

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

United States v. Frank J. Neal

No. 18-50744, United States Court of Appeals for the Fifth Circuit (September 26, 2019)

SUMMARY

Fifth Circuit affirmed denial of motion to suppress in DWI prosecution under Assimilative Crimes Act (18 U.S.C. § 13) incorporating Texas Penal Code § 49.04. Officers had reasonable suspicion of violating Texas Transportation Code § 545.060(a) when defendant's vehicle swerved across lane lines three times. Any mistaken belief that the statute required only failure to maintain lane, not unsafe movement, was objectively reasonable under **Heien v. North Carolina**, 135 S. Ct. 530 (2014).

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Jolly; Jones; Southwick
JURISDICTION	Federal
DECIDED	September 26, 2019
DOCKET	18-50744
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from denial of motion to suppress evidence
PRECEDENTIAL VALUE	Unpublished
PARTIES	Frank J. Neal v. United States of America

TOPICS

- fourth amendment
- search and seizure
- criminal procedure
- appellate procedure

PRACTICE AREAS

- Criminal Law
- Appellate Practice

QUESTIONS PRESENTED

1. Whether the traffic stop was justified at its inception based on reasonable suspicion of a violation of Texas Transportation Code § 545.060(a), which requires failure to maintain a single lane and unsafe movement.

HOLDINGS

1. The officers had reasonable suspicion to stop Neal because his repeated lane crossings were sufficient evidence of unsafe lane movement under § 545.060(a), and alternatively any mistake of law regarding the statute's requirements was objectively reasonable.

FACTUAL BACKGROUND

Officers at Lackland Air Force Base stopped Neal after observing his vehicle's left wheels cross the white dotted line separating eastbound lanes three times, with the vehicle driving down the middle of the white line on the third occasion.

PROCEDURAL HISTORY

Neal was convicted in the Western District of Texas for driving while intoxicated under the Assimilative Crimes Act. He appealed the district court's order upholding the magistrate judge's denial of his motion to suppress.

DISPOSITION

affirmed

CASES CITED

- United States v. Lopez-Moreno, 420 F.3d 420 (5th Cir. 2005)
- Learning v. State, 227 S.W.3d 245 (Tex. App. 2007)
- Heien v. North Carolina, 135 S. Ct. 530 (2014)
- Leming v. State, 493 S.W.3d 552 (Tex. Crim. App. 2016)