

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

NIKKY NICOLE LUJAN,
Petitioner,

v.

UNITED STATES OF AMERICA
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

In *Rodriguez v. United States*, 575 U.S. 348, 354 (2015), this Court held that an officer needs reasonable suspicion to prolong a traffic stop beyond its mission. As part of the mission of a traffic stop, an officer may ask a driver about the purpose of their travel, and suspicious answers might contribute to reasonable suspicion. The issue here is whether reasonable suspicion existed when a primary factor relied on by the government was the Petitioner's allegedly suspicious answer to a question about her itinerary, but the explanation was objectively reconcilable with police surveillance and the questioning officer failed to inquire further.

RELATED PROCEEDINGS

The following proceedings are directly related to this case:

- *United States v. Nikky Lujan*, No. 7:23-CR-98-1, United States District Court for the Western District of Texas.
- *United States v. Nikky Lujan*, No. 24-50030, United States Court of Appeals for the Fifth Circuit.

TABLE OF CONTENTS

Question Presented	ii
Related Proceedings	iii
Table of Authorities	v
Petition for Writ of Certiorari	1
Opinions Below	1
Jurisdiction	1
Relevant Constitutional Provision	1
Statement of the Case	2
Reasons for Granting the Petition	4
Conclusion	6
Appendix (Court of Appeals Opinion and Order Denying Motion for Rehearing)	1a

TABLE OF AUTHORITIES

Cases

<i>Muehler v. Mena</i> , 544 U.S. 93 (2005)	4
<i>Ornelas v. United States</i> , 517 U.S. 690 (1996)	5
<i>Rodriguez v. United States</i> , 575 U.S. 348 (2015)	ii, 2, 4
<i>United States v. Cole</i> , 21 F.4th 421 (7th Cir. 2021)	4
<i>United States v. Jenson</i> , 426 F.3d 399 (5th Cir. 2006)	5
<i>United States v. Simpson</i> , 609 F.3d 1140 (10th Cir. 2010)	4
<i>United States v. Spears</i> , 636 F. App'x 893 (5th Cir. 2016)	5
<i>United States v. Stewart</i> , 92 F.4th 461 (3d Cir. 2024)	4

Statutes and Amendments to the U.S. Constitution

28 U.S.C. § 1254(1)	1
U.S. Const. Am. IV	1

PETITION FOR WRIT OF CERTIORARI

Petitioner Nikky Nicole Lujan petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The Fifth Circuit's opinion (Pet. App. 1a) is unreported but available at 2025 WL 673435.

STATEMENT OF JURISDICTION

The Fifth Circuit entered judgment on March 3, 2025, and denied the petitioner's timely petition for rehearing on March 28, 2025. Pet. App. 19a. The Court has jurisdiction under 28 U.S.C. § 1254(1).

RELEVANT CONSTITUTIONAL PROVISION

The Fourth Amendment to the United States Constitution provides:

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.

U.S. CONST. AM. IV

STATEMENT OF THE CASE

Nikki Lujan was arrested after officers found methamphetamine in her vehicle pursuant to a traffic stop and K-9 search. C.A. Record on Appeal (ROA).14. She pleaded guilty to conspiracy to possess with intent to distribute and possession with intent to distribute 50 grams or more of actual methamphetamine and was sentenced to two concurrent terms of 340 months of incarceration in the Midland Division of the Western District of Texas. C.A. ROA.77-78.

Prior to pleading guilty, Ms. Lujan moved to suppress evidence alleging that the search of her vehicle following a traffic stop violated the Fourth Amendment as officers unlawfully prolonged the traffic stop to conduct a dog sniff. C.A. ROA.35-36. The district court denied the motion to suppress, finding that prolonging the mission of the traffic stop for approximately seven minutes for a drug dog sniff was *per se* reasonable, and in the alternative, that prolonging the stop was supported by reasonable suspicion. C.A. ROA.58-60.

The Fifth Circuit found that the district court's *per se* reasonableness finding was in error and contrary to *Rodriguez v. United States*, 575 U.S. 348 (2015). Pet App. 6a. But, characterizing the matter as a “close call,” it held that there was reasonable suspicion to prolong the traffic stop. Pet. App. 17a. In doing so, the Fifth Circuit relied on the totality of the circumstances—noting that no factor alone was sufficient to establish reasonable suspicion. Pet. App. 8a-9a.

The court found that a few factors lent to reasonable suspicion, including that Ms. Lujan (1) had a prior drug conviction, (2) had been observed leaving a house under suspicion of drug dealing, and (3) had omitted a stop when asked about her travel itinerary. Opinion at 17. Regarding the third factor, Ms. Lujan told officers that she was coming from her home when surveillance showed that she had stopped at the home of Raul Gonzalez, the passenger in the vehicle, and picked him up. Importantly, surveillance showed that Ms. Lujan did not exit her vehicle at Mr. Gonzalez’s home. Pet. App. 2a. She pulled in front of the home and Mr. Gonzalez exited his own vehicle—which he had arrived in moments before—and got into Ms. Lujan’s vehicle. Pet. App. 2a. The officer did not ask any follow-up questions so that Ms. Lujan could explain any brief stops. Questions such as “did you stop anywhere after you left home?” Despite this, the officer’s suspicion that her answer was false was credited by the court. Pet. App. 13a-14a.

Ms. Lujan filed a petition for rehearing in the Fifth Circuit arguing, *inter alia*, that the court’s conclusion that her omission of the stop supported reasonable suspicion because the answer was reconcilable with what officers had observed and the officer failed to ask reasonable follow-up questions. The petition for rehearing was denied.

REASONS FOR GRANTING THE PETITION

The mission of a traffic stop is for an officer to address the traffic violation and attend to any safety concerns. *Rodriguez v. United States*, 575 U.S. 348, 354 (2015). A dog sniff for narcotics is not a part of the mission of a routine traffic stop. *Id.* Thus, an officer must have reasonable suspicion that there is contraband in the vehicle to extend a traffic stop for a dog sniff. *Id.*

Here, the dog sniff was not supported by reasonable suspicion and analysis of the totality of the circumstances raises an important issue about officer conduct in road-side investigations that is worth this Court's attention. The issue is to what extent officers must inquire further about a motorist's travel plans before the officer may reasonably conclude that the motorist is being evasive.

In a routine traffic stop, officers may question a driver about the purpose of their trip and their itinerary. *See Muehler v. Mena*, 544 U.S. 93, 100-01 (2005). And when a driver's explanation of their travel plans is suspicious or inconsistent this is a factor that supports reasonable suspicion. *United States v. Stewart*, 92 F.4th 461, 469 (3d Cir. 2024); *United States v. Simpson*, 609 F.3d 1140, 1150 (10th Cir. 2010). Additionally, "every circuit to address the issue post-*Rodriguez*" has concluded that officers are permitted to ask reasonable follow up questions to suspicious answers about travel plans. *United States v. Cole*, 21 F.4th 421, 430 (7th Cir. 2021).

But when—as here—the explanation is objectively reconcilable with the observations of the officer there is no basis for reasonable suspicion unless the officer investigates further and asks follow-up questions. *See United States v. Jenson*, 426 F.3d 399, 404 (5th Cir. 2006) (discounting officer’s claim of dishonesty where he “easily could have dispelled his suspicions by asking a follow-up question . . . but failed to do so”); *United States v. Spears*, 636 F. App’x 893, 902 (5th Cir. 2016) (same, where “the officer did not ask Spears anything [to confirm or dispel suspicions]”). That should be the case even if—also as here—the questioning officer *subjectively* finds that the answer was suspicious. After all, matters of reasonable suspicion are determined by a standard of *objective* reasonableness. *Ornelas v. United States*, 517 U.S. 690, 696 (1996).

The Fifth Circuit disregarded its own precedent on this matter. Ms. Lujan told officers that she had just “left [her] house” when asked where she was coming from. The officer found this suspicious because a surveillance team had seen her make a stop at Mr. Gonzalez’s home. But the evidence showed that it was a brief stop merely to pick up Mr. Gonzalez from his driveway. Ms. Lujan did not exit her vehicle and much less did she enter the home. Her explanation that she was coming from her own home, therefore, was reconcilable with the observations of the surveillance team and the officer should have asked additional questions before concluding she

was being dishonest or evasive. Because the officer failed to do so, the Fifth Circuit should not have considered Ms. Lujan's travel explanation suspicious.

This is an excellent case to address this important issue. As the Fifth Circuit stated, reasonable suspicion was a "close call" and, without the travel explanation, the primary factors are Ms. Lujan's prior arrest for methamphetamine and her brief stop at a house under surveillance for drug dealing. Under those circumstances, the balance is very likely tipped against reasonable suspicion.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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