
NO. 22-_____

IN THE UNITED STATES SUPREME COURT

_____ TERM

CHRISTOPHER SANTILLANES CEJA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Appendix

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NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 18 2022

FOR THE NINTH CIRCUIT

**MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

CHRISTOPHER SANTILLANES CEJA,

Defendant-Appellant.

No. 21-30178

D.C. Nos.

1:19-cr-00141-SPW-1

1:19-cr-00141-SPW

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Susan P. Watters, District Judge, Presiding

Argued and Submitted July 5, 2022
Seattle, Washington

Before: CLIFTON and BUMATAY, Circuit Judges, and CHEN,** District Judge.

Christopher Ceja appeals the district court's denial of his motion to dismiss the indictment and motion to suppress. Because there is no Speedy Trial Act or Fourth Amendment violation, we affirm.

We review de novo a district court's application of the Speedy Trial Act.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The Honorable Edward M. Chen, United States District Judge for the Northern District of California, sitting by designation.

United States v. Medina, 524 F.3d 974, 982 (9th Cir. 2008). In reviewing a district court's denial of a motion to suppress, we review the legal conclusions de novo and factual findings for clear error. *United States v. Basher*, 629 F.3d 1161, 1165 (9th Cir. 2011).

1. The district court properly denied Ceja's motion to dismiss for a Speedy Trial Act violation. The Speedy Trial Act requires that a defendant's trial generally start within 70 days of the filing of the indictment or information. 18 U.S.C. § 3161(c)(1). Pretrial motions requiring hearings automatically pause the clock "through the conclusion of the hearing on . . . such motion." *Id.* § 3161(h)(1)(D); *United States v. Tinklenberg*, 563 U.S. 647, 655 (2011).

Ceja argues that more than 70 days elapsed because the district court improperly excluded 26 additional days between August 14, 2020, and October 15, 2020. Ceja contends that this time period should be included in the Speedy Trial calculation because the delays were attributable to the government or the court. But Ceja filed a motion to suppress on June 15, 2020. The filing of the motion had the effect of pausing the clock while the motion was under the advisement of the court. 18 U.S.C. § 3161(h)(1)(D), (H). *See Medina*, 524 F.3d at 979 (explaining that pretrial motions which require a hearing automatically pause the clock even when the delay is not "reasonably necessary"). The clock was thus paused between June 15, 2020 and December 2, 2020 (30 days after the hearing on the suppression

motion). So the district court correctly calculated that only 69 days elapsed after Ceja's arraignment and did not err in denying his motion to dismiss based on a Speedy Trial Act violation.

2. The district court did not err in denying Ceja's motion to suppress evidence. Police officers had reasonable suspicion to stop Ceja's car based on two independent grounds: (1) violation of drug trafficking laws, and (2) violation of a traffic regulation. Police officers had "specific, articulable facts" that Ceja's car carried drugs based on information from a confidential informant. *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (en banc). Other evidence corroborated the informant's information. The corroborated evidence provided "objective and reasonable inferences" for a "particularized suspicion" to stop the car. *Id.* (emphasis omitted); *see also Alabama v. White*, 496 U.S. 326, 331–32 (1990) (holding that an investigatory stop did not violate the Fourth Amendment when an anonymous tip was significantly corroborated).

A police officer also witnessed Ceja committing a traffic violation and so Ceja could be stopped based on that violation alone. *See Whren v. United States*, 517 U.S. 806, 810 (1996) (holding that "the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred").

Ceja argues that the traffic stop was unlawfully prolonged because the traffic

citation and the drug investigation were not conducted simultaneously. But he cites no authority requiring the drug investigation to be conducted at the same time as the traffic stop. Indeed, “[w]e [have] recognize[d] that an officer may prolong a traffic stop if the prolongation itself is supported by independent reasonable suspicion.” *United States v. Evans*, 786 F.3d 779, 788 (9th Cir. 2015). Here, since we conclude that independent reasonable suspicion supported both the traffic stop and the drug investigation, there was no unlawful prolongation of the stop.

Because none of Ceja’s other arguments supports suppressing the drug evidence, the district court did not err in denying the motion to suppress.

AFFIRMED.

UNITED STATES DISTRICT COURT
DISTRICT OF MONTANA BILLINGS DIVISION

UNITED STATES OF AMERICA

v.

CHRISTOPHER SANTILLANES CEJA

JUDGMENT IN A CRIMINAL CASE

Case Number: CR 19-141-BLG-SPW-1

USM Number: **78857-112****Elizabeth T. Musick**

Defendant's Attorney

THE DEFENDANT:

<input checked="" type="checkbox"/>	pleaded guilty to count(s)	2
<input type="checkbox"/>	pleaded nolo contendere to count(s) which was accepted by the court	
<input type="checkbox"/>	was found guilty on count(s) after a plea of not guilty	

The defendant is adjudicated guilty of these offenses:

Title & Section / Nature of Offense**Offense Ended****Count**

21:841A=Cd.F Possession With Intent To Distribute Methamphetamine

03/12/2019

2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s)
- ☒ Count 1 ☒ is ☐ are dismissed on the motion of the United States

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

August 4, 2021

Date of Imposition of Judgment



Signature of Judge

Susan P. Watters**United States District Judge**

Name and Title of Judge

August 4, 2021

Date

DEFENDANT: CHRISTOPHER SANTILLANES CEJA
CASE NUMBER: CR 19-141-BLG-SPW-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: Seventy-eight (78) months.

- ☒ The court makes the following recommendations to the Bureau of Prisons:
- (1) Defendant shall participate in the Bureau of Prisons' 500-hour Residential Drug Treatment Program (RDAP) if eligible.
 - (2) Defendant shall be placed at the Bureau of Prisons' facility at FCI Terminal Island in California for vocational programming and proximity to family.
- ☒ The defendant is remanded to the custody of the United States Marshal.
- ☐ The defendant shall surrender to the United States Marshal for this district:
- ☐ at ☐ a.m. ☐ p.m. on
 - ☐ as notified by the United States Marshal.
- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
- ☐ before 2 p.m. on
 - ☐ as notified by the United States Marshal.
 - ☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: CHRISTOPHER SANTILLANES CEJA
CASE NUMBER: CR 19-141-BLG-SPW-1

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: five (5) years.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

DEFENDANT: CHRISTOPHER SANTILLANES CEJA
CASE NUMBER: CR 19-141-BLG-SPW-1

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at <https://www.mtp.uscourts.gov/post-conviction-supervision>.

Defendant's Signature _____

Date _____

DEFENDANT: CHRISTOPHER SANTILLANES CEJA
CASE NUMBER: CR 19-141-BLG-SPW-1

SPECIAL CONDITIONS OF SUPERVISION

1. You must submit your person, residence, place of employment, vehicles, and papers, to a search, with or without a warrant by any probation officer based on reasonable suspicion of contraband or evidence in violation of a condition of release. Failure to submit to search may be grounds for revocation. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. You must allow seizure of suspected contraband for further examination.
2. You must abstain from the consumption of alcohol and are prohibited from entering establishments where alcohol is the primary item of sale.
3. You must participate in substance abuse testing to include not more than 365 urinalysis tests, not more than 365 breathalyzer tests, and not more than 36 sweat patch applications annually during the period of supervision. You must pay part or all of the costs of testing as directed by the probation officer.
4. You must participate in and successfully complete a program of substance abuse treatment as approved by the probation officer. You must remain in the program until you are released by the probation officer in consultation with the treatment provider. You must pay part or all of the costs of this treatment as directed by the probation officer.
5. You must not purchase, possess, use, distribute or administer marijuana, including marijuana that is used for recreational or medicinal purposes under state law.
6. You must not possess, ingest or inhale any psychoactive substances that are not manufactured for human consumption for the purpose of altering your mental or physical state. Psychoactive substances include, but are not limited to, synthetic marijuana, kratom and/or synthetic stimulants such as bath salts and spice.
7. You must not use or possess any controlled substances without a valid prescription. If you do have a valid prescription, you must disclose the prescription information to the probation officer and follow the instructions on the prescription.

DEFENDANT: CHRISTOPHER SANTILLANES CEJA
CASE NUMBER: CR 19-141-BLG-SPW-1

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments.

	<u>Assessment</u>	<u>JVTA</u> <u>Assessment**</u>	<u>AVAA</u> <u>Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$100.00	\$ 0.00	\$ 0.00	\$.00	\$.00

- ☐ The determination of restitution is deferred until *An Amended Judgment in a Criminal Case*
(AO245C) will be entered after such determination.
☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

- ☐ Restitution amount ordered pursuant to plea agreement \$
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- | | | |
|---|-------------------------------|--|
| <input type="checkbox"/> the interest requirement is waived for | <input type="checkbox"/> fine | <input type="checkbox"/> restitution |
| <input type="checkbox"/> the interest requirement for the | <input type="checkbox"/> fine | <input type="checkbox"/> restitution is modified as follows: |

*Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

**Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: CHRISTOPHER SANTILLANES CEJA
CASE NUMBER: CR 19-141-BLG-SPW-1

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payments of \$ 100 due immediately, balance due
☐ not later than _____, or
☒ in accordance with ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal 20 (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
Criminal monetary penalty payments are due during imprisonment at the rate of not less than \$25.00 per quarter, and payment shall be through the Bureau of Prisons' Inmate Financial Responsibility Program. Criminal monetary payments shall be made to the Clerk, United States District Court, James F. Battin Federal Courthouse, 2601 2nd Ave North, Ste 1200, Billings, MT 59101.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- o Joint and Several
See above for Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- ☐ Defendant shall receive credit on his restitution obligation for recovery from other defendants who contributed to the same loss that gave rise to defendant's restitution obligation.
- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVT A Assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHRISTOPHER CEJA,

Defendant.

CR 19-141-BLG-SPW

ORDER DENYING MOTION
TO SUPPRESS

Before the Court is Defendant Ceja's Motion to Suppress evidence seized from his vehicle, a black 2002 GMC Yukon, during a traffic stop. (Doc. 31). A hearing on the motion was held October 15, 2020. After considering the parties' briefs and the testimony presented at the hearing, for the reasons below, the motion is denied.

I. Facts

In Spring 2019, FBI Task Force Agent Charles Moffet worked with a confidential information (CI) during his investigation of drug trafficking into

Billings, Montana. He learned through the CI of a large shipment of methamphetamine coming into the city; originally slated for a late February delivery, it was postponed until mid-March of that same year. Ultimately, the CI informed Moffet that the delivery would arrive on the afternoon of March 12. The target vehicle, based on this information, was a California-plated SUV. The CI was directly speaking to the supplier of the drugs through a phone number Moffet and the task force had linked to the supplier, Javier Santillanes, over more than a two-year period. The CI assisted the Task Force from coordinating the initial shipment to its delivery to Billings. Ultimately, Moffet, through the CI, redirected the shipment from one location in Lockwood to a different location in downtown Billings.

On March 12, 2019, the Eastern Montana High Intensity Drug Trafficking Area Task Force (HIDTA) contacted Billings Police Department (BPD) Officer Eric Schnelbach requesting his assistance with a vehicle that arrived in Billings and allegedly contained a shipment of drugs. The alert described the vehicle as a black SUV with California license plates and described that the vehicle was headed his way. Schnelbach positioned himself on a corner along the route to intercept the vehicle, at the intersection of 3rd Avenue South and South 27th Street, and shortly thereafter saw the described SUV driving toward him. Schnelbach, identifying the vehicle as matching the HIDTA description, noticed that it lacked a front license

plate and that the SUV failed to yield to a pedestrian apparently waiting to cross the busy road. As the SUV proceeded through the intersection, Schnelbach pulled behind the vehicle, turned on his lights and siren, and initiated a stop of the SUV.

Schnelbach approached SUV and collected the driver's information and informed the driver that he failed to yield to a pedestrian and that was why he was pulled over. Back at his patrol car, Schnelbach ran the plates and license, learning that the driver was Christopher Santillanes Ceja and the vehicle, a GMC Yukon, was registered in his name—confirming information provided by HIDTA. Schnelbach asserted that Ceja was evasive about the details of his trip that day, and that he seemed impatient and nervous. At this point, BPD Officer Lausch had arrived to assist with the stop. While Schnelbach confirmed the information, Lausch stood next to Ceja to ensure that Ceja did not use his phone and to watch his movements.

Schnelbach returned to Ceja and handed him a citation, explaining that Ceja had failed to yield to a pedestrian in violation of Montana law. Schnelbach continued to ask Ceja questions about his trip and asked for consent to search the Yukon. Ceja denied consent and did not answer the questions, instead requesting to end the stop and go on his way. The officers told Ceja he was not free to leave and asked for his consent to run a drug dog along the Yukon's exterior. After Ceja once again declined, Officer Lausch told him he would deploy his canine unit,

Tabasco, regardless. Schnelbach testified that BPD's usual practice is to ask consent even if officers believe that consent is not required to legally search or sniff the vehicle. Schnelbach indicated that he believed, given the specific information from HIDTA and Ceja's evasive answers and behavior, there was information sufficient to allow a dog sniff, all in conformity with standard protocols. He further indicated, and Lausch corroborated, that it is routine to first conduct a traffic stop and then, if necessary, conduct the drug stop immediately after (rather than conducting both simultaneously).

Lausch and Tabasco examined the perimeter of the vehicle several times, and Tabasco sat down, apparently indicating the presence of drugs, at the front grill of the vehicle. After receiving the indication, the officers told Ceja they would be applying for a search warrant given this indication and that while Ceja was free to leave, the vehicle and its contents were not. Task Force Agent Moffet applied for the search warrant and provided his affidavit including information about the dog sniff provided by Lausch.

Further specific facts relevant to each portion will be incorporated as necessary below.

II. Standard of Review

On a motion to suppress, the Ninth Circuit reviews legal conclusions de novo and factual findings for clear error. *United States v. Basher*, 629 F.3d 1161, 1167 (9th Cir. 2011).

III. Discussion

Ceja challenges the search and seizure of the drugs on several grounds, arguing the initial stop lacked reasonable suspicion, was a mere pretext for a drug search, and was unlawfully prolonged. (Doc. 32). Ceja further argues that the search of the vehicle was unconstitutional because the underlying warrant contained material omissions about the dog's alert behavior and the evidence must be suppressed as the product of an unlawful search. (Doc. 32).

A. The officers possessed reasonable suspicion to stop Ceja due to the corroborated and reliable information from the CI.

The Fourth Amendment permits brief investigative stops when a law enforcement officer has “a particularized and objective basis for suspecting the particular person stopped of criminal activity.” *Navarette v. California*, 134 S.Ct. 1683, 1687 (2014) (citing *Terry v. Ohio*, 392 U.S. 1, 21-22 (1968)). The reasonable suspicion necessary to justify an investigative stop is dependent upon both the content of information possessed by police and its degree of reliability. *Navarette*, 134 S.Ct. at 1687 (citing *Alabama v. White*, 496 U.S. 325, 330 (1990)).

Reasonable suspicion need not be based solely on an officer's personal observation; the officer may rely on information supplied by another person. *Navarette*, 134 S.Ct. at 1688 (citing *Adams v. Williams*, 407 U.S. 143, 147 (1972)). But information supplied by an informant must have sufficient indicia of reliability before it can contribute to an officer's reasonable suspicion. *Navarette*, 134 S.Ct. at 1688. Multiple factors bear on the reliability of information supplied by an informant. *See White*, 496 U.S. 325 (independent police corroboration of information); *Florida v. J.L.*, 529 U.S. 266 (2000) (anonymity of informant); *United States v. Terry-Crespo*, 356 F.3d 1170, 1176 (9th Cir. 2004) (exigent circumstances); *Terry-Crespo*, 356 F.3d at 1176-1177 (whether informant's knowledge was first-hand or second-hand); *Terry-Crespo*, 356 F.3d at 1177 (whether informant's report was contemporaneous with suspected criminal activity). In determining reasonable suspicion, the Court must consider all of the information under the totality of the circumstances. *Navarette*, 134 S.Ct. at 1687.

If a person is stopped for violating the traffic code, the stop may not be prolonged beyond the time reasonably required to complete the mission of the stop. *Rodriguez v. United States*, 135 S.Ct. 1609, 1614 (2015) (citing *Illinois v. Caballes*, 543 U.S. 405, 407 (2005)). Because addressing the infraction is the purpose of the stop, it may "last no longer than is necessary to effectuate that purpose." *Rodriguez*, 135 S.Ct. at 1614. Authority for the stop ends when tasks tied to the traffic infraction

are, or reasonably should have been, completed. *Rodriguez*, 135 S.Ct. at 1614. Such tasks typically include checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance. *Rodriguez*, 135 S.Ct. at 1615. In addition, passengers may be ordered to exit the vehicle, asked to produce ID, and questioned about travel. *United States v. Betancourt*, 277 Fed.Appx.708 (9th Cir. 2008); *United States v. Williams*, 419 F.3d 1029, 1031 (9th Cir. 2005).

Ceja claims that Officer Schnelbach lacked reasonable suspicion to stop him, asserting that Schnelbach's stated reason—Ceja's failure to stop for a pedestrian—was a pretext because of the speed of the traffic and the traffic conditions at the time, the temporal impossibility for Ceja to yield to the pedestrian while driving 35 miles per hour, and the absurd result of all traffic grinding to a halt for anyone who looks like they may intend to cross at any possible intersection. Ceja also asserts that because multiple other drivers (and Schnelbach himself) failed to yield, the officer did not have particularized suspicion to stop Ceja. This defines the reason for the stop too narrowly and is therefore incorrect.

Because Schnelbach and the rest of HIDTA possessed reliable information that Ceja, while driving the Yukon, was presently involved in drug trafficking, Schnelbach had reasonable suspicion to stop the vehicle. The informant was in contact with the alleged supplier of the drugs, Javier Santillanes. This contact was

checked against and confirmed to match separate information law enforcement possessed regarding Santillanes's contact information. The informant, while in direct contact with the source, provided real-time information to law enforcement about the date and time of the shipment, and even updated that information from a morning to an evening delivery after receiving new information. The information matched suspected criminal activity: it is highly unusual for a car to arrive at a hotel and then leave soon after, in exact conformity with the schedule and updated location provided by the informant. These factors each bear positively on the reliability of the informant and in totality provide reasonable suspicion for the decision to stop Ceja. The cases Ceja cites are not on point because they lack the sufficiently corroborated informant material of the present case.

B. The officers likewise possessed probable cause to search Ceja's vehicle—for that reason, the stop does not constitute mere pretext and was not unlawfully prolonged.

1. Prolongment of the traffic stop was acceptable because the officers had independent reasonable suspicion that Ceja was currently involved in drug trafficking and because the stop was not merely pretextual.

An officer may prolong a traffic stop if the prolongation itself is supported by independent reasonable suspicion. *United States v. Evans*, 786 F.3d 779, 788 (9th Cir. 2015). As discussed above, officers may rely on sufficiently reliable

informant material in forming that independent reasonable suspicion. Plainly, law enforcement may not use traffic violations to fish for further violations or to investigate hunches; however, that is not the case here. As discussed in the preceding section, officers already possessed independent reasonable suspicion of drug crimes when they stopped Ceja for a traffic violation. The stop was not altogether unreasonably long or otherwise violative. In total, the encounter lasted approximately 20 minutes. The Court cannot say that the stop was not conducted with reasonable diligence given the facts possessed by the officers.

2. The search of the SUV was supported by independent probable cause derived from reliable CI information and the drug dog's alert behavior.

Ceja argues that because the drug investigation was undertaken subsequently to the traffic stop, rather than simultaneously, the detention necessary to conduct the dog sniff was unlawful. As discussed above, this stop is most accurately viewed as two stops: a drug investigation and a traffic law violation, each supported by independent facts. Therefore, Ceja's reliance on undue prolongment is misplaced. The facts of the case provide the necessary probable cause to support the traffic stop, the dog sniff and the subsequent search of the vehicle in the Court's view. The search was supported by statements from the confidential informant, text messages and phone calls between the CI and Santillanes, the

vehicle's movements corroborating the information from those sources, and information previously obtained by law enforcement about Santillanes and Ceja.

C. Ceja has not produced evidence sufficient to meet his burden under Franks.

Affidavits in support of search warrants are afforded a presumption of validity. In order to challenge that validity, the U.S. Supreme Court in *Franks v. Delaware*, 438 U.S. 154, 171-72 (1978) required the following: the challenger must present more than conclusory allegations of falsehood or reckless disregard; there must be specific portions of the affidavit claimed to be false with a supporting statement of reasons; and the challenger must present an offer of proof or satisfactorily explain its absence.

A *Franks* analysis is a challenge to the affiant. Here, Task Force Officer Moffet is the relevant affiant. Moffet relied on Officer Lausch's training and expertise regarding Tabasco's indication behavior when crafting the warrant application. As a result, the relevant question is whether Moffet knowingly included a falsehood in the affidavit/ application or acted with reckless disregard for the truth in that document. To that end, Ceja has produced no evidence tending to show either falsehood or reckless disregard. Tabasco alerted according to his handler and Moffet said such in the affidavit. Failure to meet the first requirement is necessarily fatal to the whole challenge. The Court need not progress further into the *Franks* claim and Ceja's challenge on that ground is denied.

D. Suppression would not be the proper remedy in this case, even if Ceja was correct, because officers relied on a facially valid warrant in good faith.

Furthermore, the Court notes, even if the warrant contains a flaw, facially valid warrants, even if later determined to be insufficient, may be relied upon by law enforcement officers acting in good faith. *Herring v. United States*, 555 U.S. 135, 142 (2009). There is no evidence showing that the conduct at issue is sufficiently deliberate and that the police are sufficiently culpable in the Fourth Amendment violation, and therefore this situation does not fit into any of the exceptions to the good faith doctrine, even assuming the challenge did not fail for the reasons stated above. Suppression of the evidence obtained in reliance on the warrant would not be the appropriate remedy in this instance.

IV. Conclusion

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.

DATED this 1st day of December, 2020.



SUSAN P. WATTERS
United States District Judge