

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

January 23, 2008

Charles R. Fulbruge III
Clerk

No. 07-40173
Summary Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JUAN MANUEL RANGEL

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 5:06-CR-388-1

Before KING, DeMOSS, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Juan Manuel Rangel was convicted, following a bench trial, of possession with intent to distribute more than 50 kilograms of marijuana. Rangel was sentenced to 37 months of imprisonment and to a three-year term of supervised release. He argues on appeal the district court erred in denying his motion to suppress the marijuana because the border patrol agents lacked reasonable suspicion to conduct an investigatory stop of his vehicle. He also argues that the

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

district court erred in finding that he gave the agents consent to search the trunk of his vehicle.

Under the totality of the circumstances and in consideration of the factors set forth in *United States v. Brignoni-Ponce*, 422 U.S. 873, 884-85 (1975), especially the proximity to the border, the sensor alert, and the characteristics of the vehicle, the border patrol agents' stop of Rangel's vehicle was based on reasonable suspicion. See *id.*; *United States v. Jacquinot*, 258 F.3d 423, 427 (5th Cir. 2001). Additionally, based on the district court's credibility determination and because there are sufficient factors to support consent, there is no clear error regarding the district court's determination that Rangel gave the agents consent to search the trunk of his vehicle. See *United States v. Estrada*, 459 F.3d 627, 633-34 (5th Cir. 2006).

Accordingly, Rangel's conviction and sentence are **AFFIRMED**.