

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

April 9, 2013

Lyle W. Cayce
Clerk

No. 12-50521

Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

RENE OMAR ANDRADE-RIVERA, also known as Rene Omar Andrade,

Defendant-Appellant

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5-12-CR-380-1

Before KING, CLEMENT, and HIGGINSON, Circuit Judges.

PER CURIAM:*

Rene Omar Andrade-Rivera (Andrade) pleaded guilty of entering the United States illegally following deportation. Andrade was arrested when his presence in the United States was discovered by Border Patrol agents during the traffic stop of the vehicle in which he was a passenger. He contends that the district court erred in denying his motion to suppress evidence derived from the traffic stop.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 12-50521

In denying the motion to suppress, the district court agreed that the traffic stop violated Andrade's rights under the Fourth Amendment because the Border Patrol agents lacked a reasonable suspicion supporting a belief that any of the occupants of the vehicle were involved in criminal activity. The court concluded however, that the evidence that Andrade sought to suppress, that is, evidence of his identity, is not suppressible in this circuit. *See United States v. Herrera-Ochoa*, 245 F.3d 495, 498 (5th Cir. 2001); *United States v. Roque-Villanueva*, 175 F.3d 345, 346 (5th Cir. 1999).

Andrade contends that *Herrera-Ochoa* and *Roque-Villanueva* were wrongly decided. One panel of this court may not overrule a prior decision of another panel of this court in the absence of an intervening contrary or superseding decision by this court sitting en banc or by the United States Supreme Court. *McGowen v. Thaler*, 675 F.3d 482, 496 (5th Cir.), *cert. denied*, 133 S. Ct. 648 (2012). The district court's order is

AFFIRMED.