FILED
United States Court of Appeals
Tenth Circuit

November 6, 2026

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CRUZ ZERMENO,

Defendant - Appellant.

No. 26-2087
(D.C. No. 1:24-CR-01819-KWR-3)
(D. N.M.)

ORDER AND JUDGMENT*

Before **HOLMES**, Chief Judge, **PHILLIPS** and **MORITZ**, Circuit Judges.

Defendant-Appellant Cruz Zermeno entered a conditional guilty plea to conspiracy to distribute 500 grams or more of a mixture and substance containing methamphetamine, 21 U.S.C. §§ 841(a)(1) and 846, and possession with intent to distribute methamphetamine, 21 U.S.C. § 841(a)(1), (b)(1)(A) and 18 U.S.C. § 2. Zermeno reserved the right to appeal the district court's denial of his motion to suppress physical evidence found during a traffic stop. On appeal, he contends that

* After examining the briefs and appellate record, this panel has determined unanimously to honor the parties' request for a decision on the briefs without oral argument. *See* Fed. R. App. P. 34(f); 10th Cir. R. 34.1(G). The case is therefore submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

the traffic stop was unconstitutional, and the district court failed to conduct its own fact-finding when ruling on the motion to suppress. He also requests that we reconsider Supreme Court precedent. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

Background

On the morning of November 20, 2024, Zermeno was a passenger in a black Acura driving on I-40 through New Mexico. Mario Gonsalez Jr. and Guillermo Garcia Jr., Zermeno's codefendants, were also in the car. Homeland Security Investigation's Task Force Officer Juan Rodriguez stopped the vehicle based on an observed traffic violation of following another vehicle too closely. *See* N.M. Stat. Ann. § 66-7-318(A). He then approached the vehicle and asked the passengers to roll the back windows down. Once the windows were down, he smelled marijuana from the car. Officer Rodriguez asked Gonsalez, the driver, to step out of the car as he filled out a warning citation. While filling out the citation, he spoke with Gonsalez about his travel plans.

Officer Rodriguez then walked back to his car to check the Acura's VIN. When he returned to the Acura, he spoke with the passengers about their travel plans. Officer Rodriguez confirmed that the VINs on the Acura matched Gonsalez's paperwork, and asked Gonsalez to join him while printing the citation.

Officer Rodriguez asked Gonsalez if he was willing to answer further questions about his travel, and Gonsalez agreed. During the conversation, Gonsalez admitted that there was marijuana in the car. Officer Rodriguez then informed

Gonsalez that he was going to search the Acura because marijuana is a controlled substance. All of the car's occupants exited the vehicle, and Officer Rodriguez opened the trunk of the car, where he found a plastic garbage bag filled with about 25 pounds of methamphetamine.

Zermeno was later federally charged for the crimes he ultimately pleaded guilty to. Before the district court, he moved to suppress the evidence discovered during the search of the vehicle. He argued that there was no indication that a traffic violation occurred. The government responded in opposition.

The district court held a suppression hearing at which Officer Rodriguez testified. The court also reviewed the dashcam recording and citation from the traffic stop.

The court denied the motion to suppress. It determined that the traffic stop was justified because Officer Rodriguez observed the Acura following another vehicle too closely. The court credited Officer Rodriguez's testimony that he observed the Acura following a vehicle at what he believed, based on his training and experience, to be an unreasonably close distance. The court noted that it was "ill-suited to second-guess this exercise of discretion." R. at 222. It also rejected Zermeno's argument that the dashcam footage did not show that the Acura was too close to the car in front of it. The court reasoned that, even if the video footage was unclear, Officer Rodriguez had a reasonable suspicion that a traffic violation occurred, and the "observation that Gonsalez was following the truck trailer too closely was, at most, a reasonable mistake." *Id.*

Zermeno later entered into a conditional plea agreement wherein he preserved his right to appeal the district court's denial of his motion to suppress. The court sentenced Zermeno to 120 months in prison. Zermeno now appeals.

Discussion

"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. Baker*, 108 F.4th 1241, 1246 (10th Cir. 2024) (internal quotation marks omitted).

The Fourth Amendment protects individuals "against unreasonable searches and seizures." U.S. Const. amend. IV. A traffic stop is reasonable if it is "justified at its inception" and the officer's actions during the stop are reasonably related to the purpose of the stop. *United States v. Gomez-Arzate*, 981 F.3d 832, 838 (10th Cir. 2020) (internal quotation marks omitted). "A traffic stop is justified when the officer has 'reasonable suspicion—that is, a particularized and objective basis for suspecting the particular person stopped of breaking the law.'" *Id.* (quoting *Heien v. North Carolina*, 574 U.S. 54, 60 (2014)).

I.

Zermeno argues that Officer Rodriguez did not have reasonable suspicion to initiate the stop. He argues that it was impossible for Officer Rodriguez to observe the Acura following too closely, and points to the dashcam video to contend that the court committed clear error.

"The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles and the traffic upon and the condition of the highway." N.M. Stat. Ann. § 66-7-318(A) (2022). Here, the district court credited Officer Rodriguez's account that he observed the Acura following another vehicle too closely while on the interstate. Specifically, Officer Rodriguez saw the car following within three car lengths of the vehicle in front of it. He also testified that he was approximately a quarter mile behind the Acura, and that he observed the incident around mile marker 128 or 129. And he confirmed that he issued the citation at mile marker 129. This testimony indicates that Officer Rodriguez was not so far away that he could not observe and form an impression of traffic violations on the interstate.

Nor does the dashcam evidence demonstrate a clear error in the district court's decision to credit Officer Rodriguez's testimony. It shows a black Acura trailing behind a white semi-trailer. It did not take Officer Rodriguez long to reach the Acura after accelerating to initiate the traffic stop, and nothing captured on the video indicates that the Acura *was not* following too closely. Given that there were no extenuating circumstances that would impair Officer Rodriguez's ability to observe the interstate, it was reasonable to conclude that a traffic violation occurred and to then initiate a traffic stop. *See Baker*, 108 F.4th at 1246. Based on this record, we are not "left with a definite and firm conviction that a mistake has been made." *United States v. Cash*, 733 F.3d 1264, 1273 (10th Cir. 2013).

II.

Next, Zermeno argues that the district court did not make its own independent factual findings and improperly deferred to Officer Rodriguez's testimony. "[I]t is the province of the trial court to assess the credibility of witnesses at the suppression hearing and to determine the weight to be given to the evidence presented, and we must give such determinations due deference." *United States v. McGregor*, 158 F.4th 1082, 1091 (10th Cir. 2025) (internal quotation marks and brackets omitted). The district court did its job here. It explained its decision and assessed the evidence before it. The court deferred to Officer Rodriguez's testimony that he observed a traffic violation, which it was entitled to do. *See id.* ("In addition, reviewing courts must also defer to the ability of a trained law enforcement officer to distinguish between innocent and suspicious actions." (internal quotation marks and brackets omitted)). Zermeno's disagreement with that decision does not mean that the district court improperly yielded her role as a factfinder. We discern no error here.

III.

Finally, Zermeno urges us to depart from the Supreme Court's decision in *Whren*, which held that an officer's subjective intent is not relevant to the Fourth Amendment-reasonableness inquiry because his actions were objectively justifiable. *See Whren v. United States*, 517 U.S. 806, 811 (1996) ("Not only have we never held, outside the context of inventory search or administrative inspection . . . that an officer's motive invalidates objectively justifiable behavior under the Fourth Amendment; but we have repeatedly held and asserted the contrary."). We are bound

by Supreme Court precedent, which is well established and supports the conclusion that the traffic stop challenged here is reasonable. *See United States v. Hahn*, 186 F.4th 728, 748 (10th Cir. 2026) ("[A]s a lower court applying Supreme Court precedent, we are bound by the holding and reasoning of the Court's decision."). Accordingly, any subjective intent from Officer Rodriguez is irrelevant to our analysis here. *See Whren*, 517 U.S. at 814.

Conclusion

Affirmed.

Entered for the Court

Gregory A. Phillips
Circuit Judge