

NO._____

IN THE SUPREME COURT OF THE UNITED STATES

JOHNATHAN SAMUEL BORDEN,
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- APPENDIX

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APPENDIX A- United States Court of Appeals, Fifth Circuit- Memorandum
Opinion (June 18, 2024)

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

June 18, 2024

No. 23-40484
Summary Calendar

Lyle W. Cayce
Clerk

UNITED STATES OF AMERICA,

Plaintiff—Appellee,

versus

JOHNATHAN SAMUEL BORDEN,

Defendant—Appellant.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 2:22-CR-317-1

Before HIGGINBOTHAM, STEWART, and SOUTHWICK, *Circuit
Judges.*

PER CURIAM:*

Johnathan Samuel Borden appeals his conviction for possession of a firearm by a felon, arguing the district court erred by denying his motion to suppress evidence discovered during police officers' warrantless search of his backpack. In denying his motion, the district court determined the exigent circumstances exception to the Fourth Amendment's warrant

* This opinion is not designated for publication. *See 5TH CIR. R. 47.5.4.*

No. 23-40484

requirement applied. *See Kentucky v. King*, 563 U.S. 452, 460 (2011). Specifically, the district court found that exigent circumstances existed based on “the need to assist” Borden during an apparent medical emergency. *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006); *see United States v. Troop*, 514 F.3d 405, 409 (5th Cir. 2008). We review the district court’s “factual findings for clear error and the ultimate constitutionality of law enforcement action de novo.” *United States v. Robinson*, 741 F.3d 588, 594 (5th Cir. 2014).

Here, the police officers’ testimony at the suppression hearing — corroborated by their body camera videos — demonstrates that “there was an objectively reasonable basis” for concluding a medical emergency existed. *See United States v. Toussaint*, 838 F.3d 503, 509 (5th Cir. 2016); *Troop*, 514 F.3d at 410. Borden argues the officers’ actions indicate they did not actually think a medical emergency existed, but their subjective beliefs are irrelevant. *See Toussaint*, 838 F.3d at 509. Given the totality of the circumstances, a reasonable view of the evidence supports the district court’s conclusion that exigent circumstances — a medical emergency or overdose — existed. *See United States v. Massi*, 761 F.3d 512, 520 (5th Cir. 2014).

AFFIRMED.