

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 00-40365  
Conference Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

RUFINO EUSEBIO CLARKE,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. L-99-CR-940-1  
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February 13, 2001

Before SMITH, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Rufino Eusebio Clarke appeals from his conviction by guilty plea of possession with intent to distribute marijuana. Clarke contends that the stop of his pickup was not based on reasonable suspicion and that it therefore violated the Fourth Amendment.

Agents Cirlos and Broadhurst had reasonable suspicion to stop Clarke. *See United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975). Cirlos, a veteran Border Patrol agent, was familiar with the area and its characteristics as rural, ranch-and-oilfield territory. Clarke's pickup traveled in very close

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

proximity with a second pickup, something that Agent Broadhurst indicated may have suggested smuggling. Clarke's pickup bore a sticker suggesting that the pickup belonged to a business, but it had no telephone number. The pickup had plywood in its bed, something that Border Patrol agents had observed in smuggling operations. Clarke and the driver of the second vehicle left U.S. 59 just before arriving at the checkpoint at which Cirlos was stationed and took a road that was not the shortest route to the nearest town on that road. Clarke appeared very nervous to Broadhurst and he did not look at the checkpoint. Broadhurst and Cirlos were reasonable to suspect that the pickup was involved in illegal activities.

AFFIRMED.