

United States Court of Appeals  
Tenth Circuit

**PUBLISH**

**UNITED STATES COURT OF APPEALS**

**September 11, 2023**

**FOR THE TENTH CIRCUIT**

**Christopher M. Wolpert  
Clerk of Court**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

No. 22-1070

LUIS ALFONSO LEON,

Defendant - Appellant.

**Appeal from the United States District Court  
for the District of Colorado  
(D.C. No. 1:19-CR-00442-CMA-GPG-1)**

Bretta Pirie, Assistant Federal Public Defender (Scott Keith Wilson, Federal Public Defender, with her on the briefs), Office of the Federal Public Defender, Salt Lake City, Utah, for Defendant-Appellant.

Michael Conrad Johnson, Assistant United States Attorney (Cole Finegan, United States Attorney, with him on the brief), Office of the United States Attorney, Denver, Colorado, for Plaintiff-Appellee.

Before **HARTZ, SEYMOUR,** and **MATHESON,** Circuit Judges.

**SEYMOUR,** Circuit Judge.

Mr. Luis Alfonso Leon was stopped by law enforcement after he was observed illegally driving in a passing lane. During the traffic stop, the officer began to suspect Mr.

Leon was trafficking drugs. A search of his vehicle uncovered seventy-six pounds of methamphetamine, and Mr. Leon was charged with one count of possessing methamphetamine with intent to distribute. Following a failed motion to suppress, he pled guilty and was sentenced to seventy months' imprisonment. On appeal, Mr. Leon challenges the denial of his suppression motion, arguing that the officer lacked reasonable suspicion to extend the stop and investigate the suspected drug trafficking. We agree and therefore reverse.

### **Background**

On December 28, 2017, Mr. Leon was traveling eastbound on I-70 in Colorado when Colorado State Patrol Trooper Shane Gosnell observed him driving in the left lane while not passing another vehicle in violation of Colo. Rev. Stat. § 42-4-1013(1). Trooper Gosnell began to follow Mr. Leon's 2006 Honda Ridgeline truck and noticed it had a Minnesota license plate. Trooper Gosnell initiated a traffic stop which was captured on his dashboard camera.

As he approached the truck, Trooper Gosnell made several observations. First, he noticed disorganized boxes and clothing in the backseat. Second, he observed food wrappers, a soda bottle, an energy drink can, and religious pamphlets in the front. Based on these conditions, he believed the vehicle had "a lived-in or hard-traveled look." Supp. Rec., vol. IV at 14. Finally, he saw a single key in the ignition.

Mr. Leon acknowledged the traffic violation, apologized, and explained he was tired. He produced an Arizona driver's license after Trooper Gosnell asked for his

“license, registration, and stuff.” Gov.’s Ex. 1 from Suppression Hr’g at 3:17–3:18 (Dashboard Camera Footage). Mr. Leon then went into a backpack to get a manila envelope, fumbled documents from the envelope, and asked Trooper Gosnell if he wanted to look. Trooper Gosnell took the envelope and found Mr. Leon’s insurance card and an expired registration with another person’s name on it. Trooper Gosnell also located the title which confirmed Mr. Leon had recently purchased the vehicle.

Trooper Gosnell asked where Mr. Leon was headed that day. Mr. Leon responded that he was going to stop in Denver at the International Society for Krishna Consciousness (“ISKCON”) to pick up religious books and that he might stay for an event if ISKCON was hosting one. Trooper Gosnell then asked if Mr. Leon was from Arizona. Mr. Leon answered affirmatively but told Trooper Gosnell he was transitioning to Minnesota. About a minute later, Trooper Gosnell asked if Mr. Leon was traveling from Phoenix, Arizona. When Mr. Leon responded that he was, Trooper Gosnell asked how long Mr. Leon had been living there. Mr. Leon responded that he received his legal permanent residency in 2014 but had lived there as a young child. Trooper Gosnell then expressed curiosity about Mr. Leon’s ties to Minnesota and asked how he came into possession of the truck. Mr. Leon stated that he went to Minnesota for a woman but had most recently been living with a friend named Marco. He explained that he got a good deal on the truck when purchasing it from Marco’s friend, a coreligionist, and that everything had been transferred over in his name. Upon questioning, Mr. Leon told Trooper Gosnell he had purchased the truck about two weeks prior.

During this interaction, Trooper Gosnell believed Mr. Leon was “overly cooperative” and “super nervous.” Supp. Rec., vol. IV at 23. He found Mr. Leon’s answers to his questions to be indirect and felt Mr. Leon was attempting to control the conversation.

A combination of these circumstances led Trooper Gosnell to suspect Mr. Leon was involved in drug trafficking and to ask for the mileage on the truck. After running some checks and returning Mr. Leon’s documents, Trooper Gosnell asked for Mr. Leon’s consent to search the vehicle. Mr. Leon refused consent, but Trooper Gosnell decided to conduct a dog sniff of the vehicle’s exterior. The K-9 alerted to the odor of narcotics, and Trooper Gosnell and another officer searched the vehicle. The officers found seventy-six pounds of methamphetamine and placed Mr. Leon under arrest.

Mr. Leon was indicted on one count of possession with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A)(viii). Mr. Leon filed a motion to suppress evidence discovered during the search of his vehicle. A magistrate judge heard argument on the motion, and the district court adopted the magistrate’s recommendation to deny the motion. The case was subsequently dismissed without prejudice on Speedy Trial Act grounds.

Mr. Leon was indicted again,<sup>1</sup> and his case was assigned to a new district judge. Mr. Leon filed a new motion to suppress evidence discovered and statements made

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<sup>1</sup> The second indictment charged Mr. Leon with possessing 50 grams or more of methamphetamine while the first indictment charged Mr. Leon with possessing 500

during the December 2017 traffic stop, arguing in relevant part that Trooper Gosnell unlawfully extended the stop.<sup>2</sup> The district court held a hearing on the motion, during which Trooper Gosnell testified. The court noted the denial of Mr. Leon's suppression motion in the first case and skimmed the transcript from that hearing but asked the government to present all the evidence needed to decide the motion de novo. The court denied the motion and, following additional cross-examination of the government's witnesses, denied a motion for reconsideration.

Mr. Leon pleaded guilty pursuant to a conditional plea agreement, reserving the right to appeal the denial of his suppression motion. The court found that Mr. Leon was eligible for the safety valve under 18 U.S.C. § 3553(f) and sentenced him to seventy months' imprisonment.

### **Discussion**

Mr. Leon argues that the district court erred in denying his motion to suppress. "When reviewing the denial of a motion to suppress, 'we view the evidence in the light most favorable to the government, accept the district court's findings of fact unless they are clearly erroneous, and review de novo the ultimate question of reasonableness under the Fourth Amendment.'" *United States v. Cortez*, 965 F.3d 827, 833 (10th Cir. 2020) (quoting *United States v. McNeal*, 862 F.3d 1057, 1061 (10th Cir. 2017)).

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grams or more of a substance or mixture containing methamphetamine. Both offenses fall under the same statute and carry the same penalty.

<sup>2</sup> Mr. Leon made several additional arguments not raised on appeal.

The Fourth Amendment establishes a right to be free from “unreasonable searches and seizures.” U.S. Const. amend. IV. A routine traffic stop is a seizure and is treated as an investigative detention under the Fourth Amendment. *United States v. Wood*, 106 F.3d 942, 945 (10th Cir. 1997). “The reasonableness of an investigative detention is judged under the principles announced in *Terry v. Ohio* . . . .” *Id.* “Like a *Terry* stop, the tolerable duration of police inquiries in the traffic-stop context is determined by the seizure’s ‘mission’—to address the traffic violation that warranted the stop and attend to related safety concerns.” *Rodriguez v. United States*, 575 U.S. 348, 354 (2015) (citations omitted). “Authority for the seizure thus ends when tasks tied to the traffic infraction are—or reasonably should have been—completed.” *Id.* An officer may not prolong the traffic stop to conduct an unrelated investigation without reasonable suspicion that the detainee is engaged in criminal activity. *Id.* at 355. The moment at which this reasonable suspicion becomes necessary is known as the “*Rodriguez* moment.” *United States v. Batara-Molina*, 60 F.4th 1251, 1255 n.1 (10th Cir. 2023).

The parties agree that a *Rodriguez* moment occurred when Trooper Gosnell asked Mr. Leon for the car’s mileage. Our inquiry is therefore whether Trooper Gosnell reasonably suspected Mr. Leon was engaged in criminal activity at the time he asked for the mileage. *See United States v. Frazier*, 30 F.4th 1165, 1174 (10th Cir. 2022) (“[W]e consider only those facts known to the trooper at the point he diverted from his traffic-based mission . . . .”). “The government bears the burden of satisfying this standard, but it is not an onerous one.” *Id.*

“In reviewing an investigatory stop for reasonable suspicion, we must consider ‘the “totality of the circumstances” of each case to see whether the detaining officer has a “particularized and objective basis” for suspecting legal wrongdoing.’” *United States v. Neff*, 681 F.3d 1134, 1138 (10th Cir. 2012) (quoting *United States v. Arvizu*, 534 U.S. 266, 273 (2002)). Under this totality approach, factors consistent with innocent travel may collectively amount to reasonable suspicion. *See Arvizu*, 534 U.S. at 277–78. “Given the specialized training and experience that law enforcement officers have, we generally defer to their ability to distinguish between innocent and suspicious behavior, but deference becomes inappropriate ‘when an officer relies on a circumstance incorrigibly free of associations with criminal activity.’” *Frazier*, 30 F.4th at 1174 (quoting *United States v. Santos*, 403 F.3d 1120, 1133 (10th Cir. 2005)). “Moreover, the officer must point to specific, articulable facts. Inchoate suspicions and unparticularized hunches do not provide reasonable suspicion.” *United States v. Simpson*, 609 F.3d 1140, 1147 (10th Cir. 2010) (citation omitted).

The district court cited numerous factors in concluding that Trooper Gosnell had reasonable suspicion to extend the stop beyond its traffic-based mission:

The potential origin of the trip from Arizona, which is known to be a drug hub; traveling from that destination to Minnesota; vague travel plans; unsure how long he was going to be in Denver; vague reasons for even being in Denver; attempting to control the conversation; inconsistent statements regarding where he was currently living; the Arizona driver’s license; the Minnesota registered vehicle; the condition of the interior of the vehicle; and Mr. Leon’s nervousness . . . .

Supp. Rec., vol. IV at 128. Prior to reaching this conclusion, the court also referenced the single truck key with no ring, Mr. Leon's apparent lack of familiarity with important documentation, Mr. Leon's alleged inability to recall the name of the person who sold him the truck, and the recent retitling and registering of the car.<sup>3</sup> We address each factor before determining whether the totality of the circumstances established reasonable suspicion. *United States v. Pettit*, 785 F.3d 1374, 1380 (10th Cir. 2015).

First, the characterization of Arizona and Minnesota as drug hubs or destinations adds nothing to the reasonable suspicion calculus. *United States v. White*, 584 F.3d 935, 951–52 (10th Cir. 2009) (“Because law enforcement officers have offered countless cities as drug source cities and countless others as distribution cities, . . . the probativeness of a particular defendant’s route is minimal.”); *United States v. Guerrero*, 472 F.3d 784, 787–88 (10th Cir. 2007) (defendant traveling from drug source area was a factor “so broad as to be indicative of almost nothing”). Moreover, it is not clear that Trooper Gosnell knew or believed Mr. Leon was traveling to Minnesota. In fact, the government argues Mr. Leon did not disclose his final destination and that his failure to do so was suspicious.

Second, the district court placed undue emphasis on Mr. Leon's travel plans of driving from Phoenix to Denver to pick up books and perhaps stay for an event. While

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<sup>3</sup> The court also noted that Mr. Leon had made several trips across the Mexico border in the year prior to the stop and that a large number of miles had been put on the truck in the two years before Mr. Leon purchased it. Because Trooper Gosnell learned of the border crossings after the *Rodriguez* moment, we do not consider it in the reasonable suspicion calculus. We similarly decline to consider the number of miles put on the vehicle because Trooper Gosnell's testimony and his case narrative indicate that he also did not notice the mileage increase until after the *Rodriguez* moment.



implausible travel plans may contribute to reasonable suspicion, *Santos*, 403 F.3d at 1129, Mr. Leon’s plans were at most unusual, not logistically unrealistic. Although we have found travel plans suspicious when “it begged credulity to think that the purported purpose of the trip could justify the travel plans,” *United States v. Lopez*, 849 F.3d 921, 927 (10th Cir. 2017), there is nothing in the record to suggest Mr. Leon was on a restricted timeline and Trooper Gosnell did not inquire into Mr. Leon’s plans after stopping at ISKCON. Nor do we find it suspicious that Mr. Leon planned to play his trip in Denver by ear. Assuming Mr. Leon *was* traveling all the way to Minnesota from Arizona, stopping in Denver where there was a personal point of interest would not be all that unusual. But even if Mr. Leon was traveling the long distance just to pick up books, we have “been reluctant to deem travel plans implausible—and hence a factor supporting reasonable suspicion—where the plan is simply unusual or strange because it indicates a choice that the typical person, or the officer, would not make.” *Simpson*, 609 F.3d at 1149; *see also Lopez*, 849 F.3d at 927 (“[W]e have generally been reluctant to give weight in the reasonable-suspicion analysis to unusual travel purposes, at least absent lies, inconsistencies, or the like.”). Mr. Leon’s purported travel plans were also corroborated by the religious pamphlets in his vehicle. Importantly, Mr. Leon answered each question posed by Trooper Gosnell, naming a specific destination in Denver. Trooper Gosnell did not ask follow-up questions or ask for Mr. Leon’s final destination. Further questioning may have elicited inconsistencies or vagueness, but we cannot say that Mr. Leon’s answers to questions actually asked contributed to reasonable suspicion.

The district court relied on Mr. Leon's inconsistent statements about where he lived.<sup>4</sup> But Mr. Leon did not actually make an inconsistent statement. Early in the traffic stop, Trooper Gosnell asked him if he was from Arizona. Mr. Leon answered affirmatively but clarified that he was transitioning to Minnesota. In response, Trooper Gosnell noted the Minnesota plates. After Mr. Leon confirmed he was traveling from Phoenix that day, Trooper Gosnell asked him how long he had been living "out there." Dashboard Camera Footage at 4:50–4:51. Mr. Leon explained that he received permanent residency in 2014 but lived in Arizona as a child. When Trooper Gosnell then inquired into Mr. Leon's connection to Minnesota and how he came into possession of the truck, Mr. Leon explained his transition, noting that he originally went to Minnesota because of a woman and was now living with his friend Marco who helped him get the truck. At the time of the *Rodriguez* moment, Mr. Leon had not made any inconsistent statement about where he was living.<sup>5</sup> To the extent the district court found otherwise, it was clearly erroneous.

Moreover, we afford no weight to the condition of the vehicle's interior, which had food wrappers, soda and energy drink containers, miscellaneous boxes, and clothes.

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<sup>4</sup> The court did not specify which statements it found inconsistent. Before making its ruling, the court mentioned that one of Mr. Leon's border crossings occurred while he was purportedly living in Minnesota. Supp. Rec., vol. IV at 127. This information was discovered following the *Rodriguez* moment and is therefore not factored into our analysis.

<sup>5</sup> There is some confusion about whether Mr. Leon later stated he had decided not to move to Minnesota. *See, e.g.*, Supp. Rec., vol. IV at 25. But the dashboard footage shows no such statement was made prior to the *Rodriguez* moment.

First, food wrappers and drink containers are items you would find in any vehicle on a road trip. *See Wood*, 106 F.3d at 947 (“[T]he vestiges of fast-food meals describes a very large category of presumably innocent travelers, and any suspicion associated with these items is virtually nonexistent.” (citation omitted)); *Simpson*, 609 F.3d at 1152 (“The presence of . . . energy pills adds no weight to the reasonable suspicion analysis as it would be likely to find such items in the vehicle of any innocent traveler.”). The lived-in or hard-travelled appearance Trooper Gosnell noted may be consistent with drug trafficking trips but it is also characteristic of most road trips. The fact that Mr. Leon had purchased the car just a few weeks prior does not change our analysis; a car being used for a road trip is likely to accumulate some degree of mess regardless of how long it has been owned. Second, although Trooper Gosnell explained that some traffickers use a “cover load” to make a trip seem legitimate, Supp. Rec., vol. IV at 15, he failed to explain why he believed the contents of Mr. Leon’s vehicle were part of a cover load rather than indicative of legitimate travel or even how such a distinction could be made. We are not persuaded that the presence of boxes or clothing, whether neatly arranged or disorganized, raises an inference of reasonable suspicion. *Cf. Vasquez v. Lewis*, 834 F.3d 1132, 1138 (10th Cir. 2016) (no reasonable suspicion where one cited factor was “blankets and a pillow obscuring items in the back seat”).

Next, we have consistently held that ordinary nervousness bears little weight in the reasonable suspicion calculus. *Simpson*, 609 F.3d at 1147. This is because most motorists experience some degree of nervousness when stopped by police and “unless the police

officer has had significant knowledge of a person, it is difficult, even for a skilled police officer, to evaluate whether a person is acting normally for them or nervously.” *Id.* at 1147–48. We give somewhat more weight to extreme and persistent nervousness. *Id.* at 1148. In doing so, we look for “specific indicia that the defendant’s nervousness was extreme, rather than credit an officer’s naked assertion.” *Id.* For example, we have found drivers extremely nervous when they present certain physical manifestations. *See, e.g., id.* at 1148 (defendant “was shaking uncontrollably throughout the entire encounter”); *Pettit*, 785 F.3d at 1380–81 (defendant’s body was moving nervously, “his whole arm shook” while handing over his license, and he twice said he was nervous).

Trooper Gosnell described Mr. Leon as “super nervous” because he was “overly cooperative,” provided “drawn out or roundabout answers,” and “tried to control . . . the conversation.” Supp. Rec., vol. IV at 23–24. Trooper Gosnell also testified that Mr. Leon’s nervousness did not dissipate after being told he would only get a warning. As an example of Mr. Leon controlling the conversation, Trooper Gosnell noted that Mr. Leon brought up the cold Colorado weather and then began talking about something else after Trooper Gosnell responded that it gets colder.

Although the district court considered Mr. Leon’s nervousness, it did not find he was extremely nervous. In any event, we conclude that the evidence does not support that finding. Mr. Leon exhibited no physical manifestations of extreme nervousness. He was cooperative and offered explanations to questions posed by Trooper Gosnell. Trooper Gosnell may have thought Mr. Leon offered an inordinate amount of detail or engaged in

unnecessary conversation, but we conclude that it was natural for Mr. Leon to offer additional information as Trooper Gosnell inquired into Mr. Leon's ties to Minnesota and his authority to operate the vehicle. *See Lopez*, 849 F.3d at 926 (defendant not extremely nervous where there was an explanation for her being "overly talkative"). The indicia of nervousness highlighted by Trooper Gosnell could also merely reflect Mr. Leon's communication style rather than nervousness. Although we owe deference to Trooper Gosnell's training and experience, Mr. Leon's alleged nervousness was not extreme and bears negligible weight in our calculus.

The court noted several factors that Trooper Gosnell found suspicious because they indicated Mr. Leon was not the legitimate owner of the vehicle or had acquired the vehicle only for the purpose of drug trafficking. Specifically, Trooper Gosnell testified the difference between the origin of the vehicle and where Mr. Leon was licensed was suspicious because drug traffickers often use third-party vehicles. In addition, the court referred to the single key in the truck's ignition, which Trooper Gosnell found suspicious because car owners usually put their car keys on rings with other keys and because a single key opens the door for traffickers to argue they were merely borrowing the vehicle and were unaware it contained drugs. Trooper Gosnell further testified it was suspicious that Mr. Leon kept the vehicle documents in an envelope in his backpack instead of in his glovebox. Relatedly, he found it odd that Mr. Leon gave him the envelope because it signified Mr. Leon was not familiar with its contents. Trooper Gosnell also testified that Mr. Leon did not know the name of the person he purchased the truck from. Finally, the

court noted Trooper Gosnell's case narrative, where he indicated that drug traffickers often re-title and re-register vehicles to avoid law enforcement detection.

To the extent Trooper Gosnell found these factors suspicious because they suggested Mr. Leon was traveling in a third-party vehicle, we afford them no weight. Prior to the *Rodriguez* moment, Mr. Leon told Trooper Gosnell the truck belonged to him, which Trooper Gosnell confirmed by looking at the title transfer. At that point, it would have been clear to a reasonable officer that Mr. Leon was not traveling in a third-party vehicle and could not distance himself from the vehicle as a defense.

Although Mr. Leon exhibited some unfamiliarity with the vehicle documents, he did know where they were located and quickly produced the envelope. We must consider this action in context; Trooper Gosnell asked for Mr. Leon's "license, registration, and stuff." Dashboard Camera Footage at 3:17–3:18. Mr. Leon therefore may not have been certain about what documentation he needed to produce. The location of the envelope in Mr. Leon's backpack and the single key do align with the government's theory that the truck had been purchased and registered to Mr. Leon for the sole purpose of transporting drugs.<sup>6</sup> But they also align with any recent purchase of a car. Documents being stored outside of the glovebox and a single key tell us more about how recently a vehicle was purchased than what purpose the vehicle was purchased for. And a single key makes even

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<sup>6</sup> We assume without deciding that motorists typically keep their documents in the glovebox.

more sense for a new owner, like Mr. Leon, who claimed to be transitioning to a new location and may not have had house keys.

Trooper Gosnell testified, and the district court reiterated, that Mr. Leon did not know the name of the person he bought the truck from. Having reviewed the dashboard footage, we conclude this is an unfair characterization of the interaction. After Mr. Leon explained he got the truck from Marco's friend, Trooper Gosnell asked Mr. Leon two questions in a row without giving him the opportunity to respond: "Do you know their name by chance? Is it still registered to them I assume since it has the Minnesota plates?" *Id.* at 5:29–5:33. Mr. Leon quickly responded, "No, no, no, no," and Trooper Gosnell interjected, "It's under your name now?" *Id.* at 5:33–5:36. Mr. Leon then confirmed it had been "transferred and everything." *Id.* at 5:36–5:37. Trooper Gosnell responded, "Ok, perfect." *Id.* at 5:37. From this quick interaction, Mr. Leon may have reasonably assumed Trooper Gosnell was primarily interested in knowing whether the car was registered to him, not whether he could recall the name of Marco's friend. By responding positively and not inquiring further into the identity of the seller, Trooper Gosnell conveyed that he had the information he wanted. In sum, this interaction does not suggest Mr. Leon lacked knowledge of who sold him the car. In fact, Mr. Leon knew the seller was Marco's friend and a coreligionist. If asked again in a more targeted fashion, Mr. Leon very well may have been able to give the friend's name.

"The recent registration of a vehicle *can* contribute to reasonable suspicion," although we "have generally placed limited emphasis on" that factor. *United States v.*

*Moore*, 795 F.3d 1224, 1231 (10th Cir. 2015) (emphasis added). While this is a relevant factor in weighing the totality of the circumstances, we note that registering a newly purchased vehicle is a legal requirement and many innocent travelers purchase and register their cars each year. We therefore continue to place little emphasis on this factor.

On appeal, the government urges us to consider an additional factor: Mr. Leon purchased the vehicle for a suspiciously low price of \$500, which was listed on the title. We decline to consider this factor in our de novo review of reasonable suspicion for two related reasons. First, the government did not raise this factor below, and the district court did not appear to consider it. The government posits that the price can still be considered because Trooper Gosnell testified about it during the first suppression hearing in Mr. Leon's original case and both parties attached the transcript of that hearing to their suppression pleadings in the instant case. This district court noted that it skimmed this transcript but made clear it would decide the motion de novo and wanted to hear the testimony and consider the evidence firsthand. The government provides no reason for its failure to alert the district court to this factor, and "[w]e, therefore, need not address the new reasonable suspicion argument the government makes for the first time on appeal." *United States v. Hernandez*, 847 F.3d 1257, 1269 (10th Cir. 2017).

We have discretion, however, to "consider alternative arguments to affirm if the record is adequately developed." *United States v. Gaines*, 918 F.3d 793, 800 (10th Cir. 2019). We conclude that the record on this point is inadequately developed because it is devoid of details concerning the condition of the vehicle and market rates at the time of



purchase, which is context needed to measure the probativeness of the price Mr. Leon paid. This also brings us to our second reason for declining to consider the price. Even after reviewing the transcript of the first suppression hearing, it is unclear whether Trooper Gosnell became aware of the purchase price before or after the *Rodriguez* moment. Trooper Gosnell may have noticed the price when he first used the title to confirm Mr. Leon's ownership. But it is equally plausible that Trooper Gosnell did not notice it until he took a closer look at the title while running checks in his own vehicle. Without additional information, we cannot know whether the price could properly be considered in the reasonable suspicion calculus. Accordingly, the government failed to meet its burden in establishing this factor contributed to reasonable suspicion.

The factors cited by the district court and the government are not inconsistent with drug trafficking, but they are also not meaningfully indicative of drug trafficking. Although reasonable suspicion is a low bar, “[t]he articulated factors together must serve to eliminate a substantial portion of innocent travelers before the requirement of reasonable suspicion will be satisfied.” *Neff*, 681 F.3d at 1142 (quoting *United States v. Brugal*, 209 F.3d 353, 359 (4th Cir. 2000) (en banc)) (alteration in original). This is a close case, but we cannot say the factors operate together to eliminate a sufficient portion of innocent travel. “Reliance on the mantra ‘the totality of the circumstances’ cannot metamorphose these facts into reasonable suspicion.” *Wood*, 106 F.3d at 948. We therefore conclude that Trooper Gosnell's suspicion was inchoate rather than reasonable.

### **Conclusion**

We hold that Trooper Gosnell did not have reasonable suspicion to extend the stop. Accordingly, we reverse the denial of Mr. Leon's motion to suppress and remand with instructions to vacate his conviction.