

AUG 19 2010

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JULIAN RICARDO CHACON,

Defendant - Appellant.

No. 09-10393

D.C. No. 2:08-cr-00059-JCM-
GWF-1

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
James C. Mahan, District Judge, Presiding

Argued and Submitted July 14, 2010
San Francisco, California

Before: FERNANDEZ, W. FLETCHER and TALLMAN, Circuit Judges.

Julian Ricardo Chacon appeals the denial of a motion to suppress evidence
in his criminal trial in federal district court. We affirm the district court.

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

Applying de novo review, we agree with the district court that the reasonable suspicion underlying the investigatory stop had not dissipated at the time Chacon gave consent to the search of his vehicle. As a result, the fact that Chacon was in custody at the time he gave consent did not taint his consent. Although reasonable suspicion may have begun to dissipate regarding the possibility of a kidnap-in-progress, the highly unusual circumstances and odd explanations known to the police at the time of consent did not eliminate reasonable suspicion that some “criminal activity may be afoot.” *United States v. Berber-Tinoco*, 510 F.3d 1083, 1087 (9th Cir. 2007) (internal quotations omitted); *see also United States v. Lopez*, 482 F.3d 1067 (9th Cir. 2007).

The district court did not commit clear error in finding Chacon’s consent to be voluntary. Several factors in the totality of the circumstances analysis support the district court’s conclusion. *See United States v. Patayan Soriano*, 361 F.3d 494, 501-04 (9th Cir. 2004).

AFFIRMED.