

FILED

January 22, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-50330
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ARTURO ROJAS, also known as Ernesto Rojas-Canales,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. EP-99-CR-487-1-DB

Before BARKSDALE, EMILIO M. GARZA, and DENNIS, Circuit Judges.

PER CURIAM:*

Arturo Rojas appeals his bench-trial conviction for conspiracy to possess marijuana with intent to distribute and possession of marijuana with intent to distribute. He argues that the district court erred in denying his motion to suppress evidence obtained during a search incident to a traffic stop. He argues that because the officer did not have probable cause for the stop, the subsequent search and seizure of evidence were illegal.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Our review of the record and the parties' arguments convinces us that the district court did not err in denying the motion to suppress. United States v. Orozco, 191 F.3d 578, 581 (5th Cir. 1999). The officer testified that he stopped Rojas' vehicle after witnessing him drive on the improved shoulder, a violation of TEX. TRANS. CODE ANN § 545.058 (Vernon 1999). Thus, the officer had sufficient probable cause to support the initial stop. Whren v. United States, 517 U.S. 806, 810 (1996). Accordingly, the judgment of the district court is AFFIRMED.