

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION**

UNITED STATES OF AMERICA

V.

Case No. PE:14-CR-355(2)

FRANCISCO DUBLE-RAMOS,

DEFENDANT

MOTION TO SUPPRESS EVIDENCE

TO THE HONORABLE ROBERT JUNELL:

The Defendant, FRANCISCO DUBLE-RAMOS, by his attorney, JAIME ESCUDER, pursuant to the Fourth Amendment to the United States Constitution, respectfully moves this Honorable Court to enter an order suppressing statements that are the fruit of an unlawful seizure. The Defendant states:

I. FACTS

Around 1:00 A.M. on May 18, 2014, a Reeves County sheriff's deputy attempted to perform a traffic stop on a red Chevy Avalanche in Balmorhea, Texas. Instead of obeying the Deputy's signals, the Avalanche sped away. A high speed chase ensued. After about 14 miles, the Avalanche abruptly stopped on highway 17 roughly 20 miles south of Pecos and the truck's occupants, of which there were at least five, fled into the night. The sheriff's deputy was unable to find or identify any of them. However, backpacks containing around 200 pounds of marihuana were discovered in the Avalanche.

Agents with the Department of Homeland Security were informed of these events. They responded to the scene of the bail-out, where they found footprints. The agents tracked the prints for several hours and at least four miles before they lost the trail and terminated their search.

A few minutes later, the agents learned that a rancher had seen three men on his property, which was located near the intersection highway of 17 and I-10. By now, more than twelve hours had passed since the unknown persons had fled the Avalanche. Nonetheless, the agents went to the ranch and found the men, one of whom was the Defendant. Several agents approached the Defendant and asked him whether he was in the United States legally. The Defendant said that he was not and he was taken into custody, after which he made statements that the Government will seek to use against him at trial.

II. LAW

The Government's seizure of the Defendant at the ranch was unlawful, as it was not supported by a reasonable suspicion that the Defendant was, in fact, one of the persons that had fled the Avalanche.

To begin with, no one recognized him as such. *See, for example, U.S. v. Camacho*, 661 F.3d 718, 726 (1st Cir. 2011) ("None of the police officers at the scene recognized Camacho or Osario–Meléndez or had reason to believe that they were affiliated with the Latin Kings. No one had identified Camacho or Osario–Meléndez, or men fitting their descriptions, as combatants in the brawl.") *internal citations omitted*.

In addition, hours had passed between when the unknown suspects fled the Avalanche and when the Defendant was seized. As the Fifth Circuit has recognized, time can dissipate reasonable suspicion. *See U.S. v. Jaquez*, 421 F.3d 338, 341 (5th Cir. 2005) (“[The officer] knew only that ‘a red vehicle’ had been involved in a reported incident approximately 15 minutes earlier, in the same general area where she first spotted the car. Except for its color, she did not have any particular information about the vehicle, such as its make or model, or any description of its occupant(s). The sparse and broadly generic information provided by the dispatcher, without more, was insufficient to support a determination of reasonable suspicion, as required under *Terry*.”)

The lapse of time and the lack of any identifiers regarding the people who fled from the Avalanche prevented the police from forming a reasonable suspicion that the Defendant was associated with the Avalanche before they seized him. As a result, he was seized unlawfully. Any evidence derived from this unlawful seizure must be suppressed. *See U.S. v. Rivas*, 157 F.3d 364, 368 (5th Cir. 1998) (“Under the ‘fruit of the poisonous tree’ doctrine, all evidence derived from the exploitation of an illegal search or seizure must be suppressed, unless the Government shows that there was a break in the chain of events sufficient to refute the inference that the evidence was a product of the Fourth Amendment violation. The Government made no such showing.”) *internal citation omitted*.

III. PRAYER

WHEREFORE, the Defendant respectfully requests that this Honorable

Court enter an order suppressing any evidence that was derived from his unlawful seizure.

Respectfully Submitted,

/S/ Jaime Escuder

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CERTIFICATE OF SERVICE

I certify that a true copy of this motion was served on each attorney of record on July 21, 2014.

/S/ Jaime Escuder

Jaime Escuder

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
PECOS DIVISION

UNITED STATES OF AMERICA

V.

Case No. PE:14-M-00593(2)

FRANCISCO DUBLE-RAMOS,

DEFENDANT

**ORDER ON DEFENDANT FRANCISCO DUBLE-RAMOS'
MOTION TO SUPPRESS EVIDENCE**

Defendant Francisco Duble-Ramos' Motion to Suppress Illegally Seized

Evidence is hereby:

_____ GRANTED

_____ DENIED

Signed on this, the ____ day of _____, 2014.

Hon. Robert Junell
United States District Judge