECHNIE,  
8 Clerk of the Court  
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11 by: \_\_\_\_\_