
NO. 22-_____

IN THE UNITED STATES SUPREME COURT

_____ TERM

CHRISTOPHER SANTILLANES CEJA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

**On Petition for a Writ of Certiorari to
The United States Court of Appeals
For the Ninth Circuit**

Elizabeth T. Musick
Musick & Tierney Law, PLLC
CJA Panel Attorney
P.O. Box 726
Bozeman, MT 59771
(406) 235-1456

Counsel for the Petitioner

QUESTION PRESENTED FOR REVIEW

1. Was the traffic stop of Mr. Ceja unreasonably prolonged when officers conducted two consecutive investigations, one for an alleged traffic violation and one for suspicion of drug trafficking, when they did not discover any *new* indicia of criminal activity during the course of the traffic stop and information relevant to both investigations was known to the officers from the outset of their traffic stop?

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JURISDICTIONAL STATEMENT

Mr. Ceja pled guilty to Count II, 21 U.S.C. § 841(a)(1) for Possession with Intent to Distribute Methamphetamine. He was sentenced pursuant to the Sentencing Reform Act of 1984 to seventy-eight (78) months imprisonment with the Bureau of Prisons, with five (5) years of supervision to follow. He appealed, challenging the denial of his pretrial Motion to Suppress, as well as the denial of a Motion to Dismiss Indictment with Prejudice for Speedy Trial Violation. Oral Argument was held on July 5, 2022 in Seattle, Washington before Ninth Circuit Judges Richard Clifton and Patrick Bumatay, and District Court Judge Edward Chen. The United States Court of Appeals for the Ninth Circuit entered its Memorandum, affirming the Judgment of the District Court on July 18, 2022. This Court's jurisdiction is invoked under Title 28, U.S.C. § 1254(1). Rule 13(1) of the Supreme Court allows for ninety days within which to file a Petition for a Writ of Certiorari after entry of the Judgment of the Court of Appeals. Accordingly, this Petition is timely filed.

Pursuant to Rule 29.4(a) of the Supreme Court, appropriate service is made to the Solicitor General of the United States and to Assistant United States Attorney Timothy A. Tatarka, who appeared in the United States Court of Appeals for the Ninth Circuit on behalf of the United States Attorney's Office, a federal office which is authorized by law to appear before this Court on its own behalf.

Petitioner Ceja respectfully prays that a Writ of Certiorari issues to review the Memorandum of the United States Court of Appeals for the Ninth Circuit. In that Memorandum, the Ninth Circuit affirmed the District Court's determination that the traffic stop of Mr. Ceja was not unreasonably prolonged, therefore finding the District Court correctly denied his pretrial Motion to Suppress. Mr. Ceja challenges that finding.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Fourth Amendment, United States Constitution:

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 persons or things to be seized.

21 U.S.C. § 841(a)(1):

Except as authorized by this subchapter, it shall be unlawful for any person knowingly or intentionally –

(1) to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance[.]

STATEMENT OF THE CASE AND FACTS

Beginning in late February 2019 and extending through March 12, 2019, Confidential Informant # 190228 (hereinafter "CI") was in contact with the FBI regarding an alleged shipment of methamphetamine coordinated by Javier Santillanes. The CI informed FBI Task Force Officer Moffet that the shipment should be arriving in Billings around 8:00 a.m. to 9:00 a.m. The FBI set up surveillance at the Holiday Inn Express located at 430 Cole Street, Billings, Montana, and the CI told Santillanes that he would be staying at that hotel.

On March 12, 2019, at approximately 5:00 p.m., the CI received a phone call that the delivery vehicle was close to city limits. Shortly afterward, the surveillance units saw a black 2002 GMC Yukon Denali registered to Christopher Ceja pull into the Holiday Inn Express. The CI then called Santillanes and told him that they had moved to a separate location. The black Yukon left the Holiday Inn Express and began travelling toward downtown Billings.

Officers Schnelbach and Lausch of the Billings Police Department, who were both involved in this investigation, began to follow the black Yukon traveling north bound on 27th Street. At the intersection of South 27th and 3rd Avenue South, Officer Schnelbach allegedly observed Mr. Ceja fail to yield to a pedestrian. This was the stated reason for the traffic stop of Mr. Ceja, and a traffic stop was initiated at the intersection of South 27th and Minnesota Avenue. Mr. Ceja was the sole occupant

and driver of the vehicle. Officers Schnelbach and Lausch were both aware prior to making contact with Mr. Ceja that there were suspicions that the subject vehicle was transporting a shipment of methamphetamine.

When Officer Lausch was originally contacted regarding the surveillance of Mr. Ceja's vehicle, his involvement in the investigation was because, "members of HIDTA had determined a vehicle in Billings and [they] requested [his] assistance in stopping the vehicle. The information obtained by SGT Jagers was that the vehicle contained a large amount of methamphetamine."

As stated above, the alleged reason for the traffic stop of Mr. Ceja's vehicle was for failure to yield to a pedestrian. Officer Schnelbach initially made personal contact with Mr. Ceja at 5:56 p.m. After explaining to Mr. Ceja that he initiated the traffic stop for failure to yield to a pedestrian, Officer Schnelbach began to interrogate Mr. Ceja regarding his purpose in Montana. When Officer Schnelbach continued to question Mr. Ceja about his travel to Montana, Mr. Ceja began to ask if he had to answer the officer's questions. Before going to his patrol car to issue the citation for failure to yield to a pedestrian, Officer Schnelbach asked Mr. Ceja to "stay off his phone," and Officer Lausch stepped up to the driver's side window of the car to wait while Officer Schnelbach issued the ticket. Both officers were aware at this time of the allegations regarding suspicions of drug trafficking, and it was their intention from the outset of the traffic stop to investigate that suspicion.

While in his patrol car for the alleged purpose of issuing Mr. Ceja a traffic citation for failure to yield to a pedestrian, Officer Schnelbach ran Mr. Ceja's record and advised over his radio "alright guys, I have added him to the report here, Christopher Ceja." While the citation was printing, Officer Schnelbach advised over his radio, "Yeah, he didn't even want to talk to me when I was up there, so I don't think he's going to really cooperate with a search or anything." He then confirmed that Mr. Ceja had a "valid license and [was] negative for warrants." He next advised that he was "going to have him get out and explain this ticket and go from there." Despite the fact that the officers also had suspicions of drug trafficking, which was the genuine reason for the traffic stop of Mr. Ceja, they chose to not investigate those suspicions while conducting the investigation for failure to yield to a pedestrian. As stated above, the information related to suspicions of drug trafficking was known to the officers from the outset of the traffic stop.

Officer Schnelbach then got out of his patrol car, approached the driver's side of the vehicle, and stated, "Go ahead and step out man," as he opened the driver's side door of the vehicle. Officer Lausch patted Mr. Ceja down, and Officer Schnelbach told Mr. Ceja he was going to "explain this to [him] and have a chat with [him]." Officer Schnelbach proceeded to explain to Mr. Ceja that the citation was a civil infraction and that if he paid it within two weeks, it would not affect his insurance or driving record.

After handing Mr. Ceja the citation, his driver's license and registration, Officer Schnelbach asked him, "Why don't you want to speak with me today? You're in that much of a hurry?" Mr. Ceja responded that he was tired. Officer Schnelbach pressed him further stating, "And you don't have time to have a two-minute conversation with me?" Mr. Ceja responded that he did not mean to be rude, but that he was tired and he wanted to see his child. He further stated while indicating to the citation in hand, "If this is what you pulled me over for, I'll handle this, and if I can go on about my day that would be perfect."

The officers then changed course and began the second investigation for suspicion of drug trafficking. There were no new indicia of criminal activity gleaned during their investigation for failure to yield to a pedestrian. Officer Schnelbach began this investigation by asking for consent to search the vehicle. Mr. Ceja denied consent to search the vehicle. Mr. Ceja also denied consent to allow Officer Lausch to run his K-9 on the vehicle, and he explained to the officer that he needed to get going. Mr. Ceja further stated to the officers, while indicating to the citation in his hand, "If this is what you are stopping me for, let me just leave."

Officer Lausch then initiated questioning, and asked Mr. Ceja, "When did you leave California?" Mr. Ceja told Officer Lausch that he did not want to answer any questions and asked to go on about his day. Officer Lausch responded, "You can, but I am going to run my dog around your car, and then we'll go from there." Mr.

Ceja asked if the Officers needed his consent to do that, to which Lausch responded, "I don't need consent to run my dog." Officer Lausch then explained that Mr. Ceja was "being uncooperative, and [his] story about coming out of California [was] a little hinky;" therefore, he believed he had reasonable suspicion to run his dog. Officer Schnelbach then explained that he had "never once had someone not speak with me about questions [he had], OK? So like [Lausch] said, you're free to leave, but your vehicle is staying here, and [Lausch] is going to run his dog on it, OK? So go ahead and have a seat if you want, or you're free to leave." Mr. Ceja asked if he could get his phone, and the Officers told him that nothing could come out of the vehicle.

Officer Schnelbach returned to his patrol car and stated into his radio, "I copy, you want him to stick around then? We told him he was free to leave if he wanted but . . . I copy." Officer Schnelbach then got out of his patrol car and explained to Mr. Ceja that Officer Lausch was letting his dog go to the bathroom, that he was going to deploy it on the vehicle, and indicated to Mr. Ceja, "So if you just want to hang out and see what happens here."

Officer Lausch ultimately deployed his K-9 Tabasco, who had been in his patrol car throughout the entire course of the first investigation for failure to yield to a pedestrian, at 6:10 p.m., which was fourteen minutes into the traffic stop, and four minutes after the citation was issued and the investigation for failure to yield to a

pedestrian was completed. After deploying his K-9 Tabasco, Tabasco allegedly indicated the presence of a trained odor on the front grill of the vehicle by sitting and staring at the grill. Based on the circumstances and Tabasco's alleged behavior, Officers told Mr. Ceja that they had reason to believe that there was something in the vehicle, and they would be towing it and applying for a search warrant. Mr. Ceja asked for permission to retrieve his cell phone and wallet, and the officers refused and said it was evidence now.

Officer Lausch ultimately retrieved Mr. Ceja's wallet from the vehicle and relinquished it to Mr. Ceja, but not before he searched its contents. Mr. Ceja left the scene on foot at 6:14 pm. After Mr. Ceja left the scene, while waiting for the tow truck to arrive, Officer Schnelbach and Officer Schnelbach had the following exchange:

Schnelbach: Yeah, so I was pulling, I was at 3rd and south two seven and there was a pedestrian on the corner, and I was like, 'Oh perfect, he's not going to yield.'

Lausch: Which way did he come out?

Schnelbach: He came straight.

Lausch: Oh, he came down 27th while they were walking across?"

Schnelbach: Well, she was waiting to cross, and at any intersection in Montana, it is a crosswalk, unless it is marked that it is not, and therefore any pedestrian at any intersection has right of way if it is not controlled.

Lausch: So we were good to go, it was just a matter of finding him. It was weird that he took 27th.

Officers had Mr. Ceja's vehicle towed to Billings Police Evidence Facility, where it remained while HIDTA applied for and was granted a search warrant to search the vehicle.

The subsequent search of the vehicle yielded nineteen packages of methamphetamine in cellophane wrapping. Three of these packages were found in the front center console of the vehicle. The remaining sixteen packages were found in the cargo compartment of the back of the SUV. It was this evidence that Mr. Ceja sought to suppress pursuant to his Motion to Suppress at the District Court level.

Ceja filed a Motion to Suppress on June 15, 2020. The Court held an evidentiary hearing on Ceja's Motion on October 15, 2020. On December 2, 2020, the Court issued an Order Denying Ceja's Motion to Suppress. The Court determined that "Ceja has failed to meet his burden in challenging the stop and subsequent search as unconstitutional. Therefore, Defendant's Motion to Suppress (Doc. 31) is DENIED." APP012 – APP022.

Thereafter, Ceja pled guilty to Count II, pursuant to a conditional Plea Agreement, in which he reserved the right to appeal the denial of his Motion to Suppress and Motion to Dismiss the Indictment with Prejudice for Speedy Trial Violation. Sentencing was set for August 4, 2021. The Government dismissed Count I of the Indictment. Ceja was sentenced to seventy-eight (78) months in the custody of the Bureau of Prisons on Count II with five years of supervised release

to follow. APP005 – APP011. No fine was imposed. A timely Notice of Appeal was filed on August 16, 2021.

Mr. Ceja filed his Opening Brief with the Ninth Circuit Court of Appeals on December 15, 2021. On direct appeal, Mr. Ceja argued that the District Court erred in failing to suppress the evidence found during the search of his vehicle and that the District Court erred in failing to Dismiss the Indictment against him with prejudice for a Speedy Trial violation. The Government filed an Answering Brief on March 25, 2022, and Mr. Ceja filed a Reply Brief on May 3, 2022. The Ninth Circuit Court of Appeals heard Oral Argument on July 5, 2022. On July 18, 2022, the Ninth Circuit issued its Memorandum, which affirmed the District Court’s ruling on Mr. Ceja’s Motion to Suppress and his Motion to Dismiss Indictment with Prejudice for Speedy Trial Violation. APP001 – APP004. The Ninth Circuit also found that “since we conclude that independent reasonable suspicion supported both the traffic stop and the drug investigation, there was no unlawful prolongation of the stop.” APP001 – APP004.

REASONS FOR GRANTING OF THE WRIT

I. THE TRAFFIC STOP OF MR. CEJA WAS UNREASONABLY PROLONGED WHEN OFFICERS CONDUCTED TWO CONSECUTIVE INVESTIGATIONS, ONE FOR AN ALLEGED TRAFFIC VIOLATION AND ONE FOR SUSPICION OF DRUG TRAFFICKING, BECAUSE THE OFFICERS DID NOT DISCOVER ANY *NEW* INDICIA OF CRIMINAL ACTIVITY DURING THE COURSE OF THE TRAFFIC STOP AND INFORMATION RELEVANT TO BOTH INVESTIGATIONS WAS KNOWN TO THE OFFICERS FROM THE OUTSET OF THE TRAFFIC STOP.

A law enforcement officer conducting an investigatory stop of a vehicle must possess a “reasonable suspicion” that a particular person “has committed, is committing, or is about to commit a crime.” *United States v. Lopez-Soto*, 205 F.3d 1101, 1104 (9th Cir. 2000). Officers have reasonable suspicion when “specific, articulable facts . . . together with objective and reasonable inferences, form the basis for suspecting that the particular person detained is engaged in criminal activity.” *Id.* at 1105 (internal quotation marks omitted). The reasonable suspicion analysis takes into account the totality of the circumstances. *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (citing *Whren v. United States*, 517 U.S. 806, 810 (1996)).

Additionally, officers must use the least intrusive means of detention and investigation, in terms of scope and duration, that are reasonably necessary to achieve the purpose of the investigative stop. *Terry v. Ohio*, 392 U.S. 1, 25-31 (1968). However, upon making a valid investigative stop, law enforcement officers must act with reasonable diligence to quickly confirm or dispel the predicate

suspicion for the stop and duration and scope of the stop must carefully limited to its underlying justification. *Rodriguez v. United States*, 135 S. Ct. 1609, 1614 (2015); *United States. Sharpe*, 470 U.S. 675, 686 (1985); *Florida v. Royer*, 460 U.S. 491 (1983). Thus, the duration and scope of a stop may not exceed what is reasonably necessary to confirm or dispel the predicate suspicion for the stop. *Id.*

A seizure “can violate the Fourth Amendment if its manner or execution unreasonably infringes interests protected by the Constitution.” *Illinois v. Caballes*, 543 U.S. 405, 406 (2005). A traffic stop is “[a] relatively brief in encounter,” in which “the tolerable duration of police inquiries . . . is determined by the seizure’s mission.” *Rodriguez*, 135 S.Ct. at 1614 (quoting *Knowles v. Iowa*, 525 U.S. 113, 117 (1998), and *Caballes*, 543 U.S. at 407). This “mission” is limited to “address[ing] the traffic violation that warranted the stop” and “attend[ing] to related safety concerns.” *Id.*

The District Court found that there were two reasons which led law enforcement to conduct a traffic stop of Mr. Ceja. APP012 – APP022. The first reason for the traffic stop was based upon failure to yield to a pedestrian. *Id.* The second reason for the traffic stop was based upon suspicions of drug trafficking. *Id.* This suspicion of drug trafficking was known prior to the traffic stop of Mr. Ceja for failure to yield to a pedestrian. Therefore, the mission of the traffic stop of Mr. Ceja was limited to investigation of these two matters, and the authority for the seizure of

Mr. Ceja was limited to the least intrusive means of detention and investigation, in terms of scope and duration, that were reasonably necessary to achieve the purpose of the investigative stop. *Terry v. Ohio*, 392 U.S. 1, 25-31 (1968).

Mr. Ceja relied primarily on *United States v. Evans*, 786 F.3d 779 (9th Cir. 2015), at both the District Court and the Ninth Circuit Court of Appeals for the proposition that the officers violated his Fourth Amendment rights when they chose to conduct two consecutive investigations into the information known to them at the outset of the investigative stop, rather than conducting these investigations in the most expeditious manner. The dog sniff in *Evans* was almost identical to the one conducted in Mr. Ceja's case, including an informant's statements to law enforcement that Evans may have been trafficking drugs prior to the officer's investigatory stop of his vehicle.

In *United States v. Evans*, the Ninth Circuit reversed the District Court's decision to suppress drugs found in violation of Evans' Fourth Amendment rights on the grounds that the time spent to conduct an ex-felon registration check and dog sniff unlawfully prolonged the traffic stop. *Evans*, 786 F.3d at 780. The Ninth Circuit reversed and remanded the case back to the District Court with specific direction for the District Court to determine whether or not the arresting officer, Officer Zirkle, had independent reasonable suspicion to justify the prolongation of the traffic stop. *Id.*, 786 F.3d at 781.

In *Evans*, the DEA had been investigating Mr. Evans throughout 2012 and 2013 through information obtained by jailhouse confidential sources for suspicion of methamphetamine trafficking. *United States v. Evans*, 122 F.Supp.3d 1027, 1030 (D. Nev. 2015). Agents had obtained authorization to track Mr. Evans' cell phone location data, and through that surveillance, agents learned that Mr. Evans left Nevada, stopped at a Super 8 Motel in Sacramento, California, and then was travelling back from California to Nevada with a shipment of narcotics along Interstate 80. *Id.*, 122 F.Supp.3d at 1031. The case agent contacted another member of the Washoe County Sheriff's Department, Officer Zirkle, who was canine-certified and had his drug detection dog with him. *Id.* The case agent requested that Officer Zirkle develop probable cause and perform a traffic stop on Mr. Evans' vehicle. *Id.* The case agent specifically told Officer Zirkle that he suspected the vehicle to be carrying a shipment of narcotics. *Id.* Based on this information, Officer Zirkle stopped at the California-Nevada border and waited until he observed Evans cross the border. *Id.* Soon thereafter, Officer Zirkle observed Evans commit two minor traffic infractions, and based upon those infractions, he performed a traffic stop of Mr. Evans' vehicle. *Id.*

After the traffic stop related to the minor traffic infractions was completed, and Officer Zirkle told Evans that he was "good to go," Officer Zirkle prolonged the traffic stop in order to perform a dog sniff search on Evans' vehicle. *Id.*, 122

F.Supp.3d at 1032. Officer Zirkle observed the following indicators, which he believed amounted to independent reasonable suspicion to prolong the stop to conduct the sniff search: Officer Zirkle testified that he smelled a “very strong odor of methamphetamine,” Evans’ passenger looked nervous, Evans informed Officer Zirkle that he had been arrested before, the other officer on scene believed he smelled an odor of marijuana coming from the vehicle, and Evans and his passenger had inconsistent stories regarding the purpose of their travel. *Id.*, 122 F.Supp.3d at 1031-1032. Additionally, Officer Zirkle was aware that the case agent believed the vehicle to be carrying a shipment of narcotics, based on the information from the confidential source and the cell phone location records. *Id.*, 122 F.Supp.3d at 1031.

Officer Zirkle conducted a canine sniff search on the vehicle, and a subsequent search of the vehicle yielded methamphetamine, marijuana, crack cocaine, and a firearm. *Id.*, 122 F.Supp.3d at 1032. On remand, the District Court found that despite the indicators articulated by Officer Zirkle, no independent reasonable suspicion existed to justify the prolongation of the traffic stop to conduct a dog sniff search. *Id.*, 122 F.Supp.3d at 1038.

In its analysis regarding whether Officer Zirkle had reasonable suspicion to prolong the traffic stop of Evans to perform a dog sniff, the District Court of Nevada relied upon Nevada Supreme Court decision, *State v. Beckman*. *Evans*, 122 F.Supp.3d at 1038 (citing *State v. Beckman*, 305 P.3d 912, 914 (Nev. 2013)). The

facts of *Beckman* are also analogous to the facts of Mr. Ceja's case. In *Beckman*, the officer initiated a traffic stop, checked the driver's license and registration, issued a warning, and told him, "Everything checks good." *Id.* Immediately afterward, the officer reinitiated contact and ordered the driver to wait until a dog sniff could be performed. *Id.* The Nevada Supreme Court held that "[a] traffic stop that is legitimate when initiated becomes illegitimate when the officer detains the car and driver beyond the time required to process the traffic offense, unless the extended detention is consensual, de minimis, or justified by a reasonable articulable suspicion of criminal activity." *Id.*, 305 P.3d at 915. In applying this analysis to Evans' case, the United States District Court of Nevada found that "[a]lthough Zirkle could rely on information obtained before the stop became unreasonably prolonged to support his finding of reasonable suspicion, *Evans* and *Beckman* require that once the stop becomes unreasonably prolonged, any purported reasonable suspicion to justify further prolongations must be supported by *new* indicia of criminal activity." *Evans*, 122 F.Supp.3d at 1038 (emphasis in original). Because Zirkle did not have any new indicia of criminal activity that would justify prolonging the stop of Evans; therefore, the evidence found as a result of the subsequent search of Evans' car should have been suppressed. *Id.*, 122 F.Supp.3d at 1038-1039.

In Mr. Ceja's case, there were two officers on the scene from the outset of the investigatory stop. Officer Schnelbach observed the traffic violation for failure to

yield to a pedestrian; therefore, he was responsible for conducting that investigation. Officer Schnelbach also knew from the outset of the investigatory stop that Mr. Ceja was suspected of drug trafficking. Officer Lausch was also present on the scene from the outset of the investigatory stop, he was aware of the suspicions of drug trafficking, and he had his drug detection K-9 with him in his patrol car. He was the obvious choice to investigate Mr. Ceja for suspicions of drug trafficking. However, instead of conducting these investigations in the most expeditious manner and using the least intrusive means in terms of scope and duration, the officers, for reasons unknown, chose to not investigate their suspicions of drug trafficking until after they had completed the investigation for failure to yield to a pedestrian. It was only after this investigation for the traffic violation was completed and a citation had been issued, that they ordered Mr. Ceja to exit his vehicle and asked him for consent to search it based on the information known to them from the CI, which they possessed all along. This was not *new* indicia of criminal activity, as *Evans* and *Beckman* make clear is required in order to justify a further prolongation of the detention of Mr. Ceja.

When the officers next asked Mr. Ceja if he would consent to a dog sniff, which he denied, they told him that they were going to perform the dog sniff anyways. When Mr. Ceja denied consent again, they told him that they did not have to obtain his consent to run the dog around the vehicle. This was an unlawful

prolongation of the investigatory stop of Mr. Ceja. There was no reason that the two investigations could not have been accomplished at the same time, thus limiting the seizure of Mr. Ceja to only the amount of time that it took to investigate both matters to the least intrusive duration. The drug detection K-9 was in Officer Lausch's patrol car from the outset for the traffic stop of Mr. Ceja, and Officer Lausch was available to conduct the investigation for suspicions of drug trafficking while Officer Schnelbach conducted the investigation for failure to yield to a pedestrian. However, both officers testified repeatedly at the pretrial motions hearing that the traffic stop was *completed* prior to initiating their investigation for suspicions of drug trafficking. Specifically, Officer Schnelbach testified as follows,

[E]ven though case law throughout the United States allows for what you're saying, running a dog on a vehicle during a traffic stop during the normal course of a traffic stop, that has been affirmed by courts in the United States as okay to do, our attorneys here in the county don't want us to press the boundary of doing that. It's not common practice here. So, yeah, we could have [performed the dog sniff during the traffic stop], I guess, but we – that's not how we do it here generally. I've never seen it done that way, even though I know throughout the United States that is an acceptable practice, but we did not do it because that's not how we do it here.

He testified further,

[O]ur standard procedure of doing it here with the Billings Police Department is how I did it, that (what?) we saw, right. I completed the traffic stop portion, and then once the traffic stop portion's done, then I'll ask consent, right, in a consensual encounter between me and the driver of the vehicle.

Additionally, when asked why he did not perform the dog sniff on Mr. Ceja's vehicle while Officer Schnelbach was performing the traffic stop investigation, Officer Lausch testified as follows,

It's not common practice for city officers. I always ended a stop, turned it into a consensual encounter, asked for consent to search a vehicle. If I felt like on any other – generally on a stop, if I had particularized suspicion, then I would deploy my dog after the completion of the traffic stop.

It is clear that the extended duration of the officers' investigation was not consensual, de minimis, or justified by any *new* indicia of criminal activity that they gleaned during the course of the traffic stop. It is also undisputed that the officers purposefully waited until they had completed their traffic investigation's mission prior to changing the course of their investigation suspicions of drug trafficking, despite the fact that both matters could have been timely investigated simultaneously, thus limiting the seizure of Mr. Ceja to the least intrusive duration necessary. For these reasons, the officers' failure to timely investigate both the traffic violation and their suspicion of drug trafficking unduly prolonged the traffic stop and resulted in an illegal seizure and search of Mr. Ceja's vehicle. The drug evidence obtained as a result of the illegal search should have been suppressed by the District Court, and the Ninth Circuit Court of Appeals erred in finding that the officers did not unlawfully prolong the seizure of Mr. Ceja when they conducted two consecutive investigations, despite the fact that they gleaned no *new* indicia of

criminal activity throughout the course of the traffic stop investigation. Mr. Ceja prays that the Court will grant this Petition for Certiorari because his case provides this Court with the opportunity to outline a rule to determine, when they have the ability to investigate each matter simultaneously, whether or not officers are required to use the least intrusive means possible in terms of scope and duration to investigate separate suspicions of criminal activity.

CONCLUSION

The traffic stop of Mr. Ceja was unlawfully prolonged when the officers conducted two consecutive investigations, despite the fact that information relevant to both investigations was known to the officers prior to the traffic stop of Mr. Ceja, and they learned no *new* indicia of criminal activity to justify further prolongation of the traffic stop. In consideration of the foregoing, Petitioner urges the Court to grant certiorari review in order to resolve this important question. Petitioner respectfully submits that the Petition for Certiorari should be granted.

Dated this 13th day of October, 2022.

Respectfully submitted,

MUSICK & TIERNEY LAW, PLLC

By: 

Elizabeth T. Musick
P.O. Box 726
Bozeman, MT 59771
(406) 235-1456