

UNITED STATES COURT OF APPEALS

For the Fifth Circuit

No. 94-60352

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

VERSUS

ANDRIO ANTELMO SANTANA,

Defendant-Appellant.

Appeal from the United States District Court
For the Southern District of Texas

(No. CR-B-94-11)

(March 10, 1995)

Before JONES, BARKSDALE, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Appellant Andrio Antelmo Santana appeals the ruling of the district court which denied his motion to suppress evidence seized from his car by border patrol agents in an area immediately approximate to Mexico. Subsequent to the district court's ruling on his motion to suppress, Santana, reserving his right to appeal

* 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Pursuant to that Rule, the Court has determined that this opinion should not be published.

the court's ruling on his motion, pled guilty to possession with intent to distribute more than 50 kilograms of marijuana, in violation of 21 U.S.C. § 841(a)(1).

The search question presented in this appeal turns on the existence of reasonable suspicion to stop the vehicle which the appellant was driving along a highway near the Mexican border and in which he had been previously seen at a beach near the mouth of the Rio Grande River which separates the Republic of Mexico from the United States.¹

The following factors are among those relevant to determining whether a Border Patrol agent acted with reasonable suspicion in stopping a vehicle: "(1) the characteristics of the area, (2) the proximity of the area to the border, (3) the usual traffic patterns on a particular road, (4) the agent's previous experience with criminal traffic, (5) information about recent illegal trafficking in aliens or narcotics in the area," (6) how the driver of the vehicle was behaving, and (7) the appearance of the vehicle and its occupant(s). United States v. Casteneda, 951 F.2d 44, 47 (5th Cir. 1992). "[T]his Court frequently focuses on...whether an arresting agent could reasonable conclude that a particular vehicle originated its journey at the border." United States v. Inocencio, 40 F.3d 716, 722 (5th Cir. 1994). "Reasonable suspicion, however, is not limited to an analysis of any one factor." Id.

Ample evidence to support the district court's finding of

¹The contraband was observed in plain view after the stop by Border Patrol agent Jonathan Cobern at about the same time that appellant volunteered to another agent, "I am in the wrong. I have got weed."

reasonable suspicion was introduced at the hearing. As the district court found, the relevant events occurred in "an area that is immediately approximate to Mexico," which "is well known for traffic both involving narcotics and also illegal aliens." The court found that "there is from the City of Brownsville leading to Boca Chica Beach one principal, major, paved highway which is Highway 4." "[U]pon reaching Boca Chica Beach, turning to the right...will lead directly to the mouth of the river which is, of course, the division of the Republic of Mexico and the United States." Although the district court did not specifically so find, Agent Cobern first saw Santana's Camaro on the beach, proceeding south toward the mouth of the river.

The district court found that on that Christmas Eve "it was apparently very cold; that it was, at the very least, wet or drizzling; that there was very, very limited activity in the area." This was another cause for the Border Patrol agents to suspect Santana. So was Santana's erratic maneuvering after Agents Kemp and Salcido observed him on Highway 4.

Because ample evidence supports the district court's findings and those findings are sufficient to conclude that the initial stop was reasonable, we reject the appellant's attack on the district court's suppression ruling.

For the foregoing reasons, the judgement of conviction and sentence is AFFIRMED.