

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 23 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JOEL SERNA-CARRERA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-71815

Agency No. A98-212-028

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted July 15, 2008**
Pasadena, California

Before: FERNANDEZ, RYMER, and KLEINFELD, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Joel Serna-Carrera petitions for review of a removal order. He argues that the IJ should have granted his motion to withdraw his earlier concession of removability and suppress the I-213.¹

The IJ did not err in denying Serna-Carrera's motion to suppress or to withdraw his plea. Serna-Carrera's argument that the I-213, his statements and concession, and the INS proceedings, were the fruit of an unlawful stop fails. Serna-Carrera has not shown that the I-213 was obtained "through an egregious violation of the Fourth Amendment."² The agents in this case had "specific articulable facts together with rational inferences from these facts, that reasonably warrant suspicion that the vehicles contain aliens who may be illegally in the country."³ This facts in this case are distinguishable from both of the cases relied upon by Serna-Carrera, Orhorhaghe v. INS⁴ and Gonzalez-Rivera v. INS.⁵ Serna-Carrera has not met his burden of showing that the I-213 was obtained through an egregious violation of the Fourth Amendment.

¹ See Florez-de Solis, 796 F.2d 330 at 333.

² Orhorhaghe v. INS, 38 F.3d 488, 493 (9th Cir. 1994).

³ Gonzalez-Rivera v. INS, 22 F.3d 1441, 1445 (9th Cir. 1994).

⁴ 38 F.3d 488 (9th Cir. 1994).

⁵ 22 F.3d 1441 (9th Cir. 1994).

The petition for review is DENIED.