

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-5080
Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JIMMY DALE MARTIN
and RICHARD EUGENE DAINS,

Defendants-Appellants.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:92CR40-3
- - - - -

June 25, 1993

Before POLITZ, Chief Judge, WIENER, and DeMOSS, Circuit Judges.

PER CURIAM:*

A police officer may conduct a brief investigatory stop of a vehicle and its occupants, without probable cause, based solely on the "reasonable suspicion" that the person is engaged, or about to be engaged, in criminal activity. United States v. Garcia, 942 F.2d 873, 876 (5th Cir. 1991), cert. denied, 112 S. Ct. 989 (1992). "Reasonable suspicion" is considerably less than that required to show probable cause. United States v. Wangler, 987 F.2d 228, 230 (5th Cir. 1993). To satisfy the Fourth

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Amendment, there must be a "minimal level of objective justification for the officer's actions, measured in light of the totality of the circumstances." Id. (internal quotations and citations omitted). In addition, reasonable suspicion need not be based merely on personal observation. Id. If based on other information, the question becomes whether that information possessed "indicia of reliability." Id.

The information that led the officers to suspect that Jimmy Dale Martin was involved in criminal activity had minimum indicia of reliability. In light of the totality of the circumstances, the officers were justified in apprehending Martin and the other occupant of the pickup truck, Richard Dains. The police officers, therefore, had, at the very least, reasonable suspicion to stop them. After the officers saw the gun in the floorboard of the truck, there was probable cause to arrest Martin and Dains because of the illegal handgun possession. See TEX. PENAL CODE ANN. § 46.02(a) (West 1989). After the lawful arrest, the police officers were entitled to search the vehicle. See New York v. Belton, 453 U.S. 454, 460, 101 S. Ct. 2860, 69 L. Ed. 2d 768 (1981).

AFFIRMED.