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

UNITED STATES OF AMERICA)	P-14-CR-355
)	
VS.)	Suppression Hearing
)	
FRANCISCO DUBLE-RAMOS)	August 18, 2014

BEFORE THE HONORABLE ROBERT JUNELL
UNITED STATES DISTRICT JUDGE
In Pecos, Texas

FOR THE GOVERNMENT: **MS. SANDY STEWART**
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FOR THE DEFENDANT: **MR. JAIME M. ESCUDER III**
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INTERPRETER: **MS. MARJORIE ULMO**
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1 (August 18, 2014)

2 (Defendant present)

3 THE COURT: Court calls United States of America
4 versus Francisco Duble-Ramos.

5 MS. STEWART: Sandy Stewart for the United States.

6 MR. ESCUDER: Jaime Escuder on behalf of
7 Mr. Duble-Ramos, who is present.

8 THE COURT: Mr. Duble, would you state your name
9 for me, please?

10 THE DEFENDANT: Francisco Duble-Ramos.

11 THE COURT: Are you the Defendant in this case?

12 (Pause)

13 MR. ESCUDER: He can't seem to hear, Your Honor.

14 (Pause)

15 THE COURT: Can you hear okay now?

16 THE DEFENDANT: Yes.

17 THE COURT: Are you the Defendant in this case?

18 THE DEFENDANT: Yes.

19 THE COURT: And do understand we're here today --
20 your attorney has filed a motion to suppress some statements
21 and perhaps things -- I don't know if there were things that
22 were found on the day you were arrested. Do you understand
23 that?

24 THE DEFENDANT: Yes.

25 THE COURT: You can have a seat. Okay.

1 MR. ESCUDER: Judge?

2 THE COURT: Yes, sir.

3 MR. ESCUDER: I was going to call Mr. Duble-Ramos
4 as my first witness.

5 THE COURT: Okay. Call him up there. I'm sorry.
6 Come on up. Bring him around here, and I will swear him.

7 (Pause)

8 THE COURT: Okay. Raise your right hand.

9 (The Defendant was sworn)

10 THE COURT: Okay. Sit down.

11 MR. ESCUDER: Your Honor, if the Government has
12 any witnesses they intend to call, I would ask that they be
13 excluded from the courtroom during the testimony.

14 THE COURT: Do you have anybody?

15 MS. STEWART: I do, Your Honor.

16 THE COURT: Do you have a case agent or --

17 MS. STEWART: Well, I don't have a case agent. He
18 is not here. But I do have two witnesses.

19 THE COURT: Okay. If the witnesses would go
20 outside the courtroom.

21 (Pause)

22 THE COURT: Okay. You may proceed.

23 MR. ESCUDER: Thank you, Your Honor.

24

25

1 FRANCISCO DUBLE-RAMOS, DEFENDANT, SWORN

2 DIRECT EXAMINATION

3 BY MR. ESCUDER:

4 Q. Sir, what's your name?

5 A. Francisco.

6 Q. What's your last name?

7 A. Duble-Ramos.

8 Q. Okay. How old are you?

9 A. 28.

10 Q. All right. I want to ask you some questions about the
11 day that you were arrested for this case, okay?

12 A. Yes.

13 Q. And that was May 20th of this year; is that right?

14 A. Yes.

15 Q. On the afternoon of that day, were you at a ranch in
16 Texas?

17 A. Yes.

18 Q. And were you there with -- well, how many other people
19 were at that ranch with you?

20 A. With two other ones.

21 Q. All right. And what were you doing there?

22 A. I was sitting under a tree.

23 Q. Okay. And what were the other two people you were with
24 doing?

25 A. They were sitting next to me.

1 Q. Okay. Were you guys fighting?

2 A. No.

3 Q. Were you breaking anything?

4 A. Water.

5 Q. No. Were you breaking anything? Were you damaging
6 anything?

7 A. No.

8 Q. Okay. At some point did you meet the owner of that
9 ranch?

10 A. Yes.

11 Q. And did he bring you water?

12 A. Yes.

13 Q. And food? And did he bring you food?

14 A. Yes.

15 Q. At any time did he ask you to leave?

16 A. No.

17 Q. At some point did the police arrive?

18 A. Yes.

19 Q. Okay. How do you know that they were the police?

20 A. Because of the trucks.

21 Q. Okay. Did the trucks have some sort of sign on them
22 that suggested they were police trucks?

23 A. There were some lettering.

24 Q. Mr. Duble, do you know how to read, sir?

25 A. No, I don't know how to read.

1 Q. Okay. But did the -- were there symbols on the trucks
2 that suggested they were police trucks?

3 A. Yes.

4 Q. Okay. And how many of them were there?

5 A. First, two of them arrived.

6 Q. Okay. Can you tell -- explain to the Judge what
7 happened when those two police -- now, were there trucks or
8 cars? Were they pickup trucks? What kind of cars were
9 they?

10 A. Two trucks.

11 Q. Okay. Could you describe to the Judge how those trucks
12 arrived?

13 A. We were sitting there drinking water, and then they
14 arrived.

15 Q. Did they pull into the driveway of the ranch?

16 A. Yes.

17 Q. Is there a house near where you were sitting?

18 A. To one side.

19 Q. Okay. And how many police officers got out of the
20 trucks?

21 A. Two.

22 Q. Two total or two per truck?

23 A. Two out of each truck.

24 Q. Okay. So there were four police total?

25 A. Yes.

1 Q. And can you tell the Judge, were they dressed in police
2 uniform or --

3 A. Yes.

4 Q. Did they have like a badge or something to indicate
5 that they were police?

6 A. They did have like a little star.

7 Q. All right. And did they have guns?

8 A. Yes.

9 Q. And could you see the guns? Were the guns visible?

10 A. I didn't notice too well.

11 Q. Okay. At some point did some of the police come to
12 where you were sitting at the tree?

13 A. Yes.

14 Q. How many approached you?

15 A. Two.

16 Q. All right. And did they say anything to you?

17 A. They told us to get up. They wanted to talk to us.

18 Q. Okay. And did they make any gestures in your
19 direction?

20 A. No.

21 Q. Okay. After -- did you hear them -- did they say that
22 in Spanish? Do you speak English?

23 A. Yes.

24 THE INTERPRETER: I asked if he spoke Spanish, and
25 he said yes.

1 BY MR. ESCUDER:

2 Q. Do you speak English?

3 A. No.

4 Q. All right. So did they talk to you -- call out to you
5 in Spanish or English? Do you remember?

6 A. In Spanish.

7 Q. Okay. And what did they say in Spanish?

8 A. That they wanted to speak to us.

9 Q. Okay. And were you still sitting down at that time?

10 A. No. They told us to get up and get close to the car
11 because they wanted to talk to us.

12 Q. Okay. And after that did you get up?

13 A. Yes.

14 Q. And did you go to where they told you to go?

15 A. Yes.

16 Q. And then did they start asking you questions about
17 whether or not you were in the United States legally?

18 A. Yes, they did.

19 Q. Okay. And did you answer their questions?

20 A. That I was not -- I --

21 THE INTERPRETER: The interpreter understood
22 illegal, but --

23 BY MR. ESCUDER:

24 Q. Did you answer -- did you answer the questions they
25 were asking you?

1 A. Yes.

2 Q. Now, Mr. Duble-Ramos, when the police told you to get
3 up and come to the car, why didn't you tell them no or run
4 away?

5 A. No, I did not run.

6 Q. Why not?

7 A. Because I was frightened.

8 Q. Did you feel like -- did you feel like you were free to
9 run away?

10 A. No, I didn't.

11 MR. ESCUDER: I have nothing further, Your Honor.

12 THE COURT: Ms. Stewart?

13 CROSS-EXAMINATION

14 BY MS. STEWART:

15 Q. Mr. Duble-Ramos, do you know whether the gentlemen that
16 were asking you questions, were they Border Patrol or were
17 they from the Sheriff's Office?

18 A. I don't know about that, because this is the first time
19 I come here.

20 Q. Okay.

21 MS. STEWART: That's all I have, Your Honor.

22 THE COURT: Okay. Thank you.

23 (Pause)

24 THE COURT: Any other witnesses?

25 MR. ESCUDER: No, Your Honor. I would rest.

1 (Defendant rests)

2 THE COURT: Okay. Do you want to put any evidence
3 on?

4 MS. STEWART: Yes, Your Honor.

5 THE COURT: Okay. Call your first witness.

6 MS. STEWART: The Government would call Julio
7 Orozco.

8 THE COURT: Somebody is going to have to go get
9 him.

10 (Pause)

11 (The witness was sworn)

12 THE COURT: All right. You may proceed.

13 MS. STEWART: Thank you, Your Honor.

14 JULIO OROZCO, GOVERNMENT'S WITNESS, SWORN
15 DIRECT EXAMINATION

16 BY MS. STEWART:

17 Q. Would you state your name?

18 A. Julio Orozco.

19 Q. And how are you employed?

20 A. Reeves County Sheriff's Office.

21 Q. And how long have you been with the Reeves County
22 Sheriff's Office?

23 A. For approximately a year and a half now.

24 Q. And before that where were you employed?

25 A. Reeves County Detention Center.

1 Q. Okay. Is that normally what we call RCDC I, II, or
2 III?

3 A. Yes.

4 Q. And how long were you employed there?

5 A. For approximately three years.

6 Q. And what was your title at the Reeves County Detention
7 Center?

8 A. Correctional officer.

9 Q. All right. Now, did you go to a police academy?

10 A. Yes.

11 Q. And when did you go to the academy?

12 A. When.

13 Q. When? Yes.

14 A. From February to -- correction. From August of 2000 --

15 Q. Let me ask it this way. You're a deputy with the
16 Reeves County, correct?

17 A. Yes.

18 Q. And is this your first stint as a certified police
19 officer?

20 A. Yes.

21 Q. Okay. And where did you go to the academy?

22 A. In Fort Stockton, Texas.

23 Q. All right. And did you do this while you were working
24 full-time as a guard at the Reeves County Detention Center?

25 A. Yes.

1 Q. All right. What's your duty as a sheriff's deputy?
2 What do you do just on a normal basis?

3 A. I take different calls, wrecks, disturbances, stranded
4 motorists. I also patrol the streets for any violations of
5 the law.

6 Q. All right. Does that include traffic violations?

7 A. Yes, ma'am.

8 Q. All right. And if you -- if you can guesstimate or if
9 you know, how many traffic stops have you made in your
10 tenure with Reeves County Sheriff's Office?

11 A. I've done quite a few.

12 Q. A hundred?

13 A. More.

14 Q. Five hundred?

15 A. About.

16 Q. Okay. All right. And were some of those -- or were
17 many of those for speeding violations?

18 A. Yes.

19 Q. All right. And -- now, when you first got with the
20 Sheriff's Office, were you on a probationary period, or did
21 you train with another officer?

22 A. I was on a probationary period, also training with
23 another officer.

24 Q. Okay. For how long?

25 A. For about three months.

1 Q. All right. And during that time, did you make traffic
2 stops?

3 A. Yes.

4 Q. Okay. And were some of those traffic stops due to
5 allegations of speed violations?

6 A. Yes.

7 Q. All right. Let me direct your attention, Deputy
8 Orozco, to May 20th of 2014. Were you working that day?

9 A. Yes.

10 Q. And what shift?

11 A. Night shift, 6:00 p.m. to 6:00 a.m.

12 Q. All right. And approximately 1:40 a.m. were you
13 involved in what eventually was a chase?

14 A. Yes.

15 Q. All right. Would you tell the Court how you became
16 involved in that chase?

17 A. I was stationary, parallel to the road.

18 Q. Which --

19 A. State Highway 17. I observed a vehicle approaching
20 from the rear through my rear-view mirror, some headlights.
21 So I activated my radar, and the radar confirmed 69 mile per
22 hours on a 55-mile-per-hour road.

23 Q. Okay. Let me stop you there. Were you -- where were
24 you actually? Were you in Balmorhea?

25 A. Yes, on the outskirts of Balmorhea.

1 Q. Okay. All right. And when you say you were headed --
2 or your vehicle was pointed easterly, correct?

3 A. Yes.

4 Q. Okay. Now, is your vehicle equipped with radar that
5 can detect someone that's coming upon you from the rear end,
6 it can detect the speed?

7 A. Yes.

8 Q. Okay. As well as from the front, right?

9 A. Yes.

10 Q. All right. Now, what happened when you observed that
11 they were speeding, I guess, 69 in a 55-mile-per-hour zone?
12 What did you do?

13 A. I began to follow the vehicle, and I activated my
14 emergency lights, red and blue emergency lights. They came
15 to a stop on the right improved shoulder of the road.

16 Q. Okay.

17 A. As I exited my vehicle to make contact with the
18 operator of the vehicle, I knocked on the window. And as
19 soon as I knocked on the window, the vehicle just took off.

20 Q. All right. Let's talk about the vehicle. Describe
21 what kind of make and model.

22 A. It was a Chevy Avalanche.

23 Q. All right. And is that four-door?

24 A. Yes.

25 Q. Okay. And when you approached to, I guess, initiate

1 your conversation with -- or contact with the driver, which
2 side of the vehicle did you approach?

3 A. The left-hand side.

4 Q. Okay.

5 A. The driver's side.

6 Q. All right. And what -- what window did you knock on?

7 A. I knocked on the back rear window, passenger window.

8 Q. All right. And did anybody roll the window down when
9 you did that?

10 A. No.

11 Q. All right. Now, could you see inside the vehicle at
12 all?

13 A. Very little.

14 Q. All right. Could you tell how many people were in
15 there?

16 A. I noticed the driver and -- on the back passenger
17 window, I knocked, and I noticed a silhouette there as well.

18 Q. All right. Okay. And were you able to speak to
19 anybody at all before they drove off?

20 A. No.

21 Q. All right. What happened next?

22 A. The -- after that, I ran back to my -- after they had
23 taken off, I ran back to my vehicle. I notified dispatch
24 and the surrounding officers. I pursued the vehicle for
25 approximately 20 miles before he came to a complete stop.

1 Q. Okay. And what -- did you have to make any turns?

2 Where did the car eventually go?

3 A. Okay --

4 Q. Or the Avalanche?

5 A. It made a couple of -- a few turns, and it started --

6 it got on Highway 17 going northbound towards Pecos, but

7 before that it made a couple of left turns to -- on the

8 north service road of I-10.

9 Q. All right. And did you follow it the whole 20 miles?

10 A. Yes.

11 Q. And were you driving at high rates of speed?

12 A. If I remember correctly, it's about 900 and -- 109

13 miles an hour.

14 Q. All right.

15 THE COURT: Not 900 miles an hour?

16 THE WITNESS: No, no.

17 THE COURT: All right. Good.

18 BY MS. STEWART:

19 Q. 109?

20 A. Yes, ma'am, 109.

21 Q. All right. Now, during this 20 miles, did you call for
22 assistance?

23 A. Yes.

24 Q. All right. And after the 20 miles, what happened?

25 A. The -- I noticed that a couple miles before the vehicle

1 came to a stop, it began driving on the -- northbound on the
2 southbound lane of the highway. And after a couple miles I
3 noticed that it had started braking, and it did come to a
4 complete stop on the right improved shoulder of the Highway
5 17, the southbound lane.

6 And after that I noticed the doors opened up.
7 Four individuals exited from the left-hand side of the
8 vehicle, and one individual exited from the right side of
9 the vehicle and began running into the pasture, I guess you
10 could say.

11 Q. All right. Now, at that point when the vehicle came to
12 a stop and the persons fled, did you have any assistance
13 with you right then, any other troopers or law enforcement?

14 A. Yes.

15 Q. Okay. And did you eventually catch those persons that
16 fled from the Avalanche?

17 A. No.

18 Q. All right. Thank you.

19 MS. STEWART: I'll pass the witness.

20 MR. ESCUDER: Can I proceed?

21 THE COURT: Yes, sir.

22 CROSS-EXAMINATION

23 BY MR. ESCUDER:

24 Q. Deputy, good afternoon.

25 A. Good afternoon.

1 Q. Let's talk about just the stop. When you pulled this
2 car over, you said you walked up to the car. You couldn't
3 see very well inside, right?

4 A. Yes.

5 Q. In fact, I think you used the word "silhouette." You
6 saw a silhouette in the back seat?

7 A. Yes.

8 Q. So you couldn't even tell whether these were men or
9 women in the car. Is that fair to say?

10 A. Yes.

11 Q. Okay. So then you went on this high-speed chase for 20
12 miles, and I take it you couldn't make any identifications
13 while you were doing that either, right?

14 A. Yes.

15 Q. And the car stops, and five people go running?

16 A. Yes.

17 Q. Four in one direction, one in the other?

18 A. No. Five of them -- one of them exited from the right
19 side of the vehicle, but all five individuals ran the same
20 way.

21 Q. All five ran together, you're saying, in the same
22 direction?

23 A. Yes.

24 Q. All right. And you chased after them?

25 A. Yes.

1 Q. But you -- and you chased them for a while. How long
2 did you chase them for?

3 A. I'll say about a good mile.

4 Q. And eventually you lost them, right?

5 A. Yes.

6 Q. It was dark out there, I take it?

7 A. Yes.

8 Q. All right. Now, Ms. Stewart asked you about some of
9 your training, right?

10 A. Yes.

11 Q. You've been through police academy training?

12 A. Yes.

13 Q. And one of the things that they teach you there is how
14 to identify people, right?

15 A. Yes.

16 Q. You want to remember -- if you see someone commit a
17 crime or someone you think has committed a crime, you want
18 to try to remember what they look like, et cetera, right?

19 A. Yes.

20 Q. And certain things can be used to identify people,
21 right?

22 A. Yes.

23 Q. Like, how old they are?

24 A. If you are close enough to them and have made contact
25 with them, yes.

1 Q. Okay. How tall they are, right?

2 A. Yes.

3 Q. Their ethnicity?

4 A. Like I say, I never got close enough.

5 Q. Well, not in this case, but I'm saying these are things
6 that you were trained to look for, right --

7 A. Yes.

8 Q. -- in an investigation?

9 And how tall they are, right?

10 A. Yes.

11 Q. Lots of things.

12 Okay. You made none of those observations in this
13 case; is that right?

14 A. Yes.

15 Q. Okay. So the people you saw from the car, you don't
16 know what they were wearing?

17 A. Through video. Through some video I have on my patrol
18 unit I saw what they were wearing, but at the moment, no, I
19 did not.

20 Q. Okay. Well, you're saying your car filmed this stop?

21 A. Yes.

22 Q. All right. Okay. Let's go back. When did you tell
23 the Government about that?

24 A. They knew about it.

25 Q. They knew about it?

1 A. Yes.

2 Q. From the very beginning of the stop?

3 A. About the video?

4 Q. Yeah.

5 A. No, not -- I mean, since the case was turned over to
6 the agent.

7 Q. When did you watch that video?

8 A. Shortly after.

9 Q. All right. After you lost these five people in the
10 dark, you gave up the search, right?

11 A. On foot, yes, but we did set up perimeter.

12 Q. Okay. And then at some point, though, you called, I
13 guess, another agency to go looking for them later the next
14 day; is that right?

15 A. I did not call anybody.

16 Q. Well, some other -- some law enforcement agency that
17 you were working with called; is that right?

18 A. I believe so.

19 Q. Okay. At the time you were chasing the people from the
20 car -- so before you watched the video, you could not
21 identify what they were wearing?

22 A. Yes.

23 Q. Okay. You couldn't identify what ethnicity they were?

24 A. No.

25 Q. And you couldn't identify how old any of these people

1 were?

2 A. No.

3 Q. Or how tall they were?

4 A. No.

5 Q. All right. Now, you became aware, I take it, that some
6 people were arrested -- you assumed some people that came
7 from this car -- the next afternoon; is that right?

8 A. Yes.

9 Q. Okay. The police who were looking for those people
10 were relying upon information that you had given them
11 regarding the stop the previous day; is that right?

12 A. Can you --

13 Q. Do you know?

14 A. What do you mean?

15 Q. Well, you had told people about this chase, this
16 high-speed chase, right?

17 A. Yes.

18 Q. And that this is the place where the bailout occurred,
19 correct?

20 A. Yes.

21 Q. In fact, you had called other police officers to the
22 scene because the truck was still there, right?

23 A. Yes.

24 Q. And you had found drugs in the truck?

25 A. Yes.

1 Q. All right. But you had not passed on any identifying
2 information to the other police officers who were looking
3 for the people. Is that fair to say?

4 A. Yes. No, I did not pass any identifying information to
5 anybody.

6 MR. ESCUDER: I have nothing further.

7 THE COURT: Ms. Stewart?

8 MS. STEWART: Just one question, Your Honor.

9 REDIRECT EXAMINATION

10 BY MS. STEWART:

11 Q. Deputy Orozco, do you see the gentleman sitting here in
12 this black and white striped suit?

13 A. Yes.

14 Q. You don't know who that is, do you?

15 A. No.

16 MS. STEWART: That's all I have, Your Honor.

17 THE COURT: Okay. Thank you. You can step down.

18 Thank you.

19 (Witness excused)

20 THE COURT: Call your next witness, please.

21 MS. STEWART: Thank you, Your Honor. The

22 Government calls Matthew Sears.

23 (Pause)

24 MS. STEWART: Your Honor, may this witness be
25 excused, Mr. Orozco?

1 THE COURT: Mr. Escuder, may he be excused?

2 MR. ESCUDER: Yes, Your Honor.

3 THE COURT: All right. Thank you very much for
4 being here.

5 (Pause)

6 (The witness was sworn)

7 THE CLERK: Have a seat.

8 MATTHEW SEARS, GOVERNMENT'S WITNESS, SWORN

9 DIRECT EXAMINATION

10 BY MS. STEWART:

11 Q. Would you state your name?

12 A. My name is Matthew Sears.

13 Q. And how are you employed?

14 A. I'm employed with the United States Border Patrol here
15 in Pecos, Texas.

16 Q. And how long have you been with the Border Patrol?

17 A. Five years.

18 Q. And how long have you been with Border Patrol here in
19 Pecos?

20 A. Five years.

21 Q. Okay. All right. Let me draw your attention to May
22 20th of 2014. Well, let me ask you something first. Are
23 you the only agent at your station?

24 A. No, ma'am.

25 Q. All right. How many agents are there?

1 A. There's two.

2 Q. Okay. All right. And do you guys work in shifts? How
3 do you do that with only two people?

4 A. We normally work the same shift together.

5 Q. Okay. All right. Let me direct your attention to May
6 20th of 2014. Were you working that day?

7 A. Yes, ma'am.

8 Q. Did you get called out in the early morning hours?

9 A. No, ma'am.

10 Q. Okay. When did you get called out on that day?

11 A. I was called on that day midmorning, maybe 9:00 or
12 10:00.

13 Q. All right. And what was the nature of the call to the
14 Border Patrol station?

15 A. I received a call from two other agents who usually
16 work out of Midland. And they informed me that the Task
17 Force and sheriff's -- and Reeves County had a traffic stop
18 earlier in the morning, and they had subjects who had
19 absconded from that traffic stop.

20 Q. Okay. And did you do anything in response to that
21 information?

22 A. Yes, ma'am. Traveled with both the Border Patrol
23 agents as well as the Task Force sheriff's deputy down to
24 the scene where the traffic stop had taken place.

25 When we arrived at the scene, we began to look for

1 foot sign of the subjects who may have exited that vehicle.

2 Q. All right. And did you find foot sign?

3 A. Agents Collier and Guajardo did. They had found foot
4 sign and alerted me to that, at which time I met up with
5 them. And we began tracking that foot sign to the west,
6 away from Highway 17.

7 Q. All right. And could you tell how many different
8 subjects there were from looking at the foot sign?

9 A. We were looking at three separate types of foot sign,
10 different types of shoes. We were told that there were six
11 in the car. We could only find three discernible
12 footprints.

13 Q. Okay. And how long did you follow this foot sign?

14 A. It was about four or five miles. The exact time, I'm
15 not sure.

16 Q. All right.

17 A. It was hours.

18 Q. Several hours?

19 A. Yes, ma'am.

20 Q. All right. And what made you finally stop following
21 sign?

22 A. We eventually could no longer track the sign on the
23 ground. The ground became too difficult to track on. It
24 became hard and compacted, and we lost the sign.

25 Q. All right. Now, where were you, if you can describe to

1 the Court, when you lost the foot sign?

2 A. Exactly would be difficult, but we were west and I
3 believe to the north of the traffic stop at that time. We
4 followed the foot sign. It had wandered throughout the
5 brush. It was -- there didn't seem to be a typical
6 destination. And so it was simply to the west of the
7 traffic stop.

8 Q. Okay. Now, was there any -- were there any buildings
9 or any homes, anything like that that you saw during your
10 following the foot sign?

11 A. At the beginning, at the scene, there were three large
12 metal buildings. There were various oil rig platforms and
13 oil sites, things of that nature. There were also homes
14 along the county roads, near the end of our search.

15 Q. All right. And you're still in Reeves County at this
16 point?

17 A. Yes, ma'am.

18 Q. Okay. Do you know about what time it was when you
19 ended the search?

20 A. I can't say exactly.

21 Q. All right. Was it in the afternoon?

22 A. It was in the afternoon, yes, ma'am.

23 Q. All right. And that's still May 20th of 2014?

24 A. Yes, ma'am, it is.

25 Q. Okay. And after you guys stopped searching, then what

1 did you do?

2 A. After we stopped searching, we began to make our way
3 back towards Pecos and --

4 Q. All right. What happened?

5 A. I received another phone call from Agent Collier. He
6 had received another phone call from the Task Force which
7 told them that three subjects were located at a ranch on
8 I-10 near -- close to Balmorhea.

9 Q. All right. And do you know who owned the ranch?

10 A. I know his last name is Mr. Hanz.

11 Q. Okay. But you don't know him personally?

12 A. No, ma'am.

13 Q. All right. So you get this information, and then what
14 did you do?

15 A. We traveled down to that ranch. It was about half a
16 mile from State Highway 17 on Interstate 10. We traveled
17 down there. By the time I arrived, Texas DPS troopers and
18 Reeves County sheriff's deputies were already at the scene.

19 Q. All right. And who else was at the scene?

20 A. The two other Border Patrol agents, Collier and
21 Guajardo, were there as well.

22 Q. All right. Was the rancher there?

23 A. Yes, ma'am.

24 Q. All right. And were there three subjects there?

25 A. Yes, ma'am, there were.

1 Q. All right.

2 A. The three subjects were seated on the ground, separated
3 from each other.

4 Q. Okay. How far apart were they seated from each other,
5 if you can tell?

6 A. Twenty, maybe 30 feet apart.

7 Q. All right. And do you recognize the Defendant as one
8 of those subjects that was sitting on the ground?

9 A. Yes, ma'am, I do.

10 Q. All right. Now, what did you do when you -- let me ask
11 you this. Well, what were -- what did you do after you
12 arrived and saw the scene?

13 A. When we arrived, we saw the three subjects sitting on
14 the ground. We brought them over to -- in front of one of
15 our vehicles and began to interview each of the subjects to
16 determine where they were citizens of and their immigration
17 status.

18 Q. All right. Now, when you say "we," who all is "we"?

19 A. Myself, Agent Guajardo, and Agent Collier of the Border
20 Patrol.

21 Q. Okay. And you brought the three subjects to the area
22 where your vehicles were parked?

23 A. Yes, ma'am.

24 Q. All right. And in this situation, what did you ask the
25 three subjects?

1 A. We asked each of the subjects to state which country
2 they were a citizen and if they were in possession of any
3 valid U.S. immigration documents.

4 Q. All right. And with regards to this defendant,
5 Mr. Duple-Ramos, how did he respond?

6 A. He responded that he was a citizen of Mexico by virtue
7 of birth and he was not in possession of any immigration
8 documents.

9 Q. All right. And what did you do?

10 A. At that time, we placed -- we placed him under arrest
11 and began transport back to Pecos, Texas, for removal
12 processing.

13 Q. All right. And what did you put him under arrest for?

14 A. For entry without inspection and being in this -- being
15 in the United States illegally without immigration
16 documents.

17 Q. All right. Now, did you, either before or after the
18 conversation with these three subjects to determine their
19 citizenship, talk to any law enforcement about the earlier
20 stop or the people running from the Avalanche?

21 A. We had spoken throughout the day after the arrest. We
22 had spoken -- believed these subjects were from the vehicle,
23 just given the proximity to that location, as well as the
24 fact that we don't usually find people running around in the
25 desert.

1 Q. That was the day after the arrest?

2 A. That was -- that was the day of the arrest, after we
3 had arrested him --

4 Q. Okay.

5 A. -- on that day.

6 Q. After you made the arrest?

7 A. Yes.

8 Q. Because is it fair to say that that information has no
9 bearing on why you arrested this defendant?

10 A. No. No, ma'am. We arrested these defendants because
11 of their admission of illegal entry and alienage in the
12 United States.

13 Q. All right. Now, your asking information and treatment
14 of this defendant and the other two subjects, is that what
15 you do in the normal course of business every day, every
16 time you come upon a subject who you think might be
17 illegally in the United States?

18 A. Yes, ma'am.

19 Q. All right.

20 MS. STEWART: That's all I have, Your Honor.

21 THE COURT: All right. Counselor?

22 MR. ESCUDER: Thank you, Judge.

23 CROSS-EXAMINATION

24 BY MR. ESCUDER:

25 Q. Sir, after you arrested Mr. Duble-Ramos, you took him

1 back, I guess, to a police department or someplace to
2 question him further, right?

3 A. Yes. We brought him back to the Border Patrol station
4 here in Pecos.

5 Q. And then you asked him about the drugs and -- the truck
6 and the drugs, right?

7 A. No, sir. We asked him for his biographical information
8 to begin processing the removal process. And we asked
9 him -- we read him his rights regarding this case.

10 Q. Regarding this case?

11 A. For this case, yes.

12 Q. And then you asked him questions?

13 A. No, sir. He asked -- at that time he requested for an
14 attorney, and we didn't question him further for this case
15 involving the drugs, the car, and if they were part of them.

16 Q. You're aware at some point after he was arrested he
17 made statements about the drugs in this case, right?

18 A. Not to us.

19 Q. You're not aware of that?

20 Okay. Let's go back to how you first initially
21 got involved in this. You went out to the scene of the
22 bailout after hearing about the stop, right?

23 A. Yes.

24 Q. And you were aware that the bailout happened around
25 1:45 in the morning?

1 A. Yes. In the early morning, yes, sir.

2 Q. Okay. And then you followed the foot sign for four or
3 five miles?

4 A. Yes, sir.

5 Q. And then you lost track?

6 A. Yes, sir.

7 Q. Then you got a call that there were some people who
8 were seen at a ranch in the area?

9 A. Yes.

10 Q. Now, when you were looking, following this foot sign,
11 you didn't actually have any identifying information of who
12 you were looking for. Is that fair to say?

13 A. Yes.

14 Q. You didn't know how old the people you were looking for
15 were?

16 A. Correct.

17 Q. And what they were wearing?

18 A. Correct.

19 Q. Whether they were even Mexican citizens or U.S.
20 citizens? You didn't know?

21 A. Correct.

22 Q. Now, you said you didn't remember exactly what time you
23 met with Mr. Duble-Ramos, but it was the afternoon, right?

24 A. Yes, sir.

25 Q. If I were to say that you got the call at 4:30 about

1 the ranch the following afternoon, would that sound about
2 right?

3 A. On that afternoon, yes, sir.

4 Q. Yeah.

5 A. That would be close.

6 Q. Okay. So you ran into Mr. Duple-Ramos -- I don't
7 know -- 14 hours or so after the bailout? Is that fair to
8 say?

9 A. Yes.

10 Q. What was the distance between where you found
11 Mr. Duple-Ramos and where the bailout happened?

12 A. I believe the distance -- the distance would be about
13 10, maybe 15 miles.

14 Q. Okay. So you questioned Mr. Duple-Ramos about
15 something that happened 10 miles away, 14 hours earlier; is
16 that right?

17 A. I questioned Duple -- I questioned Duple-Ramos as to
18 his alienage and to his immigration status in the United
19 States.

20 Q. Well, when you got to the ranch, though, you were
21 looking for the people from the bailout; is that right?

22 A. Yes. We believed that they could be from the bailout.

23 Q. Okay. So you went there suspecting these are the same
24 guys, right?

25 A. Correct.

1 Q. Okay. Now, you said when you got there, Mr. Duple-Ramos
2 and the two other people were sitting on the ground; is that
3 right?

4 A. Yes.

5 Q. But they were separated?

6 A. Yes, sir.

7 Q. Were there police -- I think you said there were police
8 or law enforcement of some kind there actually when you
9 arrived already?

10 A. Yes, sir.

11 Q. So had they been separated already by the police before
12 you got there?

13 A. They were separated when we arrived, yes, sir. So I
14 believe they were separated by law enforcement.

15 Q. By the police?

16 A. Yes, sir.

17 Q. Okay. So you don't know what the police said to them
18 in order to get them to be separated; is that right?

19 A. No, sir, not directly.

20 Q. Okay. Do you know whether they were even questioned
21 before you got there?

22 A. No, sir.

23 Q. All right. So when you got there, how many police were
24 there at that scene?

25 A. There were quite a number of police officers. Maybe --

1 maybe 15. Ten, 15.

2 Q. Okay. So fair to say that Mr. Duble-Ramos had already
3 been seized at the time you arrived?

4 A. Yes, sir, he had been detained.

5 Q. Okay. Now, when you talked to him, you asked him
6 about -- what exactly did you say to him when you --

7 A. We asked each of the subjects, Mr. Duble-Ramos, as to
8 his citizenship status and his immigration status here in
9 the United States.

10 Q. Okay. And his -- what exactly did you say to him? I
11 mean, you didn't say those words. You must have asked him
12 some sort of question. What did you say? What were the
13 exact words you used? Do you remember?

14 A. Do you want me to say it in Spanish? Is that what
15 you're asking?

16 Q. No. In English.

17 A. In English, "Of what country are you a citizen?"

18 Q. Okay. And did he say, "Mexico"?

19 A. Yes, sir.

20 Q. Now, that's not a crime, is it, to be a citizen of
21 Mexico?

22 A. Not to be a citizen of Mexico, no, sir.

23 Q. What was your next question?

24 A. The next question was, "Do you have any documentation
25 to be here in the United States legally?"

1 Q. Okay. Now, before he answered that question, let me
2 ask you, is it a crime to be in the United States without
3 documentation?

4 A. It is a crime for a citizen of another country to be in
5 the United States without documentation.

6 Q. Okay. So you were asking him a question that had he
7 answered truthfully could have potentially led him to be
8 arrested and charged with a crime. Is that fair to say?

9 A. Yes, sir.

10 Q. All right. And at that moment he was already seized,
11 right?

12 A. Yes. He had been detained, yes, sir.

13 Q. But prior to that, you didn't know whether he was in
14 the United States lawfully or not. Is that fair to say?

15 A. Correct.

16 Q. So he must have been detained for some other reason?

17 A. Correct.

18 Q. Do you know what that might have been?

19 A. I can't speak for the other officers there, but as is
20 typical with these cases, they ask for identification. If
21 they can't provide identification, typically we'll receive a
22 phone call.

23 Q. Okay. When you -- when you got there, you didn't know
24 whether that had already been asked of him?

25 A. No, I did not.

1 Q. All right. Because you wouldn't have asked literally
2 the same question that he had already been asked, correct?

3 A. The other law enforcement officials would not have
4 asked about alienage or citizenship status.

5 Q. So that wasn't learned until after he had already been
6 seized. Is that fair to say?

7 A. Correct.

8 MR. ESCUDER: Nothing further.

9 THE COURT: Ms. Stewart?

10 MS. STEWART: I have nothing further, Your Honor.

11 THE COURT: You can step down.

12 (Witness excused)

13 THE COURT: Any other witnesses or evidence?

14 MS. STEWART: No, Your Honor. We rest.

15 (Government rests)

16 THE COURT: Any other evidence?

17 MR. ESCUDER: No, Your Honor.

18 THE COURT: Okay. Come up and argue.

19 MS. STEWART: Thank you, Your Honor.

20 THE COURT: Let's let --

21 MS. STEWART: I'm sorry.

22 THE COURT: We're going to let defense counsel
23 argue first.

24 MR. ESCUDER: Your Honor, in their motion they
25 lodge that I'm saying that the stop of the truck was

1 wrong -- was invalid. I'm actually not saying that at all.
2 Certainly, it was a valid stop. It was a high-speed chase,
3 et cetera. Whoever was in that truck deserved to be pulled
4 over. The issue is whether the police reasonably believed
5 that Francisco Duble-Ramos was one of the people in the
6 truck.

7 Now, why did they think he was? They don't know
8 what the people in the truck looked like. They don't know
9 what he was wearing. They don't know his age. They don't
10 even know his ethnicity.

11 The fact of the matter is, they're assuming the
12 people in the truck were Mexicans, and they're assuming that
13 these Mexicans that are found -- at least these people who
14 appear to be Mexicans that are found over 12 hours later at
15 a ranch house 10 miles away must be the same people from the
16 truck. It's a hunch that they have.

17 As the Court is well aware, you cannot seize
18 someone based upon a hunch. You have to have a reasonable
19 and articulable suspicion that these are, in fact, the
20 people associated with the truck.

21 Nobody that the Government called today could
22 articulate to you why Mr. Duble-Ramos is seized. They
23 just -- "Probably he was one of these guys. Look, it's
24 suspicious. There are some Mexicans hanging around on this
25 ranch, and why would they be there unless it was illegal?"

1 You heard the officer testify at the time he
2 arrived Mr. Duple-Ramos had already been seized. But they
3 didn't know he was illegal until after the seizure had
4 happened.

5 So what was the basis of the seizure? It could
6 have been nothing other than a mere suspicion -- a mere
7 hunch, not a suspicion. If it was a suspicion, Judge, it
8 wasn't reasonable -- that he must have been one of the guys
9 in the truck.

10 You also heard Mr. Duple-Ramos's unimpeached
11 testimony that he felt seized when he was told to get up
12 from the ground and talked to these four police officers.

13 The bottom line is, he was seized without a
14 reasonable suspicion. That's a violation of the Fourth
15 Amendment. I'm asking you to grant the motion.

16 THE COURT: Ms. Stewart?

17 MS. STEWART: Thank you, Your Honor. Just
18 briefly.

19 The seizure was lawful. The Border Patrol agents
20 went out there as requested because of the nature of the
21 call from Rancher Hanz. Rancher Hanz said, "There are three
22 subjects on my property. They're not supposed to be here."
23 And Border Patrol did normally what they do every day.

24 And they derive their power -- of course, I have
25 this in my motion -- from the Immigration and Nationality

1 Act. They can seize any person or arrest any person, any
2 alien in the United States if he has reason to believe that
3 the alien so arrested is in the United States in violation
4 of any law. And that's what Matthew Sears did. He asked
5 him if he was -- what country he was a citizen of. He said,
6 "Mexico." He said, "Do you have any papers that allow you
7 to be or remain in the United States legally?" And he said,
8 "No."

9 And under that Immigration and Nationality Act, he
10 has a right to arrest him and seize him whether or not he is
11 part of the prior Avalanche situation or whether he's
12 running. No matter what else he's done, right then he's
13 illegally in the country, and Border Patrol has the
14 authority to arrest him.

15 THE COURT: The Court denies the Defendant's
16 motion to suppress. I will write a full memorandum opinion.

17 Mr. Duble, would you stand up, please? Mr. Duble,
18 you are set for trial --

19 What's our trial setting on?

20 MR. ESCUDER: I believe Mr. Duble was prepared to
21 enter a conditional plea.

22 THE COURT: Okay. Then we'll get Judge Goains.
23 We'll take him next door to Judge Goains, who is prepared to
24 take -- do you have your plea papers ready?

25 MR. MILLER: Yes.

1 THE COURT: Okay. Marshals, could we transport
2 Mr. Duple over to the magistrate court? And Judge Goains is
3 ready to take the plea.

4 THE MARSHAL: Yes, Your Honor.

5 THE COURT: Thank you.

6 (Hearing adjourned)

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1 I, TODD ANDERSON, United States Court Reporter for the
2 United States District Court in and for the Northern
3 District of Texas, Dallas Division, hereby certify that the
4 above and foregoing contains a true and correct
5 transcription of the proceedings in the above entitled and
6 numbered cause.

7 WITNESS MY HAND on this 15th day of December, 2014.

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/s/Todd Anderson
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