

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

JOSE RODRIGUEZ, )  
 )  
 Appellant, )  
 )  
 v. ) Case No. 2D08-5153  
 )  
 STATE OF FLORIDA, )  
 )  
 Appellee. )  
 \_\_\_\_\_ )

Opinion filed September 4, 2009.

Appeal from the Circuit Court for  
Hillsborough County; Daniel H. Sleet,  
Judge.

James Marion Moorman, Public  
Defender, and Matthew D. Bernstein,  
Assistant Public Defender, Bartow,  
for Appellant.

Bill McCollum, Attorney General,  
Tallahassee, and Joseph Hwan-Yul  
Lee, Assistant Attorney General,  
Tampa, for Appellee.

NORTHCUTT, Judge.

Jose Rodriguez pleaded guilty to trafficking in illegal drugs, reserving his  
right to appeal the denial of his dispositive motion to suppress evidence. The State  
concedes that the motion should have been granted and we agree. We reverse

Rodriguez's conviction and remand to the circuit court with directions to discharge him. Our resolution of this issue moots the sentencing issue Rodriguez raised in this appeal.

The illegal drugs were discovered during a patdown search of Rodriguez during a traffic stop. Rodriguez agreed to a search of his car, but he did not consent to a search of his person. The deputy who conducted the traffic stop testified that he routinely conducts a patdown of a vehicle's occupants before he begins searching the car. The deputy did not state any facts that supported a reasonable belief that Rodriguez was armed or dangerous. Such routine searches based on a generalized concern for officer safety are not constitutionally permissible. See McNeil v. State, 995 So. 2d 525, 526 (Fla. 2d DCA), review denied, 990 So. 2d 1060 (Fla. 2008).

Reversed and remanded with directions to discharge Rodriguez.

FULMER and WALLACE, JJ., Concur.