

IN THE SUPREME COURT OF THE STATE OF NEVADA

JOE MARTINEZ,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 54314

**FILED**

JAN 07 2010

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY   
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction entered pursuant to a guilty plea of one count of possession of a controlled substance for the purpose of sale. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

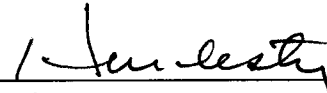
Appellant Joe Martinez contends that the district court erred in denying his motion to suppress evidence obtained during a search of his vehicle because the search followed an unlawful traffic stop.<sup>1</sup> In evaluating Fourth Amendment challenges, “[w]e review the district court’s findings of historical fact for clear error but review the legal consequences of those factual findings de novo.” *Somee v. State*, 124 Nev. \_\_\_, \_\_\_, 187 P.3d 152, 157-58 (2008). The district court determined that the trooper’s testimony was credible, found that Martinez drove on and over the fog line, and concluded that Martinez’s driving pattern provided probable cause to justify the traffic stop. The record on appeal supports the district court’s factual findings and we conclude that the traffic stop was lawful.

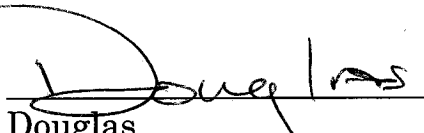
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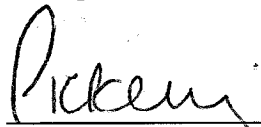
<sup>1</sup>This issue was preserved for appeal pursuant to NRS 174.035(3).

See NRS 484.305(1); Alejandre v. State, 111 Nev. 1235, 1240 n.2, 903 P.2d 794, 797 n.2 (1995), overruled on other grounds by Gama v. State, 112 Nev. 833, 836, 920 P.2d 1010, 1013 (1996). Accordingly, we conclude that the district court did not err in denying the motion to suppress, and we

ORDER the judgment of conviction AFFIRMED.

  
\_\_\_\_\_, J.  
Hardesty

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

  
\_\_\_\_\_, J.  
Pickering

cc: Hon. Steven P. Elliott, District Judge  
Washoe County Public Defender  
Attorney General/Carson City  
Washoe County District Attorney  
Washoe District Court Clerk