


IN THE SUPREME COURT OF THE STATE OF NEVADA

RAUL GONZALEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 48627

**FILED**

MAY 11 2007

JANEITE M. BLOOM  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a guilty plea, of one count of trafficking in a controlled substance. Third Judicial District Court, Lyon County; Robert E. Estes, Judge. The district court sentenced appellant Raul Gonzalez to a prison term of 12 to 30 months.

Gonzalez contends that the district court erred in denying his pretrial motion to suppress evidence seized in the course of an unlawful detention.<sup>1</sup> Citing to Florida v. J.L.,<sup>2</sup> Gonzalez argues that law enforcement did not have reasonable suspicion to justify the investigative stop because the anonymous tip lacked predictive details and the police officer did not corroborate the tip through independent investigation. We disagree.

A police officer may initiate an investigatory stop based only upon a reasonable articulable suspicion that an individual is engaged in

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<sup>1</sup>We note that Gonzalez expressly reserved in the written plea agreement the right to appeal the district court's ruling denying his pretrial motion to suppress. See NRS 174.035(3).

<sup>2</sup>529 U.S. 266 (2000).

criminal activity.<sup>3</sup> Judicial determinations of reasonable suspicion must be based upon the totality of the circumstances.<sup>4</sup> On appeal, this court will not disturb a district court's findings of fact in a suppression hearing where they are supported by substantial evidence.<sup>5</sup>

We conclude that the district court did not abuse its discretion in finding that the tip bore sufficient reliability to support a finding of reasonable suspicion. The tip in this case is distinguishable from the anonymous tip in J.L. because the caller provided his name and place of employment, the telephone call was recorded, and the tip was purportedly based on the tipster's contemporaneous observation of ongoing criminal activity.<sup>6</sup> And the personal observations of the police officers corroborated the descriptive information given by the tipster and justified the minimally intrusive Terry frisk<sup>7</sup> for weapons conducted by law enforcement.<sup>8</sup> Therefore, the district court acted within its discretion in denying Gonzalez's pretrial motion to suppress.

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<sup>3</sup>See State v. Sonnenfeld, 114 Nev. 631, 633-34, 958 P.2d 1215, 1216-17 (1998); see also NRS 171.123(1).

<sup>4</sup>See United States v. Arvizu, 534 U.S. 266, 273 (2002).

<sup>5</sup>See State v. Harnisch, 113 Nev. 214, 219, 931 P.2d 1359, 1363 (1997), clarified on rehearing, 114 Nev. 225, 954 P.2d 1180 (1998).

<sup>6</sup>See People v. Polander, 41 P.3d 698, 703-04 (Colo. 2001); see also J.L., 529 U.S. at 276 (noting that "the ability of the police to trace the identity of anonymous telephone informants may be a factor which lends to reliability") (Kennedy, J., concurring).

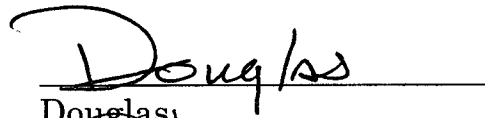
<sup>7</sup>See Terry v. Ohio, 392 U.S. 1, 27 (1968).


<sup>8</sup>See id.; see also Sonnenfeld, 114 Nev. at 633-35, 958 P.2d at 1216-17.

Having considered Gonzalez's contentions and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

cc: Hon. Robert E. Estes, District Judge  
Roeser & Roeser  
Attorney General Catherine Cortez Masto/Carson City  
Lyon County District Attorney  
Lyon County Clerk