

OCT 14 2004

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE MARTINEZ-DELOERA,

Defendant - Appellant.

No. 03-10606

D.C. No. CR-03-00526-1-SRB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Susan R. Bolton, District Judge, Presiding

Argued and Submitted October 5, 2004
San Francisco, California

Before: MESKILL,** TROTT, and McKEOWN, Circuit Judges.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** Hon. Thomas J. Meskill, Senior U.S. Circuit Judge for the Second Circuit, sitting by designation.

Jose Martinez-DeLoera appeals the district court's denial of his motion to suppress evidence found after a traffic stop. We affirm.

1. Standard of Review

We review de novo a district court's denial of a motion to suppress evidence based on a determination of reasonable suspicion. United States v. Lopez-Soto, 205 F.3d 1101, 1103 (9th Cir. 2000). We review the district court's underlying factual findings for clear error. Id.

2. Reasonable Suspicion

A traffic stop conforms with the Fourth Amendment if the officer has reasonable suspicion that the driver committed a traffic violation. Id. at 1104-05. By statute, Arizona drivers making right turns must turn "as close as practicable to the right-hand curb or edge of the roadway." ARIZ. REV. STAT. § 28-751(1). The district court found that the driver of the car in which Martinez-DeLoera was a passenger did not turn as close as practicable to the right-hand curb, in violation of the Arizona statute. Martinez-DeLoera fails to show how this finding is clearly erroneous. Thus, the evidence adduced at trial fully supports the district court's conclusion that Officer Ruiz had reasonable suspicion to stop the car in which Martinez-DeLoera was a passenger.

AFFIRMED.