

GREETINGS AGAIN. NEXT CASE ON THE COURT'S CALENDAR IS THE STATE OF FLORIDA VERSUS WILL PERKINS. MR. TRINGALI.

MAY IT PLEASE THE COURT. MY NAME IS JOSEPH TRINGALI. I AM AN ASSISTANT ATTORNEY GENERAL. I REPRESENT THE STATE OF FLORIDA IN THIS MATTER. THIS CASE COMES TO THIS COURT WITH ACCIDENT I FEEL SIMPLE FACTS -- WITH DECEPTIVELY SIMPLE FACTS. IT ARISES FROM A TRAFFIC STOP IN PALM BEACH COUNTY AND A DECISION OF THE COUNTY COURT, A WRITTEN OPINION. IN THAT OPINION, THE COUNTY COURT JUDGE FELT THAT HE WAS COMPELLED, AND I USE THAT WORD TO FOLLOW THE DECISIONS OF THE DISTRICT COURTS IN WARE AND O'NEAL, THE SECOND AND THIRD DISTRICTS, WHICH ESSENTIALLY HELD THAT IDENTITY WAS NOT A SUPPRESSABLE ISSUE.

DO YOU -- DOES THE STATE AGREE, HERE, THAT WE ARE DEALING WITH AN ILLEGAL STOP?

THAT IS WHAT THE STIPULATED FACTS WERE THAT THE COUNTY COURT JUDGE WAS DEALING WITH IN HIS ORDER. THAT IS THE WAY HE -- THEY DIDN'T KNOW WHO THIS -- THEY DIDN'T KNOW WHO THIS PERSON WAS, UNTIL THEY STOPPED HIM.

THE STATED FACTS, THE GIVEN FACTS IN THE COUNTY I COURT ORDER, ARE THAT THE STOP WAS ILLEGAL, THAT THE -- PURSUANT TO THAT STOP, THE DRIVER WAS ASKED FOR HIS DRIVER'S LICENSE. THE POLICE OFFICER, QUOTE, RAN THE DRIVER'S LICENSE, WHICH, OBVIOUSLY, MEANS TOOK IT BACK TO HIS CAR AND ASKED FOR A COMPUTER CHECK OF THAT, AND FOUND THE LICENSE TO BE SUSPENDED. AT THAT POINT HE ARRESTED THE DRIVER FOR DRIVING WITH A SUSPENDED LICENSE.

AND THE IDEA IS THAT, IF YOU -- THE ONLY WAY THAT THAT TRAFFIC VIOLATION BECAME KNOWN WAS A RESULT OF THE ILLEGAL STOP.

THAT IS -- THOSE WERE THE FACTS THAT THE COUNTY COURT JUDGE STATED AS THE GIVEN FACTS.

I HAVE -- IT IS FUNNY. WHEN YOU TALK ABOUT IDENTITY BEING SUPPRESSED, WHAT WE ARE REALLY TALKING ABOUT HERE IS THAT THE ONLY REASON THAT THIS CRIME GOT CHARGED WAS THE RESULT OF THE ILLEGAL STOP. ISN'T THAT REALLY WHAT WE ARE TALKING ABOUT? LIKE, FOR EXAMPLE, IF HE HAD BEEN STOPPED ILLEGALLY AND THEY FOUND OUT HE HAD BEEN DRINKING, WOULD THAT BE SUPPRESSED?

IF ONE WERE TO FOLLOW THE LOGIC OF THE COUNTY COURT, THE ANSWER TO THAT WOULD HAVE TO BE YES, BUT WHAT I AM HERE SUGGESTING TO THIS COURT TODAY IS THAT WHAT HAPPENED, BECAUSE THIS GOT OFF ON, IF YOU WILL, THE WRONG FOOT, WHAT HAPPENED WAS THAT, AS A PRACTICAL MATTER, THE COUNTY COURT JUDGE FOLLOWED THE LAW, AS LAID OUT BY THE SECOND AND THIRD DISTRICTS, BUT THEN CERTIFIED A QUESTION TO THE DISTRICT COURTAL COURT OF APPEAL, AND THE QUESTION WAS AS FOLLOWS, QUOTE, WHERE THE IDENTITY OF A DRIVER IS AN ESSENTIAL ISSUE THAT MUST BE PROVEN, IS THAT IDENTITY SUBJECT TO SUPPRESSION, IF IT IS DISCOVERED THAT IS THE IDENTITY IS DISCOVERED, AS A RESULT OF AN UNLAWFUL SEARCH AND SEIZURE. I SUBMIT TO THIS COURT THAT WHAT HAPPENED AT THAT POINT IS THAT THE COUNTY COURT JUDGE ASKED THE WRONG QUESTION, AND THE DISTRICT COURT OF APPEAL ANSWERED THE WRONG QUESTION WRONGLY. THERE IS CLEAR LAW, FROM THE UNITED STATES SUPREME COURT, IN A CASE CALLED LOPEZ MEN DOZE, A INVOLVING THE -- MEN DOZE A, INVOLVING THE I AMGATION AND NATURALIZATION SERVICE, WHERE THE SUPREME COURT SAYS -- IMMIGRATION SERVICE, WHERE THE SUPREME COURT SAYS, IN NO UNCERTAIN TERMS, THAT THE RESPONDENT'S LIABILITY IN A CRIMINAL OR CIVIL PROCEEDING IS NEVER, IN ITSELF, SUPPRESSABLE.

BUT YOU HAD, IN MEN DOZE -- BUT YOU HAD, IN MENDOZA, A SUPREME COURT CASE, MENDOZA CAME IN AND SAID YOU DON'T HAVE JURISDICTION OVER ME.

RIGHT. OVER ME.

THAT IS WHAT THE COURT SUPPRESSED THERE. AND THE COURT SAID, YES, WE DO. WE CAN USE -- YOU CAN USE THAT, THAT YOU WERE PICKED UP OR WHATEVER. THAT IS THE EXTENT OF MENDOZA. NOW WE ARE TALKING ABOUT THE SUPPRESSION OF EVIDENCE, WHICH GOES A STEP FURTHER, AREN'T WE?

YES AND NO, BECAUSE THE CORESPONDENT, ANOTHER CASE THAT WAS CONSIDERED ALONG WITH LOPEZ MONDOZA, AND SANOVAL, AND SANDOVAL TOOK THE OPPOSITE TACK. HE SAID I SHOULDN'T BE HERE. YOU ARRESTED ME ILLEGALLY. AND THE COURT SAID, NO, ONCE YOU ARE HERE. YOU ARE HERE.

THAT WOULD NOT SUPPORT O'NEAL OR WARE, WOULD IT?

NO. NO. BUT SANDOVAL, IN THE SUPREME COURT, SAID, OKAY, I AM HERE, BUT THE EVIDENCE THAT YOU OBTAINED, AS A RESULT OF TALKING TO ME, NAMELY MY IDENTITY, SHOULD BE SUPPRESSED. AND THE SUPREME COURT, IN THAT SAME DECISION, SAID SANDOVAL HAS A BETTER ARGUMENT, BUT IT DOESN'T WORK, AND IT DOESN'T WORK FOR A NUMBER OF REASONS, AND THAT, I THINK, IS REALLY THE SECOND PART AND THE BETTER PART OF THE STATE'S ARGUMENT IN THIS COURT. I WOULD SUBMIT TO THIS COURT THAT THE FOURTH DCA WAS WRONG FOR TWO REASONS. FIRST OF ALL, THAT IT GOES AGAINST THE CLEAR LANGUAGE OF LOPEZ MENDOZA. SECONDLY AND MORE IMPORTANTLY, IT GOES AGAINST THE REASONING OF LOPEZ MENDOZ, A A, AND THAT INVOLVES A -- MEN THE THIRD FACT IS THAT HIS LINESENS IS SUSPENDED.

THAT SECOND FACT IS, REALLY, THE CRITICAL FACT THAT SORT OF WENT OVER TOO QUICK. BECAUSE THE STATE'S CASE COLLAPSED. DO YOU AGREE, IF THE STATE CANNOT SHOW THAT IT WAS PERKINS WHO WAS BEHIND THE WHEEL, AND THE STATE IS UNABLE TO SHOW THAT, EXCEPT FOR THE POST ILLEGAL ARREST IDENTIFICATION. ISN'T THAT THE PROBLEM HERE?

JUDGE, JUSTICE SHAW, I SUBMIT THAT THE STATE'S CASE, ALSO, COLLAPSES, IF THEY CANNOT SHOW THAT PERKINS' LICENSE WAS SUSPENDED. PERKINS COMES INTO COURT. WE KNOW THIS IS PERKINS. WE KNOW HE WAS DRIVING. THE PROSECUTOR, NOW, SAYS TO THE POLICE OFFICER, AND WHAT DID YOU LEARN, AS A RESULT OF THAT CHECK, THAT LICENSE CHECK, AND THE DEFENSE ATTORNEY SAYS I OBJECT.

IF YOU --

YOU WOULDN'T GET TO THAT FELL IN, IF YOU CAN'T SHOW -- TO THAT NECESSARILY, IF YOU CAN'T SHOW, IF THE STATE CANNOT SHOW THAT THAT WAS PERKINS BEHIND THE WHEEL.

CERTAINLY.

THE ONLY WAY IT CAN SHOW THAT IS THROUGH THE ILLEGAL ARREST.

WELL, CERTAINLY IDENTITY IS OBVIOUSLY AN ISSUE IN EVERY CASE. THE PROBLEM WITH SUPPRESSING IDENTITY IS WHAT HAPPENS TOMORROW, AFTER WE WALKOUT OF THE COUNTY COURT, AND THE SAME POLICE OFFICER SEES WILL PERKINS GET IN THE CAR AT THE COUNTY COURTHOUSE AND SAYS THAT IS WILL PERKINS AND TYPES IN TO HIS COMPUTER AND HIS POLICE CAR AND IT SHOWS UP WILL PERKINS, AND IT SHOWS THAT HIS LICENSE IS STILL SUSPENDED. CAN WE NOW SAY THAT HE CANNOT EFFECTUATE A SECOND ARREST, BECAUSE THE INFORMATION THAT THAT PERSON, THERE, IS ATTACHED TO THE NAME WILL PERKINS, THAT IS SUPPRESSED INFORMATION?

THAT IS A DIFFERENT CASE. THAT IS NOT THE CASE WE HAVE HERE THOUGH. BECAUSE THE STATE CONCEDES, DOES IT NOT, THAT IT WAS POST ARREST IDENTIFICATION.

WELL, ONE OF THE THINGS THAT WAS LEARNED, POST ARREST, WAS HIS IDENTITY. THE OTHER THING THAT WAS LEARNED, POST-ARREST, WAS THAT HIS LICENSE WAS SUSPENDED, AND WHAT WE WOULD SUBMIT TO THIS COURT IS THAT, IN LOOKING FOR THE DISPOSITIVE FACT, WHICH IS A PHRASE THAT COMES OUT OF THIS COURT'S OPINION IN CAMPBELL -- I DIDN'T --

DID THE ARRESTING OFFICER GET A CALL, SAYING THAT HE HAD SOME DEALINGS WITH WILL PERKINS YEARS BEFORE OR SOMETHING, AND HE DIDN'T THINK HE HAD A VALID DRIVER'S LICENSE? IS THAT HOW --

I BELIEVE THAT THE FACTS ARE, AND PART OF THE PROBLEM WITH THIS CASE IS THE FACTS ARE RATHER SCANT I. BUT I BELIEVE THE FACTS ARE THAT ANOTHER OFFICER TOLD THIS OFFICER THAT WILL PERKINS' LICENSE HAD BEEN SUSPENDED OR WAS SUSPENDED. INC. THAT IS IN THE RECITATION OF THE COUNTY COURT ORDER.

JUSTICE QUINCE, YOU HAD A QUESTION.

ITCHES TRYING TO FIGURE OUT -- I WAS TRYING TO FIGURE OUT WHAT YOU WERE REALLY ARGUING HERE. ARE YOU SAYING THAT THE FACT THAT HE IS WILL PERKINS IS NOT SUPPRESSABLE, BUT THE FACT THAT YOU FOUND OUT HIS LICENSE WAS SUSPENDED IS?

WHAT I AM SAYING IS, WHAT I AM SAYING IS THAT CLEARLY THE FACT THAT HE IS WILL PERKINS IS NOT SUPPRESSABLE, AND I TAKE THAT DIRECTLY FROM THE UNITED STATES SUPREME COURT, AND TAKE IT FROM SIMPLE BASIC LOGIC OF WHAT WHERE THAT SORT OF REASONING WOULD EVENTUALLY LEAD.

BUT DOES THAT STATEMENT HAVE ANYTHING TO DO WITH THE FACT THAT AN OFFICER HAD TOLD HIM TO STOP WILL PERKINS?

NO. NO. WELL -- I THINK WHAT -- WHAT YOU ARE SAYING IS, IF THE POLICE KNOW WILL PERKINS, AND THEY KNOW HIM AS, AND THEY KNOW HIM BECAUSE THEY SAY, YEAH, THAT IS WILL PERKINS SITTING OVER THERE. I WENT TO HIGH SCHOOL WITH HIM, THEN OBVIOUSLY THAT IS INFORMATION THAT CANNOT BE -- I WOULD SUBMIT, SUPPRESSED. THAT IS HIS IDENTITY. THAT IS INFORMATION THAT CAME TO THE POLICE IN AN ENTIRELY LEGAL FASHION. NOW, IF YOU STOP HIM -- BUT I GUESS WHAT THIS REALLY -- WHAT WE ARE REALLY LOOKING AT HERE IS IDENTITY OF A PERSON THAT IS GAINED BECAUSE YOU MADE THE ILLEGAL STOP.

YES. YES.

IS THAT -- THAT IS WHAT WE ARE REALLY, I ASSUME, WHAT WE ARE REALLY TALKING ABOUT, IS THAT FACT SUPPRESSABLE?

SHOULD IT BE SUPPRESSABLE? YES. IS THAT FACT SUPPRESSABLE OR IS THERE SOME OTHER FACT WHICH REACHES THE SAME RESULT? THAT IS ENFORCES THE DETERRENT VALUE OF THE EXCLUSIONARY RULE, WITHOUT STANDING --

WHAT WOULD IT BE, IN THIS CASE?

IF I TO GUESS, AND I AM NOT SURE -- I AM NOT ABOUT TO STAND HERE AND CONCEDE, BUT THERE ARE OTHER FACTS. ONE OF THEM WOULD BE THE FACT THAT THE LICENSE IS SUSPENDED. THAT FACT --

YOUR CONCERN FOR THE STATE THAT, IF SOMEONE GETS CHARGED, THE STATE VERSUS WILL

PERKINS, YOU DON'T WANT SOMEBODY DISMISSING THE INFORMATION, BECAUSE THEY CAN'T EVEN SAY IT IS WILL PERKINS IN THE INFORMATION. IS THAT WHAT YOUR CONCERN IS?

CORRECT.

SO THE IDEA THAT YOU HAVE, THOUGH, BASICALLY, HERE, YOU GET TO THE SAME RESULT, WHICH IS THAT, IF THE STATE STOPS SOMEONE ILLEGALLY, AND THEY FIND OUT THEY ARE DRIVING WITH A SUSPENDED LICENSE, YOU CAN'T PROSECUTE FOR THAT CRIME, BECAUSE YOU LEARNED THAT FACT, BASED ON THE ILLEGAL STOP.

WHAT I AM SUGGESTING, I AM SAYING EXACTLY. THAT THAT YOU CAN REACH THE SAME, THE COURT COULD REACH THE SAME RESULT, COULD STILL HAVE THE EXCLUSIONARY RULE, COULD HAVE THE DETERRENT EFFECT OF THE EXCLUSIONARY RULE AND NOT DO IT BY STANDING 86 YEARS OF LAW ON ITS HEAD AND TRYING TO FIGURE OUT AROUND THE UNITED STATES SUPREME COURT'S NOT ONLY ITS LANGUAGE BUT ITS POLICY IN LOPEZ MANDOZA.

DID THE FOURTH DISTRICT REALLY SAY THAT, EVEN IF THEY DIDN'T REPHRASE THE QUESTION?

I THINK IF THE QUESTION WERE PHRASED IN A DIFFERENT WAY FROM THE COUNTY COURT, THAT IT WOULD CERTAINLY GIVE THE DISTRICT COURT MORE LATITUDE, IN A WAY OF WEAVING ITS WAY THROUGH THE CURRENT UNITED -- THE CURRENT CONSTITUTIONAL LAW, AS LAID DOWN BY THE UNITED STATES SUPREME COURT, AND THE FLORIDA CONSTITUTION, AS LAID DOWN BY THIS COURT, YEAH, IT COULD BE DONE. AND THE WAY YOU DO IT IS YOU DON'T COME OUT WITH A RULE ON THESE FACTS AND SIMPLY SAY IDENTITY IS SUPPRESSABLE. I PUT, IN MY BRIEF, I RAISED A NUMBER OF QUESTIONS. I DID NOT DO THAT -- SEE, I AM 16.8. I DID NOT DO THAT TO IN ANY WAY MAKE LIGHT OF THE SITUATION, BUT ONE OF THE THINGS THAT THE SUPREME COURT SAYS, AND ONE OF THE THINGS I THINK WE NEED TO CONSIDER IS WHAT HAPPENS THE NEXT DAY, IF, IN FACT, IDENTITY IS SUPPRESSED, AND THE SAME OFFICER SEES THE SAME PERSON? CAN HE NOT, AT THAT POINT, RUN AN INDEPENDENT LICENSE CHECK AND SAY, BY GOLLY, HIS LICENSE IS STILL SUSPENDED! JUST LIKE IT WAS LAST MONTH, AND START THIS DE NOVO. THE UNITED STATES SUPREME COURT SAYS, IN LOPEZ MENDOZA, APPLYING THE PROCEEDINGS IN A MANNER THAT IS NOT INTENDED TO PUNISH PAST TRANSACTIONS BUT TO CONTINUE THEIR RENEWAL, WOULD REQUIRE THE COURTS TO CLOTHES THEIR EYE TO SAY ONGOING VIOLATIONS OF THE LAW. THIS COURT HAS NEVER BEFORE ACCEPTED COSTS OF THIS CHARACTER IN APPLYING THE EXCLUSIONARY RULE, AND I THINK THAT --

SO WHAT YOU ARE REALLY SAYING IS THAT, WHILE IT MAY BE POSSIBLE TO DO THAT IN THE CASE WHERE THE OFFICER MAKES THE ILLEGAL STOP, THAT YOU CANNOT TAKE IT FURTHER AND SAY THAT THE OFFICER CAN NEVER USE THE IDENTITY OF THE DEFENDANT THAT HE GAINED HIS KNOWLEDGE OF THE DEFENDANT.

EXACTLY. EXACTLY.

THAT HE GAINED FROM THAT ILLEGAL STOP, SOME SUBSEQUENT PROCEEDING.

AND I THINK THE WAY YOU DO THAT IS YOU SAY -- YOU TAKE THE FOCUS OFF IDENTITY AND YOU PUT THE FOCUS ON THE PROPER DISPOSITIVE FACT, AND YOU LET THE COURT TAKE IT FROM THERE. IDENTITY IS NOT AN ITEM, IS NOT A FRUIT OF A SEARCH WHICH CAN BE SUPPRESSED. IT IS SOME OTHER DISPOSI HAVE TACT -- DISPOSITIVE FACT, WHICH, IF ANYTHING IS GOING TO BE SUPPRESSED, IT MUST BE THAT FACT.

AS A PRACTICAL MATTER, SAY THERE WERE DRUGS THAT WERE FOUND AND THOSE WERE SUPPRESSED, THE STATE IN THE FUTURE HAD STARTED TO HEAR ABOUT THIS PERSON BEING A DRUG DEALER. IT WAS UNDER THE WONG SUN RATIONALE, COULD THEY NEVER USE THAT FACT IN A SUBSEQUENT PROBABLE CAUSE?

I BELIEVE NO. THAT THEY CAN USE THAT FACT.

SO IT IS FOREVER SUPPRESSED.

NOT -- THE DRUGS WERE SUPPRESSED. THE INFORMATION -- IS.

KNOWLEDGE THAT THE -- THAT KNOWLEDGE THAT THE PERSON WAS DEALING IN DRUGS.

NO.

WHY WOULDN'T THAT APPLY HERE?

WHY? BECAUSE, AGAIN, YOU ARE DEALING WITH THE WRONG FACT. YOU ARE DEALING WITH IDENTITY, RATHER THAN THE ACT, ITSELF, WHICH WAS THE ILLEGAL ACT, AND THAT IS WHAT I THINK IS WHERE THIS THING WENT STRAIGHT.

YOU ARE DEALING WITH AN ELEMENT OF THE STATE'S CASE. THE STATE PUTTING THE PERSON BEHIND THE WHEEL OF THE CAR. HAVING HIM DRIVING WITHOUT A LICENSE, AND YOU FIND THAT OUT THROUGH THE ILLEGAL STOP. ISN'T THAT A LITTLE DIFFERENT FROM JUST PURE IDENTIFICATION?

I WOULD SUBMIT NOT, BECAUSE I WOULD SUBMIT THERE IS ANOTHER FACT IN THERE, AND THE OTHER FACT, THERE ARE TWO OTHER FACTS. ONE IS THE FACT WHICH OCCURS BEFORE THERE IS ANY STOP, AND IS PROBABLY NOT SUPPRESSABLE, AND THEN THERE IS THE THIRD FACT, AND THAT IS THE FACT OF THE SUSPENDED LICENSE, AND THAT IS SOMETHING THAT IS REALLY A QUESTION THAT THIS COURT, THAT WE ARE NOT HERE ON THAT TODAY, AND THAT IS A QUESTION THAT WE MAY HAVE TO COME BACK AND DISCUSS IN THE FUTURE. I WOULD ASK THAT THE FOURTH DISTRICT BE REVERSED AND THE CASE REMANDED BACK TO THE COUNTY COURT FOR WHATEVER PROCEEDING IS APPROPRIATE. THANK YOU.

THANK YOU, MR. TRINGALI. MS. GRANT.

MAY IT PLEASE THE COURT. CHERRY GRANT ON BEHALF OF WILL PERKINS. FIRST OF ALL, I WANT TO MAKE IT CLEAR WE NEVER ASKED THAT HIS IDENTITY BE SUPPRESSED. THAT WAS NEVER IN THE MOTION TO SUPPRESS, TO BEGIN WITH, SO TO THE EXTENT THAT MR. TRINGALI AND I ARE HAVING A LITTLE HARD TIME, AND THE COURT, DEFINING WHAT THE WORD, WHAT DOES --

HAVE YOU GUYS -- MAYBE YOU CAN GO WORK THIS OUT FOR US.

WE CAN INSTITUTE A MEDIATION PROCESS.

IF IT WERE JUST TWO OF US, WE PROBABLY COULD WORK IT OUT. I DO-HE HIS HYPOTHETICAL ABOUT ABOUT -- I DO -- HIS HYPOTHETICAL ABOUT WILL PERKINS LEAVING THE COURTHOUSE AND THE OFFICER SEEING HIM GET IN THE CAR AND DRIVE AND THE SAME WITH YOUR QUESTION, JUSTICE PARIENTE, ABOUT ONCE THEY FIND THE DRUGS, THAT DOESN'T MEAN THAT THEY CAN'T WATCH THE GUY AND FIND OUT IF HE IS A DRUG DEALER, AND THE REASON IS BECAUSE, UNDER THE EXCLUSIONARY RULE, THAT IS ATTENUATEED, AND THAT IS ONE OF THE CIRCUMSTANCES. YOU HAVE GOT THAT A TENATION, AND YOU HAVE GOT THAT BREAK, SO HIS HYPOTHETICALS ABOUT WHAT-IF, THEY DON'T EXIST, BECAUSE IN EACH ONE OF THEM YOU HAVE THE A TENATION THAT IS THE BREAK. SO THAT IS NOT THE PROBLEM.

SO HOW DO WE REPHRASE THAT? REPHRASE THE QUESTION? HOW WOULD YOU REPHRASE IT?

YOU KNOW, THE QUESTION SHOULD HAVE BEEN PHRASED SPECIFICALLY FOR A DRIVING UNDER SUSPENSION TYPE CRIME, BECAUSE, LIKE JUSTICE SHAW SAID, THESE ARE -- THIS IS UNIQUE,

BECAUSE YOU HAVE TO TICK PUT THIS PARTICULAR PERSON BEHIND THE WHEEL, AND FROM LEARNING WHO HE IS, YOU GET THE ADDITIONAL ELEMENT THAT YOU NEED TO PROVE, AND THAT IS THE FACT OF THE DRIVER'S LICENSE BEING SUSPENDED. SO --

IF HE HAD KNOWN HIM AND SAW HIM DRIVING AND KNEW WHO HE WAS, THEN YOU DON'T HAVE -  
- RIGHT. EXACTLY. THERE WOULD BE NO PROBLEM. IN FACT I WANTED TO JUST CLARIFY. IN THE RECORD, THE BUSINESS ABOUT WHETHER OR NOT ANOTHER OFFICER CALLED HIM AND TOLD HIM TO STOP, THERE IS NO EVIDENCE OF THAT IN THE RECORD. THERE IS SOME LAWYER TALK ABOUT WHAT HAPPENED, BUT NOBODY SEEMS TO BE ALL THAT CLEAR ABOUT THE FACTS, BECAUSE THE COUNTY COURT JUDGE KIND OF SHORTCUT THE HEARING AND, YOU KNOW, THEY CALL JUST SORT OF TALKED ABOUT THIS, THAT AND THE OTHER, BUT NOBODY EVER AGREED THAT THAT HAPPENED.

WAS THERE ANYTHING IN THERE ABOUT WHY, THE STOP, AT ALL?

NO. OTHER THAN THERE IS SOME LAWYER TALK THAT HE GOT A CALL FOR SOME REASON, TO STOP --

RIGHT.

HE WAS TOLD TO STOP HIM. BUT NOT AS FAR --

WELL --

AND ALSO --

IT BRINGS ME BACK TO, I GUESS, THE ORIGINAL QUESTION I HAD WAS IF HE HAD THE STOP BECAUSE SOMEONE TOLD HIM TO STOP, HOW DID HE KNOW THAT HE WAS THE ONE THAT HE WANTED HIM TO STOP, BUT ALL OF THAT IS NOT IN THE RECORD.

EXACTLY. EVEN THE CALL AND WHAT HE WAS TOLD IS NOT, OR THAT HE KNEW THE PERSON'S NAME, THE FIRST OFFICER MAY HAVE JUST SAID, YOU KNOW, I JUST SAW A RED CAM ARROW DRIVEWAY -- CAMERO DRIVE BY. I THINK I REMEMBER STOPPING THAT GUY IN THE PAST, BUT THERE IS NOTHING IN THERE TO INDICATE THAT THE FIRST OFFICER EVEN KNEW WHO THE PERSON WAS.

LET ME ASK YOU THIS. WHAT I HEAR YOU SAYING IS THAT YOU CAN GET AROUND THE -- WHAT THAT LOPEZ CASE SAYS OUT OF THE U.S. SUPREME COURT, AND LEAVE IT LIE BY SAYING THAT WHAT SUBJECT TO THE EXCLUSIONARY RULE HERE IS THE SUSPENSION OF THE DRIVER'S LICENSE.

WELL, AND, ALSO, THE WAY THAT THEY DID FIND OUT HIS NAME WAS WHAT HAPPENS AT THE STOP IS THE OFFICER COMES UP, AND HE SAYS GIVE ME YOUR IDENTIFICATION, AND HE IS HANDED A DRIVER'S LICENSE, OR HE IS TOLD A NAME, SO IN THE NORMAL COURSE OF A SUPPRESSION, SINCE THAT FLOWED FROM THE ILLEGAL STOP, WHAT IS YOUR NAME, WILL PERKINS, OR THE DRIVER'S LICENSE, CERTAINLY THE OFFICER CANNOT TESTIFY AS TO THE DEFENDANT'S NAME AND IDENTIFICATION. YOU KNOW. HIS NAME. IDENTIFICATION. IN THAT WAY. YES, HE CAN SAY THAT IS THE MAN I SAW DRIVING, BECAUSE HE SAW THAT BEFORE, BUT TO SAY THAT IS WILL PERKINS, NO, HE CAN'T SAY THAT, BECAUSE THAT COMES.

WHAT HAPPENS, SO WE SAY, THAT IT EXCLUDED ON TUESDAY, BECAUSE OF THE FACT THAT THEY GOT THE INFORMATION THAT HE WAS DRIVING WHILE IT WAS SUSPENDED.

RIGHT.

BY THIS ILLEGAL STOP.

RIGHT. RIGHT. IT IS REALLY THAT LINK.

SO THEN THEY ARE OUT ON PATROL ON WEDNESDAY.

RIGHT.

AND THEY IS SEE HIM DRIVING.

RIGHT.

DOES HE GETS A PASS?

ABSOLUTELY NOT. IF HE KNOWS HIM NOW AND HE KNOWS THE NAME --

EVEN THOUGH THEY WERE GOTTEN THAT INFORMATION --

I BELIEVE, AT THAT POINT THAT, IS T. IS ATTENUATED. I AGREE WITH THE STATE THAT THIS DOESN'T GIVE HIM A LICENSE TO COMMIT CRIMES OR TO COMMIT A CONTINUING CRIME, SO, YOU KNOW, I ALSO WANT TO MAKE A REAL POINT ON LOPEZ MENDOZA. THAT STATEMENT, WHETHER YOU LOOK AT SANDOVAL OR NOT, SANDOVAL WAS, ALSO, A CIVIL PROCEEDING. THE ONLY DIFFERENCE BETWEEN LOPEZ AND SANDOVAL WAS THAT SANDOVAL HAD ALSO PRESENTED ACCLAIMED REMEMBER, WHEREAS LOPEZ HAD NOT.

LET'S CHANGE IT TO A CRIMINAL PROCEEDING. LET'S ASSUME THAT WHAT HAPPENED HERE WAS THAT, AFTER THEY DID THE ILLEGAL STOP, THEY RAN HIS NAME THROUGH THEIR INFORMATION CENTER, AND THEY LEARNED THAT THERE WAS A WARRANT FOR HIS ARREST FOR FIRST-DEGREE MURDER IN THE STATE OF ILL KNOW. -- OF ILLINOIS, SO NOW, OF COURSE, THEY ARREST HIM FOR FIRST-DEGREE MURDER. YOU ARE NOT SUGGESTING --

THEY CHARGE HIM WITH DUS.

YOU ARE NOT SUGGESTING THAT --

THAT HE GETS TO WALK ON THAT. --

THAT THE ARREST FOR FIRST-DEGREE MURDER WOULD BE INVALID, BECAUSE THEY LEARNED OF HIM, RIGHT?

RIGHT. BECAUSE THE LAW HAS, FOR A LONG TIME, BEEN THAT IT DOESN'T MATTER HOW WE BRING YOU INTO COURT. I MEAN THEY CAN KIDNAP YOU AND BRING YOU TO COURT. IT IS COMPLETELY ILLEGAL. AND THEY ARE NOT GOING TO PROVE ANYTHING ABOUT THE FIRST-DEGREE MURDER FROM THE ILLEGAL STOP, UNLESS NOW, SUPPOSE YOU KNOW, I MEAN, UNLESS THERE IS SOMETHING IN THE CAR, SOME OTHER -- THAT IS NOT A DIFFERENT --

THEY CAN'T FILE A MOTION TO SUPPRESS --

ABSOLUTELY NOT.

-- IN THE MURDER CASE, AND SAY MY ARREST FOR FIRST-DEGREE MURDER IS ILLEGAL BECAUSE THEY LEARNED WHO I WAS THROUGH THIS ILLEGAL STOP. YOU AGREE WITH THAT.

ABSOLUTELY, AND WE HAVE NEVER CLAIMED THAT, AND IN FACT WE DON'T EVEN CLAIM THAT THEY DIDN'T HAVE A -- THAT THEY CAN'T HAVE AN OPPORTUNITY -- THEY HAD AN OPPORTUNITY TO PROVE. WHAT I AM SAYING IS THEY CAN'T USE WHAT HAD HE LEARNED IN THE ILLEGAL STOP TO PROVE IT. THEY CAN BRING HIM INTO COURT, AND THEY CAN CHARGE HIM. I DON'T KNOW

HOW THEY ARE GOING TO PROVE ANY OF IT FROM THERE, AND I DON'T -- I CAN'T SPEAK FOR MR. TRINGALI, BUT I DON'T THINK HE KNOWS HOW THEY ARE GOING TO PROVE ANY OF IT FROM THAT POINT, EITHER.

ANOTHER OFFICER THAT KNOWS HIM, STANDING OVER ON THE CORNER, THAT SAW HIM AT THE TIME.

THERE MAY BE WAYS THAT THEY COULD DO IT, BUT I DON'T KNOW WHAT THOSE WAYS ARE.

THAT WOULD BE THE WAY. WE DON'T KNOW RIGHT NOW. THE OTHER OFFICER MAY HAVE SEEN HIM DRIVING AND KNEW WHO HE WAS, AND IF THE STATE HAS THAT EVIDENCE, THEY ARE GOING TO BE ABLE TO CONVICT YOUR CLIENT OF DRIVING WITH A SUSPENDED LICENSE.

WHAT WE MOVED TO SUPPRESS WERE THE STATEMENTS OF THE OFFICER OR THE STATEMENTS TO THE OFFICER, WHICH IS MY NAME IS WILL PERKINS. HERE IS MY DRIVER'S LICENSE. THE PHYSICAL EVIDENCE. IT IS THE LICENSE. ALL INFORMATION OBTAINED AS A RESULT OF THE STOP, AS A RESULT OF THE STOP. HE RUNS HIS TAG, JUST LIKE HE SAYS, AND HE COMES BACK, AND HE IS GOING TO COME IN AND TRY TO TESTIFY AS TO WHAT, YOU KNOW, HE WAS TOLD, WHICH, YOU KNOW, I THINK HAS A HEARSAY PROBLEM, BUT PUTTING THAT ASIDE, THAT IS, YOU KNOW, CLEARLY HIS STRESSGATION LEADS TO THIS, SO HIS INVESTIGATION, EVERYTHING FROM HIS INVESTIGATION LEADS FORWARD AND GOES, AND THEY CAN BRING MR. PERKINS TO COURT, AND IF THEY CAN PROVE THIS UP IN SOME OTHER WAY, GOD BLESS THEM. YOU KNOW. THEY GET TO DO IT. AND THE DIFFERENCE --.

WHAT ABOUT THE FACT THAT HIS DRIVER'S LICENSE IS INVALID AT THE TIME? THEY CAN CALL IN AND GET THAT INFORMATION, SO THAT, REALLY, SUPPRESSABLE?

SURE. BECAUSE THEY LEARNED THAT AS A RESULT OF THE INVESTIGATION. THIS INVESTIGATION, THEY LEARN OF THE CRIME AS THE RESULT OF THE ILLEGAL STOP. LOPEZ, YOU KNOW, THE REASON, ANOTHER REASON THAT LOPEZ, AND THAT CASE DOESN'T APPLY HERE, IS BECAUSE, IN DEPORTATION, BEING HERE ILLEGALLY IS THE CRIME. IF THEY HAVE HIM, IT IS NOT THAT HE WAS THERE LAST WEEK. IT IS THAT HE IS HERE DARK, AND SO BY BRINGING HIM INTO COURT, THAT IS ALL THEY HAVE TO WILL PROVE. HE IS HERE TODAY. HE IS ILLEGALLY HERE TODAY. AND THAT IS WHY THAT CASE DOESN'T REALLY FIT VERY WELL. AND THAT CLAIM OF WHAT THIS CLEAR RULE OF LAW IS, WHICH, YOU KNOW, I COMPLETELY DISAGREE THAT THAT IS A CLEAR RULE, THAT THAT WAS EVER STATED OR THAT THE UNITED STATES SUPREME COURT HAS EVER HELD THAT AS A RULE OF LAW.

HOW DO YOU DISTINGUISH BETWEEN JUSTICE ANSTEAD'S SITUATION, WHERE THE PERSON IS STOPPED ILLEGALLY, AND HE IS WANTED FOR MURDER, BECAUSE HE CALLS IT UP ON A BOLO OR FINDS IT OUT, AND THE SITUATION WHERE THE OFFICER CALLS IN TO THE DEPARTMENT AND FINDS OUT THAT THIS PERSON, WHO I HAVE NOW STOPPED, HAS HIS DRIVER'S LICENSE REVOKED.

BECAUSE, IN ONE INSTANCE, IN YOUR SECOND INSTANCE, WHERE THEY CALL UP AND FIND HIS DRIVER'S LICENSE THAT, IS THE DISCOVERY OF THE CRIME. THEY DON'T KNOW THAT ANY OFFENSE HAS OCCURRED. IN THE ARREST CASE, IN THE ARREST WARRANT CASE, THE ARREST WARRANT ALREADY EXISTS OUT THERE, AND THE FACT THAT THEY ILLEGALLY STOPPED HIM TO DISCOVER THAT ARREST WARRANT, THAT DOESN'T PREVENT THE COURT FROM TAKING JURISDICTION OF HIM, YOU KNOW. I MEAN THE ARREST WARRANT GIVES THE COURT THE JURISDICTION TO TAKE HIM.

IS THE RULE YOU ARE REACHING FOR, HERE, LIMITED SOLELY TO DRIVING WHILE LICENSE SUSPENDED?

I WAS TRYING TO THINK IF THERE WERE ANY OTHER INSTANCES THAT THIS REALLY COMES UP,

AND I COULDN'T, YOU KNOW, I COULDN'T REALLY THINK OF ANY, BUT I DON'T KNOW THAT THAT -  
- I MEAN, THIS IS THE WAY THAT IT MOST --

RATHER THAN GETTING INTO THE COMPLICATION, WHICH I HAVE A HARD TIME WITH OF THE  
EXCLUSIONARY RULE, DO YOU ACCOMPLISH THE SAME THING BY SAYING THAT A PERSON WHO IS  
DRIVING WITHOUT ANY OTHER OFFENSE AND IT CANNOT BE DRIVING, IT CANNOT BE CHARGED  
WITH DRIVING WHILE LICENSE SUSPENDED, IF THE MANNER IN WHICH IT IS DETERMINED THAT HE  
IS -- HIS LICENSE -- HIS LICENSE IS SUSPENDED IS BY STOPPING OR SOMETHING LIKE THAT?

I WOULD HAVE NO PROBLEM WITH THAT RULE, AND THAT RULE WOULD CERTAINLY COVER THIS  
CASE, AND I DON'T THINK YOU NEED -- YOU KNOW, I AGREE WITH YOU, THAT YOU DON'T HAVE TO  
GO FURTHER THAN TO COVER THIS CASE. AND I DON'T THINK IT IS USUALLY WISE TO GO FURTHER  
THAN TO COVER THE PARTICULAR CASE, AS DEMONSTRATED BY THIS SLOPPY USE OF THE WORD  
CRIMINAL, IN LOPEZ MENDOZA, MR. LOPEZ, MENDOZA. I DO -- LET'S SEE. I DO WANT TO MAKE ONE  
OTHER POINT, AND THAT IS THE ARTICLE I SECTION 12, UNDER OUR CONSTITUTION, YOU KNOW,  
WE HAVE GOT THE EXCLUSIONARY RULE, UNLIKE THE UNITED STATES SUPREME COURT. WE HAVE  
GOT THE EXCLUSIONARY RULE BUILT INTO OUR CONSTITUTION. IT IS NOT JUDICIALLY CREATED,  
AND UNDER ARTICLE I SECTION 12, ALSO, THE RULE IS THAT, IF THERE IS NO CONTROLLING  
SUPREME COURT CASE, YOU KNOW, THEN IT IS CONTROLLED BY YOU AND BY STATE LAW, AND I  
THINK THAT THE DECISION, IN THIS CASE, SHOULD BE UNDER ARTICLE I SECTION 12, RATHER  
THAN MAKE IT SOME BROADER FOURTH AMENDMENT CLAIM, BECAUSE THERE IS NOT A  
CONTROLLING UNITED STATES SUPREME COURT CASE. LOPEZ MENDOZA DOES NOT COVER THIS  
CIRCUMSTANCE, AND I DON'T THINK THAT THEY HAVE ANNOUNCED A CLEAR RULE. BECAUSE  
THEY DIDN'T HAVE THE -- BECAUSE THEY DIDN'T HAVE IT TO RULE ON. ALSO I WOULD POINT OUT  
TO YOU, PAGE -- I DIDN'T CITE IT IN MY BRIEF BUT ON MY APPENDIX, WHICH I ATTACHED THE  
ORDER OF THE COURT, THEY TALK ABOUT A CASE IN THERE CALLED UNITED STATES V CRUISE,  
AND THAT IS OUT -- UNITED STATES V CRUZ, AND THAT IS OUT OF THE SUPREME COURT, ALSO,  
AND THE SUPREME COURT SPECIFICALLY DECLINED TO DETERMINE WHETHER OR NOT A PERSON'S  
IDENTITY COULD BE, IN SOME CASES, THE FRUIT OF AN UNLAWFUL, WHETHER IT COULD EVER BE,  
AND THEY SPECIFICALLY SAY WE ARE NOT DECIDING THAT, AND IF YOU LINE UP THE FACTS, I  
MEAN, THE FACTS IN CRUZ WAS THAT THERE WAS ALL OF THIS INDEPENDENT STUFF THAT THEY  
COULD USE, SO THAT THAT WAS THE REASON THEY DIDN'T HAVE TO REACH IT, SO I DON'T  
BELIEVE THAT THE UNITED STATES SUPREME COURT HAS CLEARLY ANNOUNCED THAT AS A RULE,  
SUBSEQUENTLY YOU KNOW, AS A RESULT, YOU HAVE GOT ARTICLE I SECTION 12 TO RELY ON.  
IF THERE ARE NO FURTHER QUESTIONS, I WOULD ASK -- I WOULD ASK THAT -- WHAT DO I WANT?

YOU WONDER YOUR CASE.

RIGHT. WELL, YOU KNOW.

IT IS JUST WHETHER OR NOT --

HOW MUCH DO I WANT HERE?

WHETHER THE FOURTH DISTRICT IS GIVING A BROADER STATEMENT.

THE FOURTH DISTRICT, THIS IS WHAT I THINK THAT YOU NEED TO SAY IS THE FOURTH DISTRICT'S  
ANALYSIS OF LOPEZ MENDE SO. A AND THOSE OTHER CASES -- LOPEZ MENENDEZ AND THOSE  
OTHER CASES IS CORRECT. THANK THEIR ANALYSIS ANALYSIS IS ESSENTIALLY CORRECT. REALLY  
ALL YOU NEED TO DO IS CROSS OUT THAT QUESTION, THE WAY THAT IT IS WORDED, AND IT IS  
PRETTY CLEAR THAT JUDGE STONE WAS ANSWERING THE QUESTION WHAT IS THE FRUIT, YOU  
KNOW, IN TRYING TO ANSWER THE QUESTION WHAT IS THE FRUIT OF AN ILLEGAL STOP, AND HE  
ANSWERED IT CORRECTLY. THAT THIS ALL NEEDED TO BE SUPPRESSED AND THE THINGS THAT WE  
REQUESTED.

WE WOULD HAVE TO DISAPPROVE OF THE CASES FROM THE SECOND AND THIRD DISTRICT, BECAUSE THOSE ARE ESSENTIALLY THE SAME CASES.

RIGHT. BUT YOU KNOW, THE ONE THING ABOUT THAT IS THAT THEY ARE SO LACKING IN ANY FACTS AND BACKGROUND, AS TO ALMOST NOT TO BE ABLE TO TELL, YOU KNOW, WHAT WAS ASKED FOR IN THAT CASE AND WHAT IT WAS THAT THEY WERE SUPPRESSING. I MEAN, IF WHAT THEY WERE COMING IN -- LET ME JUST SAY IF WHAT THEY WERE COMING IN AND SAYING IN THE THIRD AND THE SECOND DISTRICT WE DON'T KNOW, BECAUSE THEY DON'T TELL US, IF THE DEFENDANT CAME IN AND SAID YOU KNOW, HA HA, YOU STOPPED ME ILLEGALLY, AND THEREFORE YOU CAN'T BRING ME INTO COURT, THEN THEY ARE RIGHTLY DECIDED, BUT WE DON'T KNOW THAT, BECAUSE NEITHER ONE OF THOSE DECISIONS HAS GIVEN US ENOUGH FACTS TO KNOW THAT.

I MEAN, IT SEEMS TO ME THAT WHERE WE REALLY -- GOING BACK TO MY EARLIER QUESTION, THAT THIS IS SOMEWHAT SIMILAR TO THE FACT THAT YOU DON'T CHARGE A PERSON WITH A MISDEMEANOR, UNLESS IT OCCURRED IN THE PRESENCE OF THE OFFICER. AND --

VERY TRUE.

AND SO HERE THE OFFICER DIDN'T HAVE PROBABLE CAUSE TO KNOW, WHILE THIS GUY WAS ACTUALLY OPERATING THE CAR --.

THAT HIS LICENSE WAS SUSPENDED.

THAT HIS LICENSE WAS SUSPENDED, AND SO JUST INQUIRY AT THAT POINT. THAT IS WHERE -- THANK YOU.

THANK YOU. THANKS TO BOTH OF YOU FOR ASSISTING US. I THINK YOUR TIME IS --

YOUR HONOR, MAY I HAVE ONE MINUTE IN REBUTTAL?

30 SECONDS.

30 SECONDS.

THANK YOU, JUSTICE ANSTEAD. I JUST WANTED TO SAY THAT YOUR QUESTION IS EXACTLY THE POINT AT ISSUE HERE TODAY. THAT IDENTITY, IN THAT CASE, IF I HADITY WERE TO BE SUPPRESSED, THEN OBVIOUSLY THE NEXT LOGICAL STEP IS TO SAY, WELL, OBVIOUSLY WE CAN'T CHARGE THIS FELLOW WITH MURDER. THE PROBLEM HERE IS THAT THE COUNTY COURT AND THE DISTRICT COURT FOCUSED ON THE WRONG DISPOSITIVE FACT. THEY FOCUSED ON IDENTITY. THAT IS THE PROBLEM. THERE IS ANOTHER DISPOSITIVE FACT HERE, WHICH PRESERVES THE INTEGRITY OF THE EXCLUSIONARY RULE, REACHES THE SAME RESULT, AND DOES IT WITHOUT TURNING EVERYTHING UPSIDE DOWN. THANK YOU, YOUR HONOR.

THANK YOU.

THANK YOU FOR THE TIME.

YOU ARE CERTAINLY WELCOME.