

No. 19-

IN THE
Supreme Court of the United States

RODOLFO RIVERO GARCIA, JR.,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for Writ of Certiorari
to the United States Court of Appeals
for the Fifth Circuit**

PETITION FOR WRIT OF CERTIORARI

JAMES SCOTT SULLIVAN
LAW OFFICES OF J. SCOTT SULLIVAN
22211 I.H. 10 WEST, SUITE 1206
SAN ANTONIO, TEXAS 78257
(210) 722-2807

QUESTION PRESENTED FOR REVIEW

Petitioner, RODOLFO RIVERA GARCIA, JR., was charged with possession with intent to distribute marijuana. The marijuana was found in Mr. Garcia's vehicle as a result of an alleged reasonable suspicion "Terry Stop" conducted by officers. Mr. Garcia filed a motion to suppress. The District Court denied the motion and Mr. Garcia entered a conditional guilty plea reserving the right to appeal the denial of his motion to suppress. On direct appeal, Mr. Garcia asserted the stop of his vehicle was without reasonable suspicion.

The United States Court of Appeals for the Fifth Circuit (the "Fifth Circuit" or "Appellate Court") held that the stop was reasonable despite the fact that Mr. Garcia was driving in a safe manner and observing all rules associated with operating a motor vehicle. The Fifth Circuit found the stop was justified because: (1) the stop occurred between 50 and 100 miles from the border, (2) there was recent illegal activity in the area, (3) the officers' experience with drug cases, (4) "alerts" which purportedly attached the vehicle to smuggling, and (5) the fact Mr. Garcia "tapped his brakes and reduced his speed" when he saw that an official law enforcement vehicle had pulled up beside him as he traveled down the highway. Thus, the Appellate Court held that the totality of the circumstances justified the stop based on reasonable suspicion of illegal activity. Respectfully, the decision of the Fifth Circuit decided an important federal question in a way that conflicts with relevant decisions of this Court concerning the Fourth Amendment of the United States Constitution. Grounds therefore exist for further review and the granting of this Petition for Writ of Certiorari.

PARTIES TO THE PROCEEDING

The parties to the proceeding are listed in the caption:

Rodolfo Rivero Garcia, Jr. Petitioner (Defendant-Appellant in the lower Courts)

United States of America: Respondent (Plaintiff-Appellee in the lower Courts)

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PETITION FOR WRIT OF CERTIORARI

Petitioner, RODOLFO RIVERO GARCIA, JR., requests this Court grant this petition and issue a Writ of Certiorari to review the decision of the Fifth Circuit. Mr. Garcia respectfully submits the District Court committed reversible error by denying his motion to suppress evidence seized as a result of an illegal search of his vehicle. Respectfully, in affirming the decision of the District Court, the Fifth Circuit violated Mr. Garcia's constitutional right under the Fourth Amendment of the United States Constitution to be free from an unreasonable search and seizure.

REPORTS OF THE OPINIONS AND ORDERS ENTERED IN THE CASE

From the Federal Courts:

The Order of the United States Court of Appeals for the Fifth Circuit, *United States v. Rodolfo Rivero Garcia, Jr.*, No. 17-50756 (5th Cir. Nov. 28, 2018), appears at Appendix A to this petition and is unreported.

The Amended Judgment in a Criminal Case of the United States District Court for the Western District of Texas, Pecos Division, appears at Appendix B to this petition and is unreported.

From the State Courts:

None.

GROUND FOR JURISDICTION

This Petition arises from a direct appeal which granted final and full judgment against Mr. Garcia. This action is on a criminal prosecution initiated by the Government. Mr. Garcia filed a motion to suppress which was denied by the District Court. The denial of said motion is at issue in this Petition. A copy of the Judgment appears at Appendix B. Mr.

Garcia argued to the Fifth Circuit that the District Court committed reversible error by denying his motion to suppress. The Fifth Circuit rejected this argument and affirmed the decision of the District Court in an unpublished opinion dated November 28, 2018. A copy of the decision by the Appellate Court appears at Appendix A. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254.

CONSTITUTIONAL PROVISION

U.S. CONST. Amend. IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

STATEMENT OF THE CASE

Overview:

Mr. Garcia was charged, and subsequently indicted, with the offense of possession with intent to distribute marijuana. ROA.25-26. The marijuana was found in Mr. Garcia's vehicle as a result of a "Terry stop" conducted by officers. ROA.36-40. Mr. Garcia's attorney filed a motion to suppress and, after briefing and a hearing, the Court denied the motion. ROA.36-40, 51-65. Mr. Garcia subsequently entered into a plea agreement with the Government pursuant to which he reserved the right to appeal the denial of his motion to suppress. ROA.284-86. The Judge accepted Mr. Garcia's conditional guilty plea. ROA.100-01. Mr. Garcia was subsequently sentenced and this appeal followed. ROA.121-22.

The Motion to Suppress: Background

As noted, defense counsel filed a motion to suppress the statements and evidence seized as a result of the Terry stop officers conducted on Mr. Garcia's vehicle. ROA.36-40. The attorney moved the Court to suppress all evidence gathered from, and statements produced as a result of, a search of a vehicle in which Mr. Garcia and others were traveling. ROA.36-40. Defense counsel asserted the stop of the vehicle was without reasonable suspicion and therefore any evidence found and statements made as a result of the stop must be excluded. ROA.36-40. The Government, on the other hand, took the U.S. Border Patrol agents had reasonable suspicion for the stop. ROA.133-38.

The Hearing on the Motion to Suppress

The motion to suppress was set for a hearing. ROA.42. At the hearing, the Government called Michael Meyer, one of the two U.S. Border Patrol agents who conducted the stop and search of the vehicle. ROA.132. Mr. Garcia and his co-defendant called Robert Guajardo, the other agent responsible for the Terry stop. ROA.132.

Agent Meyer's and Agent Guajardo's Testimony

Agent Meyer testified that, on the night in question, he and Agent Guajardo were patrolling an area close to Highway 17 near Balmorhea, Texas. ROA.135-36. They were there for the purpose of monitoring alien and narcotic smuggling. ROA.136. Agent Meyer had done this type of work for 14 years. ROA.138. He claimed intelligence revealed the area was "hot" and that "the full moon out that night" would "often times" mean an increase in smuggling activity. ROA.139-40.

Agent Meyer and Agent Guajardo first saw a Ford Mustang pass and they did not follow. ROA.141. He said they became suspicious when an older model SUV drove by "less than a minute" behind the Mustang. ROA.141-42. According to Agent Meyer, they believed this was significant because smugglers "will split the load between two vehicles." ROA.142. However, this must not have the case because the Mustang was never seen again. ROA.142.

Agent Meyer said that, as he and Agent Guajardo focused on the SUV, they noticed the windows were tinted. ROA.143. However, tinted windows are common in Texas. ROA.145.

Agent Meyer further testified that the majority of smugglers use older model SUVs and pickup trucks. ROA.143. Hence, they followed the SUV. ROA.143.

As the agents followed the SUV, they ran the licence plate check on the vehicle to determine "who and where it's registered, has it been through a Border Patrol checkpoint or a port of entry, and has it been reported stolen." ROA.145. A supervisor also assisted and ran a "Treasury Enforcement Communications System" or "TECS" database check. ROA.148. This database contains information on "people and vehicles." ROA.148. The agents received information that the registered owners of the vehicle had "TECS alerts for narcotics smuggling." ROA.149.

As the agents received this information, they followed the SUV onto the ramp to IH 10. ROA.149. Agent Meyer testified to what the government thought was important about the agents' approach to Interstate 10:

- Q. As you approached the interstate, the on-ramp—
- A. Yes, sir.
- Q. —did anything happen there?
- A. Driver tapped his brakes several times before making the turn towards the interstate. Struck us as odd, because there's no need to slow down; it's a gradual turn; most of the people we see don't do that. It's just a straight merge. But he tapped his brakes several times before he—before he made the turn to merge.
- Q. Okay, And what did that signal to you as an experienced agent?
- A. Either that he was unfamiliar with the area or possibly he was nervous.
- Q. Okay. Any have you see that before?
- A. In that area, no, sir.
- Q. But, I mean, just generally. I mean, if you run up behind somebody, you shine your lights, you get the—back off, do you see nervousness sometimes?
- A. Yes, sir.
- Q. Do you see incisiveness (sic)?
- A. Yes, sir.
- Q. And does that mean—I mean, is it building suspicion in your mind?
- A. Yes, sir. One more factor.

ROA.149-50.

Meanwhile, information as to the license plate continued to be relayed to agents.

ROA.150. According to Agent Meyer, the registered owners of the SUV were from Tyler,

Texas. ROA.150. The agents apparently believed this was strange because the vehicle was not traveling the most direct route to Tyler. ROA.151. Agent Meyer said that the SUV merged on to Interstate 10 and traveled at the speed limit, which was eighty miles an hour.

The agents once again pulled up next to the SUV. ROA.151. This time they used night vision goggles to observe the driver. ROA.151. Agent Meyer said the driver "caught the agents' attention" because the driver stared forward and did not acknowledge the agents. ROA.152.

The agents then slowed down and traveled behind the SUV. ROA.153. Agent Meyer said they did this because they believed the driver would turn right onto Highway 17 and head to Pecos. ROA.153. However, although the vehicle "leaned that way," the driver did not exit Interstate 10. ROA.153.

When the driver did not exit, the agents again pulled up to the SUV. ROA.153. Agent Meyer testified that the driver continued to stare straight ahead, although he slowed the SUV down to sixty-five miles per hour. ROA.153.

Agent Meyer said they thought this behavior was "very unusual and, for us, very consistent with alien and narcotics smuggling loads that we've encountered." ROA.154. According to Agent Meyer, the general traveling public will look at the agents when the agents pull up next to them, and when drivers just "stare-ahead, it's very significant to us." ROA.154. Agent Meyer also said that the stare straight ahead phenomenon is common with smugglers. ROA.155.

The agents stopped the SUV. ROA.156. The vehicle pulled over right away. ROA.156. When the agents approached the vehicle, they determined an illegal alien was in the backseat and they found backpacks filled with marijuana. ROA.157. All of this took place more than fifty miles from the border to Mexico. ROA.158.

On cross-examination, Agent Meyer agreed:

- * he could not determine if the driver was Hispanic;
- * viewing the vehicle close-up, he saw no evidence it had been driver through brush or mud;
- * the vehicle was not stolen;
- * the vehicle had not gone through a checkpoint or point of entry;
- * as one drives from the south on Highway 17, one could drive through Alpine, Fort Davis, Marfa, and Marathon, Texas without passing a border checkpoint;
- * along the routes, there is a state park and an observatory;
- * over the past two years, Border Patrol agents had only seized about ten loads of drugs on Highway 17;
- * even though agents had seized ten loads, there were times agents made a stop and there were no drugs;
- * it was not illegal to drive sixty-five miles per hour on Interstate 10, ROA.170;
- * this was the first vehicle from Tyler, Texas he had encountered in the area, ROA.173;

- * the TECS alert was that the registered owners of the SUV had “alerts” for narcotics smuggling, ROA.175-76.

It was also established through questions asked to Agent Guajardo by the Court that drug dealers would switch drugs between vehicles which had been through a checkpoint and those which had not. ROA.196-97. Apparently, this conclusion was based on the fact that only one out of the above-referenced ten loads of narcotics which were seized in the area had gone through a border crossing or checkpoint. ROA.197.

Defense counsel called U.S. Border Patrol agent Robert Guajardo, the agent who was with Agent Meyer, to the stand. ROA.199. Agent Guajardo was the person who took the telephone call from the supervisor with Border Patrol who provided the TECS information. ROA.199-200. He said TECS provides names but sometimes no dates of birth or the registered owner of the vehicle which is the subject of the inquiry. ROA.202. He also testified that TECS also provides other “alerts” on individuals. ROA.202. When agents run a vehicle through TECS, they receive alerts related to the vehicle and alerts related to any individual who is associated with that vehicle. ROA.202-09. Ultimately, Agent Guajardo said the registered owners of the SUV at issue had “lots” of “TECS hits.” ROA.218.

Closing Summaries:

At closing, counsel for Mr. Garcia pointed out:

- * the stop took occurred more than 50 miles north of the Mexican border, ROA.221;

- * the “lose-lose” conclusion that going through a checkpoint established probable cause while at the same time not going through a checkpoint established probable cause, ROA.222;
- * the agents had no idea when they stopped the vehicle where the vehicle had originated its journey and therefore they could not attest it originated its journey at the border, ROA.223;
- * agents made stops in the area “less than one every two months, ROA.224;
- * nothing about the vehicle itself was suspicious, ROA.225; and
- * the TECS alerts were not significant based on the agents’ explanations of the limitations of the system, ROA.225.

The Government argued to the Court:

- * the ten arrests in the area in the last 10 years supports reasonable suspicion in this case, ROA.229;
- * the Mustang “could” have been a “scout” vehicle, ROA.230;
- * the experience of the agents weighs heavily in support of reasonable suspicion, ROA.236;
- * the tapping of the brakes further establishes reasonable suspicion, ROA.230;
- * in fact, the agent claimed, tapping the brakes meant the driver was either not a local or up to no good, ROA.230;

- * the remainder of the agents' observations—reduced speed, tinted windows, registration tied to Tyler, and the multiple TECs—further support reasonable suspicion, ROA.231-33;
- * the fact that the driver was not paying attention to the agents when they moved close to the SUV supports reasonable suspicion, ROA.233; and
- * the driver's decision to not look at the agents, but rather stare straight ahead, is strange behavior, ROA.233.

However, the Government did not argue that the distance between the stop and the border, or the appearance of the passengers in the SUV, supported reasonable suspicion. ROA.234.

The District Court's Decision

The Court determined that the Government had shown reasonable suspicion for the stop. ROA.51-65, 78-95, 234. Accordingly, the motion to suppress was denied.

The Guilty Plea, Sentence and Appeal

Mr. Garcia subsequently pleaded guilty pursuant to a plea agreement wherein he reserved the right to appeal the denial of his motion to suppress. ROA.284. On August 24, 2017, the Court sentenced Mr. Garcia to serve twelve months and one day in the custody of the Bureau of Prisons. ROA.115. On August 31, 2017, Mr. Garcia filed his notice that he would appeal. ROA.121-22.

**ARGUMENT AMPLIFYING REASONS RELIED
ON FOR ALLOWANCE OF THE WRIT**

I.

Standard of Review Governing the Denial of a Motion to Suppress

As the Fifth Circuit noted in its opinion in this case, “[o]n an appeal from the denial of a motion to suppress,” an Appellate Court reviews “fact-finding for clear error and conclusions of law de novo.” Appendix A at page 2 (citing *United States v. Cervantes*, 797 F.3d 326, 328 (5th Cir. 2015)). To determine whether reasonable suspicion exists for a roving Border Patrol stop, courts must examine the totality of the circumstances by weighing the factors this Court set forth in *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975). These factors include the: (1) vehicle’s proximity to the border, (2) characteristics of the area, (3) usual traffic patterns, (4) agents’ experience in detecting illegal activity, (5) driver’s behavior, (6) particular aspects or characteristics of the vehicle, (7) information regarding recent border crossings or narcotics transportation in the vicinity and (2) number of passengers and their behavior. *Id.*; see also *United States v. Moreno-Chaparro*, 180 F.3d 629, 631-32 (5th Cir. 1999) (citing *Brignoni-Ponce*, 422 U.S. at 884).

In its opinion in this case, the Fifth Circuit noted these rules and explained:

In this case, although the important proximity-to-the-border factor is not present, given that the stop occurred between 50 and 100 miles from the Mexico-United States border, a careful examination of the remaining factors supports the determination that the agents had reasonable suspicion of illegal activity sufficient to make the traffic stop. [*Cervantes*, 797 F.3d] at 330. As articulated by the district court, the testimony showed that the characteristics of the area, the agents’ experience, and information about recent illegal alien and narcotics smuggling in the area contributed to reasonable suspicion. Indeed, the agents who stopped Garcia’s vehicle had a combined Border Patrol experience of 30 years and, on the night in question, had been briefed

about a significant increase in activity in the Marfa and Alpine areas to the south. See *United States v. Ramirez*, 839 F.3d 437, 440 (5th Cir. 2016) (stating that experience is entitled to “significant weight”). In addition, the agents had been informed by their supervisor, after running a search of the Treasury Enforcement Communications System database, that both registered owners of the vehicle had “a lot” of alerts for narcotics smuggling.

Also weighing in favor of reasonable suspicion were the usual traffic patterns, the driver’s behavior, and the vehicle’s characteristics. Although Garcia contends his behavior was consistent with safe driving habits, he ignores the agents testimony that he tapped his brakes and reduced his speed even though the merge onto the interstate was gradual, and further, that he failed to take the most direct route to Tyler, Texas (where the vehicle was registered). See *United States v. Zapata-Ibarra*, 212 F.3d 877, 883-84 (5th Cir. 2000). “Factors that ordinarily constitute innocent behavior may provide a composite picture sufficient to raise reasonable suspicion in the minds of experienced officers.” *United States v. Jacquinot*, 258 F.3d 423, 427-28 (5th Cir. 2001). Finally, the vehicle’s darkly tinted windows contributed to reasonable suspicion because they prevented the agents from allaying their other suspicions. See *United States v. Guerrero-Barajas*, 240 F.3d 428, 433 (5th Cir. 2001).

Appendix A at pages 2-3. Therefore, having considered “the totality of these circumstances and the *Brignoni-Ponce* factors collectively,” the Fifth Circuit determined “there was reasonable suspicion to stop Garcia’s vehicle.” Appendix A at page 3. The judgment was therefore affirmed. Appendix A at page 3.

II. Application

Mr. Garcia submits that an examination of the relevant *Brignoni-Ponce* factors establishes there was no reasonable suspicion for the stop. He therefore respectfully asks that this Court grant this Petition.

Proximity to the Border

Prior to the ruling in this case, the Fifth Circuit had consistently determined that a stop which was 60 miles north of the Mexico-United States border was not sufficient to constitute a border search as a prerequisite for reasonable suspicion that the driver came from or was going to an international crossing. *United States v. Hernandez-Mandujano*, 721 F.3d 347, 349 (5th Cir. 2013); *Moreno-Chaparro*, 180 F.3d at 632-33. In fact, in this case, the agents lacked reasonable grounds to believe Mr. Garcia had come from the international crossing because the stop occurred more than 50 miles north of the border. ROA.221. Despite this well established rule, the Fifth Circuit held that, because “the stop occurred between 50 to 100 miles from the Mexico-United States border,” the Court would review the remaining factors to determine if the stop was justified. Appendix A at page 2.

Characteristics of the Area

The Fifth Circuit had also previously determined that Interstate 10, where the stop took place, is a major corridor for smuggling. *Hernandez-Mandujano*, 721 F.3d at 347. However, the agents claimed they were pursuing Mr. Garcia as he traveled behind another vehicle, a Ford Mustang, believing Mr. Garcia might be the second car in a “drug caravan.” ROA.240. However, this conclusion was proven false when the agents watched the Mustang drive off, never to be seen again. ROA.122.

Usual Traffic Patterns

Before the District Court, the Government took the position that the fact Mr. Garcia was traveling 60 m.p.h. in an 80 m.p.h. speed zone supports reasonable suspicion for the

stop. ROA.231. However, the Fifth Circuit had previously rejected this argument. As explained in *United States v. Samaguey*, 180 F.3d 195, 198-99 (5th Cir. 1999), even a considerable drop in speed is only the “reaction of any cautious driver” upon seeing a law enforcement vehicle and is therefore “of little weight.” Accordingly, this factor should not be weighed in favor of the reasonableness of the agents’ suspicions. Nonetheless, the Fifth Circuit found that Mr. Garcia’s reduction in speed supports reasonable suspicion. Appendix A at page 2.

The Agents’ Experience in This Type of Case

The agents in this case had a total of 30 years of experience in policing smuggling activities. ROA.138; Appendix A at page 3. However, similar to the stop in *Hernandez-Mandujano*, 721 F.3d at 349 (cited above), this factor at most was one of only two factors (the other being characteristics of the area) which supports such a finding. Indeed, even presuming these two factors of limited value can be found to support reasonable suspicion, consideration of the other factors tipped the scale in favor of suppression of the evidence. *See Brignoni-Ponce*, 422 U.S. at 884 (explaining that courts must examine totality of circumstances when determining whether reasonable suspicion exists). Regardless, the Fifth Circuit ruled otherwise. *See* Appendix A at pages 2-3.

The Driver’s Behavior

As discussed above, before the District Court the agents stated they believed it was a persuasive basis for the stop that Mr. Garcia constantly looked straight ahead, tapped the brakes while entering the highway, and dropped the vehicle’s speed to 65 m.p.h. when he

noticed the officers' traveling next to his SUV. ROA.220-236; Appendix A at pages 2-3. However, as the Fifth Circuit itself had noted in *Hernandez-Mandujano*, 721 F.3d at 350-51, these types of safe driving habits are not to be used to establish reasonable suspicion. The true impact of this statement and how it shows a lack of reasonable suspicion was established when the Appellate Court explained:

Indeed, it is counterintuitive to condone the notion that drivers are less likely to be stopped if they are talking on the phone and driving with one hand—or no hands—one the wheel then they are if they engage in safe driving practices.

Id. at 350. Accordingly, the Fifth Circuit failed to remain consistent with the observation that driving “too safely” is not a specific articulated fact for reasonable suspicion.

Particular Aspects or Characteristics of the Vehicle

Just as the vehicle in the Fifth Circuit case of *Hernandez-Mandujano*, the vehicle in this case was an SUV and the agents in both cases testified that drug dealers use SUVs. *Compare* 721 F.3d at 350, *with* ROA.143. As the Fifth Circuit noted, “it would be manifestly unreasonable to target every SUV driving on a Texas highway.” *Hernandez-Mandujano*, 721 F.3d at 350 (citing *Moreno-Chaparro*, 180 F.3d at 632-33). Accordingly, this is, just another factor the Fifth Circuit should have weighed against affirming the stop and resulting search.

Furthermore, one of the agents indicated that the officers' suspicions were aroused because the windows in Mr. Garcia's SUV were tinted. ROA.143. However, considering that the agent also admitted this type of window is common in Texas because of the summer

heat, this was not a fact which tipped the scale in favor of finding reasonable suspicion. The Fifth Circuit, therefore, should have weighed this factor against upholding the search.

Recent Narcotics Transportation in the Area

As noted above, the Fifth Circuit found that the search was justified because of recent narcotics smuggling in the area. Appendix A at page 3. However, the facts with regard to this factor actually established that drugs were not an overwhelming issue in this part of the region. One of the officers testified that agents had only 10 seizures in the vicinity at issue in the past 2 years. ROA.229. Considering that the Government claimed, and the Fifth Circuit agreed that, this was an area where drug trafficking was heavy is contrary to the evidence. Thus, considering this evidence and evaluating this factor as the Fifth Circuit had explained in *Moreno-Chaparro*, 180 F.3d at 632, “this was just an average vehicle” on another Texas highway. Therefore, recent drug trafficking in the area does not weigh in favor of finding there was reasonable suspicion for the stop in this case.

The Number of Passengers and Their Behavior

This factor did not play any role in the analysis because the agents were not able to obtain information on the passengers before they stopped Mr. Garcia’s vehicle. Thus, the Government could not rely on this factor to support the stop. Respectfully, in this regard, the Fifth Circuit should have observed that this factor weighed against affirming the search.

III.

The Ruling of the Fifth Circuit

In sum, the Fifth Circuit’s analysis was contrary to this Court’s conclusion that courts must look at all of the above factors in evaluating a stop. This is because the analysis for


considering whether there was reasonable suspicion to stop a vehicle must be determined by evaluating the totality of the circumstances. *Brignoni-Ponce*, 422 U.S. at 884-85. Here, the Appellate Court did not review all of the circumstances and failed to properly apply specific factors which weigh against upholding the stop. Therefore, because the facts are insufficient to establish reasonable suspicion, the search in this case violated Mr. Garcia's Fourth Amendment rights as enunciated in *Brignoni-Ponce*. Accordingly, Mr. Garcia respectfully requests that this Court grant this Petition and allow this case to proceed to further review.

CONCLUSION

For the reasons set forth above, Mr. Garcia respectfully submits, on the important issue of constitutional guarantees relevant to the stop and search of a vehicle there are compelling reasons presented in support of discretionary review by this Honorable Court.

WHEREFORE, PREMISES CONSIDERED, Petitioner herein respectfully requests that this Honorable Court grant this petition and issue a Writ of Certiorari and review the decision of the United States Court of Appeals for the Fifth Circuit which affirmed the denial of the motion to suppress by the District Court. Mr. Garcia also respectfully requests any further relief to which he may be entitled under the law and in equity.

Respectfully Submitted,



JAMES SCOTT SULLIVAN
LAW OFFICES OF J. SCOTT SULLIVAN
22211 I.H. 10 WEST, SUITE 1206
SAN ANTONIO, TEXAS 78257
(210) 722-2807