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# Probable Cause is Probable Cause

## LAW ENFORCEMENT LAW UPDATE

by Mike Rainwater on 03/30/05

**Law enforcement officers' use of deceptive highway signs, indicating a drug enforcement checkpoint was ahead, and fact that officers could have believed that defendant was carrying illegal drugs in his motor vehicle upon observing defendant take nearest exit, did not render otherwise valid traffic stop illegal, under the Fourth Amendment, where there was no drug checkpoint, and officers did not stop every vehicle taking the exit, only those observed committing a traffic violation.** *U.S. v. Martinez*, 358 F.3d 1005 (8<sup>th</sup> Cir. 2004).

**Deceptive Signs Used by Law Enforcement:** Law enforcement officers placed signs reading “Drug Enforcement Checkpoint Ahead, One Fourth Mile” and “Drug Dogs In Use” along the eastbound lanes of Interstate 44. The signs, written in English and Spanish, were located just west of the exit for Sugar Tree Road on a portion of Interstate 44 that curves sharply so drivers cannot see what is ahead. The Sugar Tree Road exit is located in a remote area that has no shops or restaurants. There is little reason for motorists to take the Sugar Tree Road exit unless they are local residents. In reality, there was no drug enforcement checkpoint on Interstate 44. Instead, the signs placed along Interstate 44 were a ruse to induce motorists engaged in drug-related activity to take the Sugar Tree Road exit. Officers were stationed at the top of the Sugar Tree Road exit but did not stop every vehicle taking the exit. Only motorists who were observed committing a traffic violation were stopped.

**Stop Sign Violation by Driver Provided Probable Cause:** Officers observed Martinez's tractor trailer come up the exit ramp, roll through the stop sign at the top of the exit ramp, turn left across the overpass, and then turn left again onto the entrance ramp to westbound Interstate 44. Upon observing the traffic violation, the officers stopped Martinez on the shoulder of the road. The officers questioned Martinez about the nature of his travel and why he had turned around at the Sugar Tree Road exit. Martinez said he was traveling from California to Maine and had turned around to go back to the last exit to eat. The officers considered Martinez's answer suspicious because he knew there were no restaurants at the last exit and that the closest restaurant was three exits back. The officers observed that Martinez was extremely nervous and that his hands were shaking uncontrollably. Other officers arrived at the scene with a drug detection dog. The drug dog was allowed to sniff the tractor trailer and reacted in a manner indicating the presence of drugs. Prior to trial, Martinez moved to suppress evidence of the drugs that were ultimately seized, arguing, in part, that he was seized and his truck was searched in violation of his Fourth Amendment rights.

**Probable Cause is Probable Cause:** A traffic stop constitutes a “seizure” within the meaning of the Fourth Amendment, *see Delaware v. Prouse*, 440 U.S. 648, 653, 99 S.Ct. 1391, 59 L.Ed.2d 660 (1979), and therefore must be reasonable to survive constitutional scrutiny. *See Whren v. United States*, 517 U.S. 806, 810, 116 S.Ct. 1769, 135 L.Ed.2d 89 (1996). A traffic stop based on probable cause is reasonable under the Fourth Amendment. *See id.* at 819, 116 S.Ct. 1769. It is well settled that “[a]ny traffic violation, however minor, provides probable cause for a traffic stop.” *United States v. Johnson*, 58 F.3d 356, 357 (8th Cir.1995) (quoting *United States v. Bloomfield*, 40 F.3d 910, 915 (8th Cir.1994)). Martinez committed a traffic violation by failing to stop at the stop sign and, as a result, the officers had probable cause to stop Martinez. The fact that the officers may have believed Martinez was carrying illegal drugs does not invalidate an otherwise valid stop. *See Whren*, 517 U.S. at 810-13, 116 S.Ct. 1769 (holding that traffic stops based on probable cause are valid even if the officer stopping the vehicle suspects that the occupant is engaged in other illegal activity). Furthermore, the officers' use of the deceptive signs does not make the stop illegal, as it is well-established that officers may use deception to uncover criminal behavior. *See, e.g., Sorrells v. United States*, 287 U.S. 435, 441, 53 S.Ct. 210, 77 L.Ed. 413 (1932).