IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

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No. 01-51004
Summary Calendar
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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RENE HERNANDEZ-GARAY,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Texas
USDC No. P-01-CR-38-ALL

November 8, 2002

Before BARKSDALE, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:[*]

Appellant Rene Hernandez-Garay (Hernandez) pleaded guilty, conditionally, to possession with intent to distribute marijuana in violation of 21 U.S.C. § 841(a)(1), and was sentenced to a 33-month term of imprisonment. He appeals, challenging the denial of his pre-trial motion to suppress. He contends solely that the Border Patrol agents did not have reasonable suspicion to stop the vehicle he was driving.

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"In reviewing the district court's denial of a motion to suppress, the trial court's factual findings are reviewed for clear error, and its legal conclusions, including whether there was reasonable suspicion for a stop, are reviewed de novo." United States v. Espinosa-Alvarado, 302 F.3d 304, 305 n.1 (5th Cir. 2002).

This court recently addressed the same facts and legal arguments, based upon the same lower court rulings and testimony, in the case of Hernandez's co-defendant, Cesar Adrian Espinosa-Alvarado (Espinosa). Id. at 306-07. There, we determined that the Border Patrol agents had reasonable suspicion to stop the vehicle in which Hernandez was the driver and Espinosa was the passenger and that the district court did not err in denying Espinosa's motion to suppress. Espinosa, 302 F.3d at 306-07; see United States v. Arvizu, 122 S. Ct. 744, 750-51 (2002). There is no factual or legal basis for reaching a different result in the instant case. Accordingly, the judgment of the district court is hereby AFFIRMED.