



received another phone call from the Task Force which told them that three subjects were located at a ranch on I-10 near--close to Balmorhea.” The ranch was roughly ten to fifteen miles away from the area where the Avalanche stopped and its occupants fled. The Court notes that Balmorhea, Texas, is close to Mexico (roughly 120 miles). The area Defendant was approached and arrested was located just off of Interstate-10 between its intersection US-67 and Interstate-20. Both of these highways are known as regular alien and drug trafficking routes. *See United States v. Jenson*, 462 F.3d 399, 405 (5th Cir. 2006) ([T]he defendant was traveling on a known drug corridor (also I-20”); *United States v. Morales*, 191 F.3d 602, 604 (5th Cir. 1999) (I-20 is notorious for narcotic and illegal alien smuggling activities); *United States v. Villalobos*, 161 F.3d 285, 287 (5th Cir. 1998) (“Highway 67 is a known alien and drug trafficking route, especially late at night.”).

When Agent Sears arrived, Texas Department of Safety troopers, Reeves County Sheriff’s deputies, and two other Border Patrol agents were already at the scene with the rancher, Mr. Hanz—roughly ten to fifteen people in all. Agent Sears testified Defendant and the two other individuals had been detained prior to his arrival. The three individuals, one of whom was Defendant, were all sitting on the ground, twenty to thirty feet apart from one another. Agent Sears then asked Defendant about his citizenship and whether he had valid immigration papers. Defendant replied he was a citizen of Mexico and did not have any valid immigration papers. Defendant was subsequently arrested for being in this country illegally. Defendant was arrested at that time for entry without inspection and being present in the United States illegally without immigration papers.

After Defendant and the other two individuals were arrested, Border Patrol conferred with the other law enforcement agencies and came to believe these individuals were probably the same individuals that also fled from Deputy Orozco early that morning. Specifically, Agent Sears explained, “We had spoken [with law enforcement] throughout the day after the arrest. We had spoken--believed these subjects were from the vehicle, just given the proximity to that location, as well as the fact that we don’t usually find people running around in the desert.”

#### **Discussion**

Pursuant to *Terry v. Ohio*, 392 U.S. 1, 30 (1968), police officers may stop and briefly detain an individual for investigative purposes if they have reasonable suspicion that criminal activity is afoot.” *Goodson v. City of Corpus Christi*, 202 F.3d 730, 736 (5th Cir. 2000).

Defendant claims his seizure at the ranch was not supported by reasonable suspicion of his presence in the drug-filled Avalanche. (Doc. 28 at 2). Defendant's is correct that his seizure was unsupported by reasonable suspicion that he was the same individual who fled from Deputy Orozco some fourteen hours prior that day. However, the reasonable suspicion of criminal activity that supported Defendant's detention does not have to be related to or the same offense with which he was ultimately indicted.

The Fifth Circuit has stated that an individual's Fourth Amendment rights are not violated when:

(1) the facts that emerge during the police officer's investigation of the original offense create reasonable suspicion that additional criminal activity warranting additional present investigation is afoot, (2) the length of the entire detention is reasonable in light of the suspicious facts, and (3) the scope of the additional investigation is reasonable in light of the suspicious facts, meaning that it is reasonable to believe that each crime investigated, if established, would likely explain the suspicious facts that gave rise to the reasonable suspicion of criminal activity.

*United States v. Pack*, 612 F.3d 341, 357-58 (5th Cir.), *op. modified on denial of reh'g*, 622 F.3d 383 (5th Cir. 2010).

The Government never contended Defendant was detained on suspicion that he was one of the individuals who fled from Deputy Orozco some fourteen hours earlier that day. Agent Sears even acknowledged any basis for their suspicion of Defendant's involvement in the earlier flight from law enforcement did not develop until after Defendant's arrest. Rather, Defendant was detained for reasonable suspicion of one type of criminal activity (trespassing), arrested for a second and different offense (illegal presence in the United States), and then ultimately indicted for the instant offense of possession with intent to distribute marijuana.

The Government's justification for the initial detention was Defendant's trespass on Mr. Hanz's ranch and then lack of identification when approached by law enforcement. The Government contended, "The seizure was lawful. The Border Patrol agents went out there as requested because of the nature of the call from Rancher Hanz. Rancher Hanz said, 'There are three subjects on my property. They're not supposed to be here.'" Information indicating an individual may be trespassing on private property can support a finding of reasonable suspicion to briefly stop and detain that individual. *See, e.g., United States v. Andrews*, 103 F. App'x 855, 855 (5th Cir. Aug. 5, 2004) (unpublished). Defendant has never once contested this justification

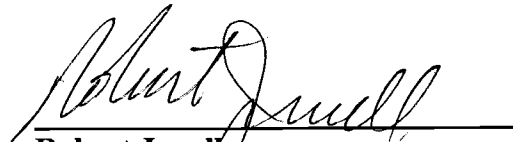
and basis for his initial detention that was presented by the Government. Therefore, his motion to suppress must be denied.

**Conclusion**

Accordingly, the Court denies Defendant's Motion to Suppress. (Doc. 28).

**It is so ordered.**

Signed this 17<sup>th</sup> day of September, 2014.

  
**Robert Junell**  
United States District Judge