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G&S Vol. 22, No. 28 - July 14, 2014

Case Name: [Francheska V. Jaganathan v. The State of Texas](#)

- ! OFFENSE: Possession of Marihuana (5-50lbs)
- ! COUNTY: Chambers
- ! C/A CASE No. 14-13-0356-CR
- ! DATE OF OPINION: July 8, 2014
- ! DISPOSITION: Conviction Reversed OPINION: [Brown, J.](#)
- ! TRIAL COURT: 344th D/C; Hon. Randy McDonald
- ! LAWYERS: [Ryan Gertz](#) (Defense); [Eric Carcerano](#) (State)

G&S 31.024 Search & Seizure / Warrantless Searches / Reasonable Suspicion: In the afternoon of June 5, 2010, Appellant was driving east through Chambers County, Texas in the left lane of Interstate 10. A State Trooper observed Appellant pass a "Left Lane for Passing Only" sign. Approximately 45 seconds later ("which equates to approximately eight tenths of a mile"), the Trooper stopped Appellant for driving in the left lane without passing. During the course of the traffic stop, the State Trooper smelled marijuana, searched Appellant's vehicle, and found marijuana in the trunk. Appellant filed a motion to suppress, alleging that the traffic stop was unreasonable and therefore unlawful. The trial court held a hearing and denied the motion.

Holding: Although Appellant was not "in the process of passing" another vehicle at the exact moment the State Trooper initiated the traffic stop, the State Trooper did not have reasonable suspicion that Appellant committed the traffic violation of driving in the left lane without passing because the video showed Appellant completing a passing maneuver in close proximity to the "Left Turn for Passing Only" sign and increasing the distance between her car and the car she passed; the video showed that a white car merged into the middle lane, making it potentially unsafe for Appellant to change lanes; the video showed that the State Trooper approached Appellant at a high rate of speed, which could have caused her to slow down and hindered her ability to pass the white car in the middle lane; the video showed that the State Trooper followed Appellant in the left lane for only two tenths of a mile; and the video showed that Appellant was not impeding traffic or endangering other drivers' safety. The trial court erred when it denied Appellant's motion to suppress. (Harm Analysis) In this case, because the evidence seized from Appellant's vehicle, namely the marijuana, was inculpatory and could have been used against Appellant in a trial, we cannot determine beyond a reasonable doubt that the trial court's erroneous denial of Appellant's motion to suppress did not contribute to Appellant's decision to plead "guilty." *** This indicates that the trial court's erroneous ruling was indeed a contributing factor in Appellant's conviction and punishment. Therefore, the error was harmful.