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United States v. Guana-Sanchez

420 U.S. 513 (1975)

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

March 11, 1974

Re: No. 73-820 - United States v. Guana-Sanchez

MEMORANDUM TO THE CONFERENCE:

Respondent was charged in a one-count indictment with knowingly and unlawfully transporting aliens within the United States in violation of 8 U.S.C. § 1324(a)(2). On November 17, 1971, at approximately two o'clock in the morning two police officers observed him sitting in a station wagon which was parked about two hundred feet away in a vacant lot. The vehicle's headlight and interior light were shining. Respondent was in the front seat reading an Illinois road map. As the officers approached, they observed three other men in the car. The rear of the car contained three shopping bags filled with "clothing or material." A check of Respondent's driver's license and registration established that the car was registered in his name and that he was not "wanted by the police." Respondent told the officers he was looking for a friend's restaurant. The restaurants in the area had been closed for several hours. Two of the passengers were not able to produce any identification. The third produced a card which indicated affiliation with the Mexican National Guard. At the direction of the policemen's supervising sergeant, two of Respondent's passengers were directed to enter a police car and were driven to a police station. Respondent was asked to follow a patrol car to the station.

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more common tangible fruits of the unwarranted intrusion," id., at 485. Indeed, the difference between the evidence here and Toy's outbursts as he was illegally handcuffed in his bedroom is fundamental; it goes to the very genesis of the evidence in question. The allegedly "tainted" evidence here would be testimony -- not the product of an inspection or of an observation incident to an arrest but the result of a human being's will, perception, memory and volition on the day he actually takes the stand.

In my view, this case can be disposed of on the standing issue and there is no need to reach this second issue. Its prominence in the case, however, serves to emphasize how radically this result departs from settled precedent.

I am well aware of the growth of the 1974-75 Term argument calendar but a case so grossly wrong and so much in conflict with other circuits should not be allowed to stand -- even as an "isolated aberration."

I hope a fourth vote for Cert. is forthcoming.

Regards,