



IN THE COURT OF CRIMINAL APPEALS OF TEXAS

No. PD-0573-12

JOSEPH DELAFUENTE, Appellant

v.

THE STATE OF TEXAS

ON STATE'S PETITION FOR DISCRETIONARY REVIEW
FROM THE FOURTEENTH COURT OF APPEALS
WALLER COUNTY

Per curiam.

OPINION

Appellant was convicted of possession of marijuana and sentenced to 3 days confinement. On appeal, Appellant claimed that the trial court erred in denying his motion to suppress because there was no reasonable suspicion to stop the vehicle in which he was traveling. The Court of Appeals reversed, holding that there were no specific, articulable facts in the record that would support reasonable suspicion for the traffic stop. The court of appeals noted that the existence of reasonable suspicion during a traffic stop is a mixed

question of law and fact. The only evidence admitted during the suppression hearing was the arresting officer's offense report. Because no witnesses testified, the court of appeals reviewed de novo the question of whether reasonable suspicion existed. *Delafuente v. State*, ___ S.W.3d ___, No. 14-11-00500-CR (Tex. App.–Houston [14th Dist.], April 3, 2012). The State Prosecuting Attorney petitioned this Court for discretionary review

When the Court of Appeals issued its opinion in this case, it did so without the benefit of this Court's opinion in *Mendoza v. State*, ___ S.W.3d ___; No. PD-1000-11 (Tex. Crim. App. May 9, 2012). Therefore, we vacate the judgment of the Court of Appeals and remand for that court to consider the effect of *Mendoza*, if any, on its reasoning and analysis in this case.

En banc

Delivered: June 20, 2012

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