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Supreme Court affirms use of seized drug evidence in trial that led to conviction of Curry County man

SANTA FE – The state Supreme Court today upheld the convictions of a Curry County man on drug trafficking and other offenses, ruling that police lawfully stopped the defendant's car and seized evidence used to charge and later convict the man.

The Court's unanimous decision reversed a 2017 ruling by the state Court of Appeals, which had overturned Mikel Martinez's convictions on grounds that police obtained their evidence through an improper investigative stop.

The state's highest court determined that State Police Officer Donald Garrison reasonably suspected he had witnessed drug sales by Martinez and another man in a car parked at a Clovis gasoline station and convenience store, providing the necessary legal foundation for the stop that resulted in the seizure of drugs and other evidence.

"We conclude that the officer who stopped Martinez was not operating upon a hunch but had 'a particularized and objective basis' to suspect that Martinez was engaged in criminal activity," the Court wrote in an opinion by Chief Justice Judith K. Nakamura.

The officer had 20 years of experience with the State Police, including training in narcotic investigations. He had purchased drugs more than a dozen times at the gasoline station as an undercover officer and had used confidential informants to make drug purchases there.

After observing two possible drug transactions in the car that Martinez parked at the gas station, the officer decided to investigate and pulled up behind the car. Near the right rear tire of the car, the officer found a clear plastic bag containing a white powdery substance that he believed was methamphetamine. Martinez and another man denied throwing the plastic bag on the ground.

After obtaining a search warrant, police discovered methamphetamine, marijuana, a scale, cash and other drug paraphernalia inside the car.

A Ninth Judicial District Court judge determined that the officer's stop was legal and denied a defense motion to exclude the use of the seized evidence. A jury convicted Martinez and he appealed.

The Supreme Court concluded that the district court properly allowed the evidence to be admitted at Martinez's trial.

"Officer Garrison observed Martinez take part in what Officer Garrison believed – based on his training, experience and familiarity with the Allsup's – were two drug sales. He engaged in rational inferences to reach the conclusion that there was a substantial possibility that Martinez was engaged in criminal conduct," the Court wrote.

The officer performed an investigatory stop "to answer whether in fact wrongdoing was actually afoot," the Court said, and "the totality of the circumstances adequately supports the conclusion that Officer Garrison had reasonable suspicion" for the stop.

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To read the decision in *State v. Martinez*, No. S-1-SC-36516, please visit the New Mexico Compilation Commission's website using the following link:

https://nmonesource.com/nmos/nmsc/en/item/458818/index.do