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## State of Florida vs Gregory Maynard

THE NEXT AND FINAL CASE ON THE COURT'S ORAL ARGUMENT CALENDAR FOR THIS WEEK IS FLORIDA VERSUS MAYNARD. MS. BOCK.

GOOD MORNING, YOUR HONORS. MAY IT PLEASE THE COURT. I AM DIANA BOCK, AND I AM WITH THE ATTORNEY GENERAL'S OFFICE, REPRESENTING THE STATE OF FLORIDA. I WOULD LIKE TO RESERVE FIVE MINUTES FOR REBUTTAL. FIRST OF ALL, I WOULD LIKE TO GIVE A BRIEF OVERVIEW OF THE FACTS.

WOULD YOU MIND PULLING THE MIKE DOWN A LITTLE BIT, PLEASE.

IS THAT BETTER? I WOULD LIKE TO GIVE A BRIEF OVERVIEW OF THE FACTS, AND INCLUSIVE OF THAT ARE TWO IMPORTANT NOTES FOR CLARIFICATION, I WOULD LIKE TO BRING THE COURT'S ATTENTION TO. FIRST OF ALL, STATED IN THE SUPPLEMENT BRIEF, THE MOTHER DIDN'T GIVE A DESCRIPTION OF THE SCHOOL THAT HE WAS HEADING TO BUT A STREET THAT HE WAS HEADING TO, DREW STREET. SECOND THING IS THAT I WANT TO MAKE THE COURT AWARE OF, THAT EVEN THOUGH WE HAVE DETAILED INFORMATION OF THE TELEPHONE CALL TO POLICE, WE DO NOT HAVE ANYTHING IN THE RECORD QIFCKBLY THAT IT WAS A 91 -- QIFCKLY, THAT IT WAS A 991 CALL. WE DO KNOW IT WAS VERY DETAILED CALL. WE DO NOT HAVE, IN THE RECORD, THAT IT WAS A 911 CALL, AND I WANT TO MAKE THAT CLEAR, BEFORE WE GO ON. AROUND EIGHT O'CLOCK ON MARCH 13, 1998, ABOUT MAYNARD HAD PLACE ADD MAC-10 UZI TYPE OF WEAPON, BEFORE HE LEFT THE HOME, IN HIS BACKPACK. THE MOTHER KNEW THAT HE LEFT THE HOME WITH THIS AND KNEW HE DID THIS, AND SHE CONTACTED THE POLICE DEPARTMENT. WHEN HE LEFT THE HOME, SHE INFORMED THE POLICE OF HIS ROUTE OF TRAVEL, WHERE HE WAS GOING FROM AND TO. SHE DESCRIBED WHAT HE WAS WEARING, AND SHE DESCRIBED, IN DETAIL, THE HANDGUN THAT WAS IN THE BACK PAGE PACK, AND HOW SHE -- THE -- IN THE BACKPACK, AND HOW SHE KNEW THAT IT WAS IN THE BACKPACK. WHAT IS CRUCIAL AND DIFFERENTIATES IT FROM OTHER CASES, IS THAT SHE, ALSO, GAVE DETAILED SELF IDENTIFICATION INFORMATION. SHE GAVE HER NAME AND ADDRESS AND TELEPHONE NUMBER, AND THIS INFORMATION WAS PASSED ON TO THE POLICE DEPARTMENT, AND THIS INFORMATION WAS USED IN ITS BOLO THAT WAS PUT OUT.

YOU SET SHE GAVE HER ADDRESS?

YES, SHE DID.

DID SHE GIVE HER NAME OR THAT SHE WAS THE MOTHER?

I BELIEVE SHE STATED HER NAME AND THAT SHE WAS HIS MOTHER, AND THAT IS HOW SHE KNEW.

I THOUGHT IT WAS JUST I AM THE MOTHER.

IF SOMEONE CALLS AND SAYS, HI, I AM SO-AND-SO, THIS IS MY ADDRESS, IT IS NOT ANONYMOUS TIP.

THAT IS OUR POSITION, YOUR HONOR.

BUT I THOUGHT THE QUESTION WAS PHRASED, SORT OF WHEN SOMEONE SAYS I AM MOTHER OR THE BROTHER OR THE COUSIN, BUT YOU ARE TELLING US THAT SHE IDENTIFIED WHO SHE WAS

AND THAT -- GAVE THE ADDRESS, AND THAT IS IN THE RECORD, AS FAR AS THE INFORMATION?

THE WAY THE RECORD IS ACTUALLY STATED, THE POLICE OFFICER IS TESTIFYING, THAT IS THE INFORMATION THAT WE ACTUALLY HAVE, AT THE SUPPRESSION HEARING, AND HE WAS TOLD THAT IT WAS THE DEFENDANT'S MOTHER. NOW, I AM ASSUMING THAT THAT MEANS WHEN SHE CALLED, I AM MRS. MAYNARD, SHE SAID. I AM AT THIS ADDRESS. MY SON, GREGORY MAYNARD, JUST LEFT. THERE WOULD BE NO REASON FOR HER TO SAY I AM THE MOTHER AND GREGORY MAYNARD LEFT. I AM ASSUMING. I DON'T MAKE AN ASSUMPTION. I DON'T RECALL THAT I SAW HER NAME.

WOULD YOU CLEAR UP FOR ME, YOU PROPERLY TRIED TO EXPLAIN A COUPLE OF THINGS THAT WERE IN THE BRIEF, WHATEVER, WAS THIS A 911 CALL OR WHAT, AND WHO WAS CALLED? ANOTHER POLICE DEPARTMENT WAS CALLED. I DO NOT KNOW IF IT WAS A 911 CALL. THE RECORD IS NOT EXPLICIT AS TO THAT.

ALL RIGHT. DO WE KNOW WHETHER OR NOT THE -- WHOEVER WAS CALLED HAD THE TECHNICAL ABILITY TO RECEIVE THE PHONE NUMBER OF THE PERSON --

TO TRAP AND TRACE?

RIGHT.

NO, YOUR HONOR, WE DON'T KNOW. THAT THERE WAS NO TESTIMONY GIVEN, BY ANYONE EXCEPT THE POLICE OFFICER, WHO ACTUALLY INTERCEPTED MR. MAYNARD, AND HE RELATE WHAT HAD HE HAD BEEN TOLD BY DISPATCH. WE DO NOT HAVE ANYTHING FROM THE DISPATCH OPERATOR OR THE 911 OPERATOR OR MRS. MAYNARD.

SO IT IS YOUR POSITION THIS IS NOT ANONYMOUS.

YES, YOUR HONOR, THAT IS OUR POSITION, THAT THIS IS A CITIZEN INFORMANT, AND THAT THE TRIAL COURT, WHICH HAS MADE THAT ASSESSMENT, INITIALLY CATAGORIZED MRS. MAYNARD AS AN ASSISTANT INFORM -- AS A CITIZEN INFORMANT. IT WAS THE SECOND COURT OF APPEAL THAT RECATAGORIZED HER AS AN ANONYMOUS TIPS TEHRAN SAID THAT THE INFORMATION PROVIDED DID NOT HAVE THE INDICIA OF LIABILITY, UNDER --

LET ME SEE IF I HAVE THIS STRAIGHT. WHAT IF SHE SAID I AM MRS. MAYNARD OR I AM GREGORY MAYNARD'S MOTHER. SHE ACTUALLY GAVE THE ADDRESS WHERE SHE WAS LIVING AND ACTUALLY GAVE THEM AND SAID THIS IS THE SAME ADDRESS THAT THE DEFENDANT JUST LEFT FROM? I MEAN MY SON JUST LEFT FROM OR SOMETHING?

YES, YOUR HONOR. WHAT THE SECOND DISTRICT COURT OF APPEALS SEEMED TO LOOK AT WAS THAT NO ONE HAD GONE BACK TO VERIFY THIS WAS THE MOTHER. IN OTHER WORDS WENT TO THE ADDRESS OR THERE IS SOME AMP INDICATION THAT A PHONE -- IMPLICATION THAT A PHONE CALL, AT LEAST IN THE BRIEFS, A PHONE CALL MIGHT HAVE SUFFICED. HOWEVER, MILLER WAS THE CASE THAT WAS RELIED ON, TO OVERTURN THIS CASE.

THERE WAS NO PHONE CALL, ALTHOUGH A NUMBER WAS GIVEN.

YES. A NUMBER WAS GIVEN AND THE POLICE HAVE A NUMBER.

YOU HAVE THIS REPORT, THEN THERE MUST BE A CALLBACK --

WHAT -- I AM SORRY. I DIDN'T HEAR THE BEGINNING.

WHAT CASE LAW DO YOU HAVE TO SUPPORT THAT, IF THERE WAS A CALLBACK TO FIND OUT THIS

THIS WAS, IN FACT, MRS. MAYNARD.

MRS. MILLER, IN RESPONSE TO THE BRIEF, SAID IT WOULD HAVE BEEN EASY TO HAVE MADE A PHONE CALL BACK, AND THAT WOULD HAVE CONFIRMED HER IDENTIFICATION. MY SECOND POINT, IN MILLER, THE CASE RELIED ON TO OVERTURN THIS, THERE WAS A PHONE CALL MADE BACK, AND SO I DON'T THINK THE SECOND PHONE CALL WOULD HAVE DONE IT, FOR THE COURT OF APPEAL. I DON'T THINK THAT WAS NECESSARY, YOUR HONOR. I THINK WE HAVE HERE CLEARLY AN INFORMANT. THIS WAS A WOMAN WHOSE SON HAD JUST LEFT THE HOME. SHE PICKS UP THE PHONE IMMEDIATELY AND CALLED THE POLICE AND GIVES DETAILED INFORMATION, NOT ONLY ABOUT THE DEFENDANT BUT ABOUT HERSELF, AND I THINK THAT IS A CRITICAL DIFFERENCE FROM OTHER CASE LAW THAT WE HAVE SEEN. I THINK, WHEN WE ARE TALKING ABOUT ANONYMOUS TIPSTER, YOU ARE TALKING ABOUT SOMEONE WHO YOU DON'T KNOW, AND HAS NOT IDENTIFIED THEMSELVES OR IS IN NO OTHER WAY IDENTIFIABLE.

WHAT SHOULD THE POLICE HAVE DONE, WHAT IS ALLEGED SHOULD HAVE BEEN DONE, TO CORROBORATE OR VERIFY THIS INFORMATION, OTHER THAN PHONING BACK, TO SEE.

I BELIEVE THAT THE SECOND DISTRICT IMPLIES THAT THEY SHOULD HAVE SENT A POLICE OFFICER TO THE HOUSE AND HAVE VERIFIED, WITH A VISUAL, THAT THIS WAS, IN FACT, THE MOTHER, WHO PROVIDED THE INFORMATION. IN OTHER WORDS, THEY ARE SAYING THAT ANYONE COULD PICK UP THE PHONE AND MAKE A TELEPHONE CALL AND SAY I AM SO-AND-SO, AND HERE IS THE INFORMATION THAT I HAVE, AND THAT THAT WAS NOT ENOUGH. THAT THERE NEEDED TO BE VERIFICATION THAT THEIR REPRESENTATION OF SELF IDENTIFICATION WAS CORROBORATED.

DOES EVANS SUPPORT YOUR VIEW, EVANS FROM THE FOURTH DISTRICT?

EVANS FROM THE FOURTH DISTRICT, I THINK IT DOES, BECAUSE WHAT YOU HAVE IN EVANS WAS WHERE THE MANAGER FROM THE McDONALD'S CALLS AND SAYS I AM THE MANAGER FROM McDONALD, AND SHE MAY OR MAY NOT HAVE GIVEN HERETICLAR NAME BUT SHE GAVE HER OCCUPATION, AND SAID THIS IS WHERE I AM AT AND THIS IS WHAT I SEE.

AND SHE PROVIDED HER NAME AND OCCUPATION.

OCCUPATION. BUT THE OFFICER ARRIVED AT THE SAME TIME THAT MR. EVANS WAS EXITING THE DRIVE THROUGH LINE AT McDONALD'S. THERE WASN'T TIME FOR THE OFFICER TO GET OUT OF HIS VEHICLE AND TO ACTUALLY GO IN, ONE-ON-ONE, AND SPEAK WITH THE MANAGER. WHAT HE DID DO WAS SOMEBODY IN A McDONALD'S UNIFORM LEANED OUT OF THE DRIVE THROUGH WINDOW AND POINTED THIS WAY, TO THE CAR, AND THE OFFICER FOLLOWED THAT DIRECTION, WENT OVER AND STOPPED MR. EVANS. OKAY. THAT WAS THE CONTACT THAT WAS HAD. WE DON'T KNOW THAT THAT WAS, IN FACT, THE MANAGER THAT STUCK THEIR HEAD OUT THE WINDOW AND POINTED, AND WHAT I AM TRYING TO SAY IS THEY WERE IDENTIFIABLE. THEY DIDN'T NEED THAT EXTRA VISUAL CONTACT AT A DISTANCE, TO VERIFY THAT THIS WAS A READILY IDENTIFIABLE INFORMANT.

IS IT CORRECT, HERE, THAT WHAT OCCURRED, THEN, BY THE POLICE, WAS JUST A DETENTION AND A FRISK?

YES.

A PAT-DOWN.

IT WAS A PAT-DOWN.

A PAT-DOWN OF THE BACK Mac.

YES. -- OF THE BACKPACK.

YES. ONCE HE STOPPED MR. MAYNARD, THERE IS A DISCREPANCY ---NOT A STRIPANCY. THERE IS A VAGUENESS TO THE RECORD. A SECOND OFFICER WAS ACTUALLY COMING UP ON HIM, WE STOPPED MR. MAYNARD OR JUST HOW LONG IT TOOK FOR THE OFFICER TO BE IN PLACE, BUT WHEN HE STOPPED MR. MAYNARD, HE HAD HIM STEP TOWARD HIM, SO THE BACKPACK WAS INSIGHT, AND FROM WHAT I UNDERSTAND, THE OFFICER WAS IN PLACE, BEFORE HE REACHED OUT AND FELT THE BACKPACK AND FELT A HARD, LARGE OB, THAT HE FELT TO BE A HANDGUN.

HOW OLD WAS THE DEFENDANT AT THE TIME?

AT THE TIME I BELIEVE HE WAS 18 OR 19. BY THE TIME HE WAS BEING SENTENCED, HE WAS TWO DAYS BEFORE HIS 20th BIRTHDAY.

AT THE TIME THAT HE WAS STOPPED, THOUGH --

I AM THINKING THAT HE WAS 19 YEARS OLD.

AND THERE IS A TOTAL ABSENCE OF ANY TYPE OF SUSPICIOUS CONDUCT, AS HE IS WALKING ALONG THE WAY.

THAT'S CORRECT, YOUR HONOR. THE RECORD SHOWS NO SUSPICIOUS CONDUCTOR ANY OBSERVED CRIMINAL ON THE PART OF THE OFFICER. HE RELIED SOLELY AND TESTIFIED TO THIS AT THE SUPPRESSION HEARING, SOLELY ON THE INFORMATION HE RECEIVED ON THE DISPATCH.

AND WHAT MAKES THIS DIFFERENT FROM JL, IN YOUR ESTIMATION, IS THAT THE WOMAN IDENTIFYING HERSELF AS HIS MOTHER -- HERSELF AS HIS MOTHER WAS SUFFICIENTLY TESTED RELIABLE. YOU WERE ABLE TO TEST THE RELIABILITY, SUFFICIENT TO MAKE THIS NOT A JL SITUATION.

I THINK THERE ARE SEVERAL FACTORS THAT EXTEND IT PAST JL. I AM NOT ASKING THAT THE COURT REcede FROM JL BUT BUILD ON IT, AND I THINK THEY CAN, UNDER THESE FACTS. YOU HAVE NOT ONLY THE MOTHER GIVING SELF IDENTIFICATION. YOU HAVE SOME PREDICT I HAVE QUALITY TO WHAT SHE IS -- SOME PREDICTIVE QUALITY TO WHAT SHE SAYING. IN JL, YOU HAVE WHAT YOUR HONORS CALL BARE BOND AND YOUR HONORS AGREED THAT THE POLICE DIDN'T KNOW WHO MADE THIS TIP, THEY DIDN'T KNOW THE PHONE CALLER AND WHEN THEY ARRIVED, THEY SAW THREE MEN THAT FIT THE DESCRIPTION AND IMMEDIATELY WENT UP AND DID WHAT THEY HAD TO DO AND CHECK WHETHER OR NOT THERE WAS A WEAPON, AND THEY FOUND A WEAPON, BUT HERE WE HAVE SOME PREDICTIVE QUALITY TO WHAT THE MOTHER SAID. SHE SAID HERE IS WHAT HE LOOKS LIKE, HERE IS THE ADDRESS, AND HERE IS WHERE HE WAS GOING. HE WAS GOING TO DREW STREET. AND BECAUSE OF THAT, THE OFFICER WAS ABLE TO EXTRAPOLATE THE INFORMATION AND DO SO TO A POINT WHERE HE LOCATED HIM AND DID SO.

IF WE WERE TO RELY ON THAT, VERSUS IDENTIFICATION AND GOING BACK TO THE JL SITUATION, THE ANONYMOUS TIPSTER CAN STILL BE ABLE TO SAY SOMEONE LEFT MY HOUSE. THEY ARE GOING DOWN TO THE BUS STATION, AND THAT PERSON HAS A LARGE QUANTITY OF DRUGS. AND I READ JL AS SAYING THAT THAT, BECAUSE ANYONE COULD JUST END UP, SINCE IF SOMEONE LEFT THEIR HOUSE, THAT THIN COULD END UP SAYING THAT -- THAT ANYONE COULD END UP SAYING THAT, AND THAT WOULDN'T BE ENOUGH TO JUSTIFY A SEARCH. ON THE SELF-IDENTIFICATION, IF WE LOOK BACK ON THIS RECORD, YOU SAY, WE WILL SEE THAT THIS TIPSTER, BEING THE MOTHER, GAVE HER ADDRESS, AND PHONE NUMBER, SO THAT THIS FIP COULD HAVE BEEN VERY FADO-TIP COULD HAVE BEEN VERIFIED BY THE POLICE, HAVING CALLED BACK, MAKING SURE THIS WAS THE MOTHER, BUT THAT INFORMATION WAS IN THE RECORD, AND THAT SHOULD BE SUFFICIENT INDICIA OF LIABILITY, WITHOUT REQUIRING THE POLICE TO DO ANYTHING FURTHER TO VERIFY THE ACCURACY OF THE TIP, BEFORE ACTING ON IT.

I THINK THAT WHAT YOU SAID IS CORRECT, BUT I DON'T THINK THAT YOU CAN EXCLUDE OR SHOULD EXCLUDE THE ADDITIONAL INFORMATION AVAILABLE, WHICH GIVES, HEIGHTENS THE CREDENCE OF WHAT IT WAS GIVEN, AND THAT IS --

HOW DOES THAT HEIGHTEN THE CRIMINAL PART? YOU SEE, THAT IS, I THINK, I HAD THOUGHT THAT THAT WAS WHAT THE US SUPREME COURT WAS PARTICULARLY CONCERNED ABOUT IS ANYONE COULD IDENTIFY SOMEBODY, AND ANYONE CAN SAY, IF THEY KNOW THEY ARE GOING SOMEPLACE, AND THIS PERSON IS GOING TO SCHOOL OR THEY ARE GOING TO WORK OR THEY ARE -- BECAUSE THERE IS SOMEONE THAT THEY KNOW, BUT THAT THAT, ALONE, SHOULDN'T BE ENOUGH TO JUSTIFY STOPPING SOMEBODY AND SEARCHING.

ALONE, NO. BUT I THINK IT IS CUMULATIVE, AND I THINK, TO GET TO INDICIA OF RELIABILITY, IT IS A CUMULATIVE TEST. YOU SEE WHAT YOU HAVE GOT AND WHERE IT HAS COME FROM, WHICH WE HAVE BOTH THOSE FACTORS HERE. WE KNOW WHERE THE INFORMATION IS COMING FROM, HOW THE PERSON GIVING THE INFORMATION GOT THE INFORMATION. SHE WAS HIS MOTHER. SHE WAS IN THE HOUSE WITH HIM. SHE WITNESSED THE GUN BEING PUT IN THE BACKPACK. YOU DON'T HAVE ANY OF THAT IN JAIL. YOU DON'T HAVE ANY INFORMATION ON THE CALLER WHATSOEVER. NOW, ADD TO THAT, OKAY, INSTEAD OF HOLDING IT IN A VAC UNIFORM, ADD TO IT THAT -- A VACUUM, ADD TO IT AND IT WASN'T A PREDICTIVE QUALITY. IT WASN'T JUST THAT HE WAS GOING HERE AND HE IS LEAVING MY HOUSE. I CAN TELL YOU WHERE HE IS GOING. IS VERY MUCH AKIN TO WHITE IN ALABAMA V WHITE, IN WHICH THEY PREDICTED CERTAIN MOVEMENTS. WHITE WAS TOTALLY ANONYMOUS. HERE WE HAVE BOTH FACTORS AVAILABLE, FOR THE POLICE TO ARRIVE UPON.

A WHAT IF A HUSBAND OR VICE VERSA, A HUSBAND OR WIFE CALLS, AND SAID I AM THIS PERSON'S HUSBAND OR I AM THIS PERSON'S WIFE, AND MY WIFE IS GOING TO WORK, AND SHE HAS GOT A -- SHE IS CARRYING A GUN. IS THAT, ALONE, ENOUGH FOR THE POLICE TO STOP THAT PERSON, ON THE WAY TO WORK OR, EVEN, AT WORK --

IT DOESN'T SOUND LIKE THERE IS A CRIMINAL ACT THERE. SHE MAY, WELL, HAVE A CONCEALED WEAPONS PERMIT AND THE GUN IS PROBABLY IN THE CAR. THIS, ON THE FACE OF IT, IS A JUVENILE HAS A Mac-10 AUTOMATIC WEAPON AND HE LEFT THE HOUSE.

I THOUGHT YOU SAID HE WAS 19.

HE WAS 19, YOUR HONOR. I THINK OF 19 AS STILL BEING A TEENAGER. NO. YOU ARE CORRECT, YOUR HONOR. HE WAS 19.

AS FAR AS THE OFFICER IS CONCERNED, IN JL, WAS AT A BUS STOP. THAT WAS THE PREDICTED BEHAVIOR, HAD ON A SHIRT, THE STRIPED, THE PLAID SHIRT IN JAIL, BUT HERE, IT IS THE CONDUCT THAT THE SUPREME COURT SEEMED TO BE POINTING TOWARDS, AND HERE WE HAVE A PERSON WALKING DOWN THE STREET AND THIS IS THE IDENTITY, NOT MUCH DIFFERENT THAN HERE IS A PERSON STANEDING AT THE BUS STOP AND HERE IS THE IDENTITY, IS IT?

I WOULD AGREE, YOUR HONOR, TO THE EXTENT THAT I DON'T THINK THE UNITED STATES SUPREME COURT, IN AFFIRMING THIS COURT'S RULING, FOUND THAT HIS PRESENCE AT THE BUS STOP WAS PREDICTIVE OF FUTURE MOVEMENTS, AND I THINK THAT IS A DIFFERENCE. I THINK THAT, IN THIS CASE, WHAT WE HAVE IS THE ABILITY TO ACTUALLY ACCEPT HIM EN ROUTE, BECAUSE OF THE INFORMATION PROVIDED BY THE MOTHER. I THINK THAT IS DI RENT.

DID THE INFORMANT, IN JL, STATE TO THE POLICE HOW HE KNEW THAT THE PERSON, JL --  
FROM MY READING OF THE CASE, NO, YOUR HONOR, HE DID NOT.

WHAT HE SAID WAS THERE IS A YOUNG BLACK MALE STANDING WITH TWO OTHER YOUNG BLACK MALES AT A BUS STOP, AND HE HAS A GUN. THAT IS DIFFERENT THAN WHAT WE HAVE HERE, AND WE HAVE NOLLE SELF IDENTIFICATION OR ABILITY TO IDENTIFY, AND THE COURT, THIS COURT, AND THE U.S. SUPREME COURT, BOTH, SAID READILY IDENTIFIABLE NOT IDENTIFIED, PAST TENSE, BUT IDENTIFIABLE IN THE FUTURE. THE QUESTION IS REASONABLE. WHEN DID THE OFFICER HAVE REASONABLE SUSPICIOUS TO TO RELY UPON THAT INFORMATION. WHEN WAS THE INDICIA OF RELIABILITY THERE? WHEN DID THE TOTALITY OF THE CIRCUMSTANCES REACH THE POINT AT WHICH THIS OFFICER COULD STOP THAT INDIVIDUAL AND FIND OUT THAT LAST FACT THAT WE DIDN'T KNOW, WE COULDN'T KNOW, BECAUSE IT WAS CONCEALED, AND THAT IS WHETHER OR NOT HE WAS CARRYING A Mac-10 UZI. IN FACT, HE WAS, AND IT HAD, ACCORDING TO THE RECORD, THERE WAS, ALSO, A 50-ROUND CLIP IN THE GUN. NOW, I DON'T KNOW IF IT HAD AMMUNITION IN IT, BUT IT HAD A CLIP AND A GUN. SUBSEQUENTLY THEY FOUND OUT THE GUN WOULD NOT FIRE PROPERLY, BUT THAT WAS AFTER THE FACT. THE TRIAL JUDGE HAD IT TESTED, SO WHAT WE HAD WAS INFORMATION FROM A MOTHER THAT WAS VERIFIED IMMEDIATELY UPON THE GUN BEING FOUND, AND IMMEDIATELY UPON ARRESTING HIM, THEY WENT BACK TO THE HOUSE. THEY WENT BACK TO THE RESIDENCE AND DID, IN FACT, CONFIRM EVERYTHING WITH HER, AND I REALIZE THAT THAT ISN'T WHAT THEY KNEW AT THE TIME THEY MADE THE STOP, BUT IT ENFORCES THE FACT THAT THIS WAS A READILY IDENTIFIABLE TIPS SISTER. INFORMANT. -- TIPSTER, INFORMANT. AND IF WE GO ON ANONYMOUS TIP THAT, IS ENOUGH TO BRING IT UP, EVEN AS AN ANONYMOUS TIP, BUT THIS WAS A CONSISTENT INFORMANT THAT --

THE 19-YEAR-OLD COULD HAVE POSSESSED THAT WEAPON IN OPEN VIEW AND THERE WOULDN'T HAVE BEEN ANY CRIME?

I AM NOT CERTAIN OF THAT, YOUR HONOR. I AM NOT CERTAIN IF THIS WAS ONE OF THE HAPPENED GUNS THAT HAD HAS BEEN OUTLAWED. IT WAS AN AUTOMATIC WEAPON, AND I BELIEVE IT MIGHT HAVE COME UNDER SOME ANTI-TERRORIST REGULATION.

ANT ONLY CHARGE?

WAS CARRYING THE CONCEALED WEAPON.

I SEE THAT MY TIME IS UP. I WILL SAVE THE REST FOR REBUTTAL. THANK YOU.

GOOD MORNING. MY NAME IS CHARLES HOLLOWAY, AND I REPRESENT THE RESPONDENT IN THIS CASE, MR. GREGGRY MAYNARD. MY POSITION, OF COURSE, IS THAT THE DECISION ARRIVED AT BY THE SECOND DISTRICT COURT OF APPEAL WAS THE CORRECT ONE, NOT JUST IN THE RESULT BUT IN THE MEANS AND METHODOLOGY, THE REASONING THEY USED TO ARRIVE AT THAT DECISION.

WOULD YOU SAY THAT THE -- THAT WHAT WE ARE DEALING WITH, HERE, IS THE TOTALITY OF THE CIRCUMSTANCES FOR WHAT WAS THE -- THE POLICE WERE GIVEN, CORRECT?

YES, SIR, I WOULD.

AND WHAT DO YOU MAKE OF THE U.S. SUPREME COURT'S LANGUAGE IN JL, WHERE IT SAYS THAT WE DO NOT, FOR EXAMPLE, THAT A REPORT OF A PERSON CARRYING A BOMB, WE DO NOT SAY, FOR EXAMPLE, THAT A REPORT OF A PERSON CARRYING A BOMB NEED BEAR THE INDICIA OF REALIBILITY WE DEMAND FOR A REPORT OF A PERSON CARRYING A FIREARM.

MY RESPONSE IS THIS, I THINK THEY HAVE PUT OFF A PROBLEMATIC AND DIFFICULT SITUATION FOR THE FUTURE. AND I CERTAINLY DON'T MEAN ANY DISRESPECT FOR THEIR PUTTING THAT ASIDE. I THINK THAT WAS REASONABLE FOR THEM TO DO, UNDER THE TOTALITY TEST AND CIRCUMSTANCES. THEY WANTED TO TAKE THIS CASE A LON.

BUT IF A FAIR READING, IF I READ THAT TO MEAN THAT, IF THE REPORT WAS THAT THERE WAS A

BOMB IN THIS KNAPSACK, THAT THAT WOULD BE A FACTOR WHICH COULD BE TAKEN INTO CONSIDERATION, AS A TOTALITY OF THE FACTORS. WOULD YOU SAY THAT IS TOTALLY WRONG?

NO. I CAN'T SAY THAT YOU ARE WRONG IN THAT PERCEPTION. I THINK THAT IS A FAIR EXTENSION, BUT I DON'T THINK THEY CAME DOWN SOLIDLY THAT WAY, EITHER.

WELL, IF THE FACT THAT THEY SAY IT IS A BOMB COULD BE ONE FACTOR, IF YOU SAY THAT HERE IS A 19-YEAR-OLD YOUNG MAN WHO -- MOTHER IS CALLING IN A REPORT, TO SAY THAT HE IS GOING OFF WITH AN UZI CONCEALED IN HIS BACKPACK, THAT WOULD BE A DIFFERENT TOTALITY OF THOSE CIRCUMSTANCES, THAN WE HAD IN JL. WOULDN'T YOU AGREE WITH THAT, INCLUDING THE FACT THAT IS AN U.S.Y? -- AN UZI?

HERE IS WHY. WHEN YOUR DECISION, IN JL, WENT UP TO THE UNITED STATES SUPREME COURT, THEY ADDRESSED THE FIREARMS EXCEPTION. THAT WAS RAISED BY THE STATE. AND THEY SAID, IN A SENSE, REREJECT IT, AT LEAST AT THIS POINT. WE ARE NOT GOING TO CREATE A BRIGHT-LINE TEST. THAT IS DANGEROUS TO DO, BECAUSE WHAT YOU END UP DOING, THEN, IS SAYING THAT THE FOURTH AMENDMENT RIGHTS THAT WE ENJOY AS CITIZENS ARE NECESSARILY GOING TO BE ERODED, AS THE ALLEGATIONS OR REPORTS OF DANGEROUS WEAPONS OR TERRORISM ARE PUT FORTH.

LET ME ASK YOU ABOUT --

IT IS ALWAYS GOING TO BE BALANCING.

LET ME ASK YOU ABOUT ANOTHER BRIGHT-LINE. OKAY. CLEARLY ONE OF THE BRIGHT LINES THAT SOUTH THERE, IN THE CASE LAW, AND THAT WE HAVE ANNOUNCED IN OTHER COURTS, IS ANONYMOUS VERSUS NON-ANONYMOUS. ORDINARILY WHAT YOU MEAN BY ANONYMOUS IS THAT SOMEBODY WILL CALL BY SOMEONE, MALE OR FEMALE, AND THEY DO NOT IDENTIFY THEMSELVES, AND WOULD YOU AGREE THAT THIS CASE DOESN'T FALL IN THAT BRIGHT-LINE CATEGORY OF ANONYMOUS, AS WE HAVE ORDINARILY USED THAT WORD?

I THINK I HAVE TO AGREE. THERE WAS SOME INDICIA OF IDENTIFICATION, AND I WAS LOOKING IN THE RECORD, AS YOUR HONORS WERE QUESTIONING THE STATE, CONCERNING WHAT WAS KNOWN TO LAW ENFORCEMENT, AND I THINK PAGES 42 AND 43 OF THE TRANSCRIPT INDICATE THAT THE ADDRESS WAS KNOWN. OKAY. AT LEAST TO THE DISPATCHER WAS KNOWN, AND WE KNOW THE ALLEGATION OF THE RELATIONSHIP, BEING THE MOTHER, AND THE NATURE OF THE WAY THAT INFORMATION WAS OBTAINED BY THE ALLEGED MOTHER, BUT THEY DID NOT KNOW MUCH ELSE, SO IF WE COMPARE IT TO A TOTALLY UNKNOWN CALLER, AS, APPARENTLY, YOU HAD IN JL, YES, THERE IS A DIFFERENCE.

WE GOT IT OUT OF THE ANONYMOUS CATEGORY. DO YOU AGREE? PART OF WHAT WE HAVE TO DO, HERE, FORTUNATELY OR UNFORTUNATELY, IS, IN A SENSE, THAT WE WEIGH THE INTRUSION THAT WE MIGHT ALLOW INTO SOMEBODY'S PRIVACY THAT IS PROTECTED BY THE FOURTH AMENDMENT, WITH THE RISK OF CRIMINAL CONDUCTOR HARM THAT MAY GO ON OUT THERE. WHY, IN A CASE LIKE THIS, DOESN'T THE BALANCE TIP IN FAVOR OF THE RELIABILITY OF A TIP LIKE THIS AGAINST THE RISK THAT A PERSON WOULD PARADE THEMSELVES OFF AS THE PARENT OF A CHILD AND DO IT. ISN'T THAT A PRETTY LOW-RISK KIND OF PROPOSITION, IN TERM OF THIS BEING ABUSED, COMPARED WITH THE HIGHER RELIABILITY THAT A PARENT THAT IS WILLING TO IDENTIFY, GIVE AN ADDRESS AND A PHONE NUMBER AND DESCRIBE INTIMATELY HOW THEY ARE AWARE OF THE POSSESSION OF THIS DANGEROUS WEAPON, HELP ME WITH THAT PROPOSITION.

I WILL TRY TO. I THINK WE HAVE TO, ALL, RECOGNIZE AND AGREE, THAT THE MISUSE OF A LAW ENFORCEMENT, BY THE PHONY CALL, IS GOING TO REPRESENT A MINORITY OF ALL CALLS. THE VAST MAJORITY ARE GOING TO BE LEGITIMATE. BUT THE FACT THAT THAT REPRESENTS A SMALL NUMBER OF CALLS TO LAW ENFORCEMENT, DOES NOT MAKE IT UNIMPORTANT, FIRST OF AH I

THINK WE NEED TO RECOGNIZE THAT. SECONDLY, I WAS THINKING, AS I WAS LISTENING TO THE STATE'S ARGUMENT, HERE, THAT THE FOLK YOU, UNLESS I MISUNDERSTAND IT, THE FOCUS OF THE SAFETY'S ARGUMENT, IS ON WHAT WAS KNOWN TO LAW ENFORCEMENT AS A WHOLE, IN A CASE, DISPATCH. BUT THE FOCUS, I SUBMIT TO YOU, UNDER THE REASONABLE SUSPICION STANDARD FOR A STOP OF A CITIZEN, MUST BE ON THE LAW ENFORCEMENT OFFICER AT THE SCENE. WHAT DID HE OR SHE KNOW? NOT WHAT IS AUTOMATICALLY OR POSSIBLY COULD BE IMPUTEED TO THE KNOWLEDGE.

IS THAT CORRECT, THOUGH? I MEAN WE HAVE CASES OUT THERE, FOR INSTANCE, WHERE WE IMPUTE THE KNOWLEDGE OF ONE LAW ENFORCEMENT OFFICER, WHO SEEKS THE ASSISTANCE OF ANOTHER LAW ENFORCEMENT OFFICER, AND WE HAVE NOT, IN THOSE CASES, REQUIRED THE FIRST LAW ENFORCEMENT OFFICER TO CONVEY ALL THAT TO THE SECOND OFFICER. WE HAVE, REALLY, YOU KNOW, COMBINED THAT, AND SO HERE I WONDER IF IT WOULD BE PROPER TO SAY THAT THE DISPATCHING POLICE FORCE THAT HAD THE KNOWLEDGE THAT THIS IS SOMEBODY THAT DID IDENTIFY THEMSELVES, NOT ONLY IDENTIFIED THEMSELVES BUT IDENTIFIED THEMSELVES AS A PERSON IN A SPECIAL RELATIONSHIP TO THIS PERSON, AND GAVE THIS OTHER DETAILED INFORMATION, SURELY THAT IS, REALLY, WHAT SET ALL OF THIS IN MOTION, WAS, YOU KNOW, ALL OF THAT KNOWLEDGE. CERTAINLY THAT APPLIES, WITH THE ANONYMOUS TIP KIND OF SITUATION, TOO, THAT IS THAT WE FOCUSED ON THE FACT THAT THE POLICE DEPARTMENT OR WHATEVER INITIATING AGENCY RECEIVED THAT INFORMATION, AND THAT IT WASN'T MORE, YOU KNOW, THAN IT WAS, IN THAT PARTICULAR INSTANCE, SO I AM -- I HAVE DIFFICULTY WITH YOUR CONCEPT THAT WE HAVE TO SAY TO THE DISPATCHER, DISPATCHER, YOU MUST TELL THE OFFICER THAT MAKES THE STOP, THEN, ALL OF THE INFORMATION THAT YOU HAVE, IN ORDER FOR A COURT, LATER, TO CONSIDER THAT. POLICE OFFICERS OUT THERE IN THE FIELD, OFTEN, RESPOND TO THESE BOLOS AND SUCH, ON THE BASIS OF, WHAT, WELL THAT, IS IT, THAT IS ALL WE NEED KNOW. WE ARE RELYING, IN TURN, ON WHAT OUR DEPARTMENT KNOWS, IN ISSUING A BOLO,, TO BEGIN WITH.

YES. YOU HAVE IDENTIFIED THE PROBLEM FOR OUR POSITION VERY CLEARLY. I HAVE GOT TO CONCEDE THAT. BUT I WOULD LIKE TO ADDRESS A COUPLE THINGS. SMALL POINTS BUT IMPORTANT POINTS, NONETHELESS. IF WE FOCUS ON THE CLAIM THAT THE CALLER, FOR EXAMPLE, IS RELATED, BY BLOOD, THAT CLAIM CAN BE MADE THAT IS BOTH TRUE AND UNTRUE. AND I THINK WE WOULD BE WRONG TO GET SIDETRACKED AND SAY THAT IS AN AUTOMATIC HEIGHTENED INDICIA OF RELIABILITY, SIMPLY BECAUSE SOMEONE CLAIMS TO KNOW THE PERSON THAT THEY ARE REPORTING ON. SECONDLY, YES, WE HAVE CASE LAW, A BODY OF CASE LAW THAT HAS EVOLVED OVER THE YEARS, TALKING ABOUT THE IMPUTEATION OF LAW ENFORCEMENT TO LAW ENFORCEMENT INFORMATION, BUT I THINK THE SECOND DCA WAS RIGHT, WHEN IT LOOKED IN THIS CASE BACK TO MILLER, BECAUSE, IN MILLER, THERE, IF I AM NOT MISTAKEN, A DISPATCHER KNEW AND HAD SOME PREVIOUS CONTACT WITH THE CALLER BUT DIDN'T ADEQUATELY COMMUNICATE THAT SIMPLE INFORMATION, EASY, TO COMMUNICATE TO THE LAW ENFORCEMENT OFFICER, WHO, THEN, MADE THE STOP, THE SEARCH AND SEIZURE, AND I THINK THAT IS A BETTER POSITION TO TAKE.

COULD WE GO BACK TO THIS, I AM HAVING A REAL PROBLEM WITH THIS ISSUE THAT WE ARE NOT HERE IN ANONYMOUS TIP. IF SOMEBODY GIVES THEIR NAME, ESSENTIALLY, SHE GIVES HER NAME. I AM THE MOTHER OF GREGORY MAYNARD, AN ADDRESS, AND IT WAS REPRESENTED BY THE STATE THAT SHE LEAVES HER PHONE NUMBER. THAT IS NOT ANONYMOUS TIP ANYMORE, SO THE WHOLE JL CASE, WHICH IS -- DEALS WHAT ANONYMOUS TIP, HOW IS THAT APPLICABLE? AREN'T WE, REALLY, BACK INTO SHE IS A CITIZEN INFORMANT, AND, IN THAT SITUATION, COULD YOU ADDRESS THAT, WHAT IS, THERE IS NOT A NECESSITY OF THERE BEING OTHER SUSPICIOUS BEHAVIOR BEFORE YOU APPROACH THE PERSON, IS THERE? ISN'T THE CITIZEN INFORMANT CONSIDERED TO BE RELIABLE, BECAUSE THEY GIVE THEIR NAME AND THEY GIVE THEY ARE ADDRESS AND THEY GIVE THEIR PHONE NUMBER? MAYBE I AM -- I FEEL LIKE I WOULD -- I THOUGHT I WAS COMING IN HERE ON ONE CASE, WHICH SAYS ANONYMOUS TIP BUT THEY JUST

HAPPEN TO SAY THEY ARE THE MOTHER OR THE BROTHER, AND NOW WE ARE SAYING THERE WAS EVERYABILITY THAT THERE WAS ALL OF THESE INDICIA THAT THIS MEASURE WAS NOT ONLY -- THIS PERSON WAS NOT ONLY CAPABLE OF BEING IDENTIFIED BUT SHE WAS IDENTIFIED.

YES. THE STATE'S POSITION IS THAT SHE WAS IDENTIFIED. THAT SEPARATES THEIR POSITION FROM MINE.

WHAT IS -- HOW IS YOUR POSITION THAT SHE WASN'T IDENTIFIED?

SHE NEEDED TO BE IDENTIFIED FURTHER, TO DETERMINE WAS SHE, IN FACT, THE MOTHER? WAS -- DISPATCH COULD HAVE RETURNED THE CALL AND ADDRESSED SOME QUESTIONS TO THAT PERSON CALLING, THAT MIGHT HAVE SATISFIED THE NECESSARY REQUIREMENT TO RAISE HER TO A CITIZEN INFORMANT, BUT SIMPLY TO CALL IN AND GIVE AN ADDRESS AND A RELATIONSHIP, I SUBMIT, IS NOT ENOUGH.

BUT YOU ARE SAYING -- I AM SORRY. I JUST WANT TO SAY, YOU ARE SAYING IN CASES OF CITIZEN INFORM APARTMENT, I CALL IN AND SAY I AM BARBARA PARIENTE. I LIVE HERE, THIS IS MY ADDRESS, AND A FRIEND OF MINE JUST LEFT MY HOUSE, AND THEY WERE CARRYING A GUN IN THEIR BACKPACK, AND I SAW A PERSON PUT IT IN, UNDER CASE LAW, THE POLICE HAVE TO CALL ME BACK AND VERIFY IT IS ME AND VERIFY WHAT I DO AND VERIFY MORE? IS THAT WHAT YOU ARE SAYING?

THAT IS WHAT I AM SAYING. I AM NOT SUGGESTING, HOWEVER, AS I SAID A MINUTE AGO, THAT THERE SHOULD BE A NECESSARY, ABSOLUTE OR BRIGHT-LINE TEST. IT CAN VARY.

THIS BRIGHT-LINE TEST, THOUGH, TO HELP POLICE FOR THE FUTURE, SO THEY DON'T -- ISN'T THAT ONE OF THESE SITUATIONS WHEN BRIGHT LINES ARE ACTUALLY GOOD, BECAUSE WE, THEN, KNOW THIS IS ACCEPTABLE POLICE PROCEDURE, AND THIS IS NOT ACCEPTABLE.

I WOULD RESPOND THAT WHAT I AM REFERRING TO IS A SPECIFIC METHODOLOGY THAT THEY MUST EMPLOYEE. THEY HAVE SEVERAL OPTIONS. IF WE EXAMINE THE RECORD, THREE OFFICERS ULTIMATELY RESPONDED. THE FIRST OFFICER THAT WENT AND STOPPED AND DETAINED. THE SECOND OFFICER, WHO CAME, AND UPON HIS ARRIVAL, SEARCH WAS CONDUCTED, AND THEN, YET, LATER, A THIRD OFFICER. OBVIOUSLY PLENTY OF LAW ENFORCEMENT MANPOWER AVAILABLE TO HAVE AT LEAST GONE NEARBY, APPARENTLY WITHIN A SHORT DISTANCE, TO VERIFY IDENTITY. THAT IS ONE METHODOLOGY, OR A PHONE CALL.

ARE YOU SAYING ONE OF THEM COULD HAVE BEEN GOING THERE, AND IF THEY HAD, HOW WOULD THAT HAVE HELPED THE SITUATION? THE OTHER OFFICERS, STILL, WOULDN'T HAVE KNOWN OR NOT KNOWN.

WELL, BECAUSE THE LEVEL OF INTRUSION MIGHT NOT HAVE HAD TO HAVE BEEN AS MUCH, INTO THE CITIZEN'S RIGHT OF PRIVACY.

WHAT ADDITIONAL LEVEL OF INTRUSION WAS THERE?

I AM SORRY?

WHAT ADDITIONAL LEVEL OF INTRUSION WAS THERE, BY THE MERE PRESENCE OF ADDITIONAL OFFICERS?

WELL, I THINK, AS SOON AS YOU -- I KNOW IT IS A SUBTLE DIFFERENCE, BUT AS SOON AS YOU HAVE MORE SQUAD CARS AND LAW ENFORCEMENT OFFICERS ARRIVE AND THE DETENTION BECOMES A MORE SERIOUS SITUATION FOR THE CITIZEN, IN TERMS OF LIMITATION OF MOVEMENT AND FREEDOM AND INTIMIDATION THAT IS INHERENT, EVEN IF IT IS UNINTENDED, I THINK THAT

THAT IS WHAT YOU WILL RUN INTO.

TELL ME ABOUT THE RECORD --

AREN'T WE DEALING, HERE, WITH THE INDICIA OF RELIABILITY, AND ISN'T THAT HEIGHTENED BY THE FACT THAT THE PERSON GIVES THEIR NAME, THEIR ADDRESS, AND SPECIFIC IDENTIFICATION OF WHAT TO EXPECT, RELATIVE TO THIS PERSON, ISN'T THAT SATISFYING OUR POLSTAR, WHICH IS INDICIA OF RELIABILITY? DOESN'T THAT SATISFY, ONCE THAT IS RAISE TO DO THAT LEVEL?

IT HEIGHTENS IT, BUT I WOULD RESPOND IT DOESN'T RAISE IT SUFFICIENTLY TO THAT LEVEL. IF I CAN ILLUSTRATE, LET'S GO BACK AND LOOK AT ALABAMA VERSUS WHITE, WHICH IS CITED IN THE JL DECISION AND CITED BY THE STATE. THE U.S. SUPREME COURT HAS SAID THAT IS A CLEESE CALL. -- A CLOSE CALL. THAT PERSON CALLED AND GAVE VERY SPECIFIC PREDICTIVE FUTURE BEHAVIOR, AND THAT IS ONE ASPECT OF VERIFICATION THAT THE COURT SAYS YOU CAN USE. THE STATE SAYS THERE IS PREDICTIBILITY HERE, IN THE MAYNARD CASE. I SAY THERE IS NOT. WHEN YOU COMPARE THE TWO, SIDE-BY-SIDE, ALABAMA VERSUS WHITE, WHICH THE COURT HAS SAID WAS A VERY CLOSE DECISION, APPARENTLY BARREL SQUEAKED BY THEIR SCRUTINY, BUT NONETHELESS, PROVIDED FAR MORE SPECIFIC PREDICTIVE BEHAVIOR.

BUT THAT WAS ANONYMOUS CALL.

WAIT. JUSTICE. LET'S GO IN ORDER, PLEASE. JUSTICE SHAW AND THEN JUSTICE HARDING.

BUT YOU ARE RAISING THE BAR, BY PUTTING AN ADDITIONAL PREREQUISITE THAT I DON'T KNOW OF ANY CASE LAW REQUIRES, AND THAT IS THIS CALL BACK TO VERIFY. PART OF THE RELIABILITY IS A PERSON, IT IS AN UNLIKELY SITUATION A PERSON IS GOING TO GIVE A NAME, AN ADDRESS, AND DETAILED DESCRIPTION, IF YOU DON'T WANT TO BE CHECKED UP ON, YOU DON'T GIVE YOUR NAME, AND YOU DON'T GIVE YOUR ADDRESS, AND YOU DON'T GIVE ALL OF THESE OTHER THINGS, SO YOU ARE MAKING ABSOLUTE PREREQUISITE THAT THERE BE THIS CALL BACK. IS THAT YOUR POSITION?

NO. AS I HOPED I HAD ANSWERED BEFORE. I DIDN'T ARTICULATE WELL. THERE NEEDS TO BE A CONTINUED RESPONSE, BUT YOU ARE RIGHT. I PROPOSE THAT THERE NEEDS TO BE ONE STEP MORE, IN A SITUATION LIKE MAYNARD. EVEN THOUGH THE INFORMATION HAS BEEN GIVEN, IT COULD EASILY BE VERIFIED, WITH VERY LITTLE, IF ANY, INTRUSION OR PROBLEM CREATED FOR LAW ENFORCEMENT. AND IF I CAN, JUST SWITCH TO A POLICY CONSIDERATION --

LET'S LET JUSTICE HARDING.

DOES THE RECORD REFLECT THAT THIS CALLER GAVE A PHONE NUMBER?

IF I CAN REFER TO, YOUR HONOR, PAGE 43, APPARENTLY IT WAS KNOWN TO DISPATCH. IT IS A BIT VAGUE IN THE RECORD. THE LAW ENFORCEMENT OFFICER THAT DID THE STOP AND SEARCH DID NOT KNOW AT THE TIME. BUT APPARENTLY DISPATCH MAY HAVE.

JUSTICE ANSTEAD.

WELL, WHEN, IN TALKING ABOUT THE ALABAMA VERSUS WHITE CASE.

YES.

THAT WAS ANONYMOUS TIP.

YES, I BELIEVE IT WAS. YOU KNOW, IT WAS TRULY ANONYMOUS, IN THE WAY WE HAVE DISCUSSED HERE. THIS MORNING.

SO THE REQUIREMENT OF PREDICTIVE CRIMINAL BEHAVIOR OR CERTAIN BEHAVIOR IN THERE WAS USED AS A PART OF AN ANALYSIS, ASSUMING IT WAS ANONYMOUS TIP.

YES. I THINK THAT IS A FAIR CHARACTERIZATION. I WOULD SAY THAT THE STATE'S POSITION, HERE, IS, AND I THINK THEY ARTICULATED THAT, THIS MORNING, IS ONE OF VERY FIBLT. THAT IS THE ABILITY TO VERIFY, DISTILLING IT DOWN JUST TO A THAT SIMPLE TERM, VERIFY VERIFYINGABILITY, THE ABILITY TO VERIFY. I AM SAYING, IN RESPONSE, IF THEY HAVE THAT ABILITY, THEY SHOULD DO IT IN THAT CIRCUMSTANCE, AND THEY HAD IT HERE.

BUT JL SPECIFICALLY SAYS, UNLIKE A TIP FROM A KNOWN INFORMANT, WHOSE REPUTATION COULD BE ASSESSED AND WHO CAN BE HELD RESPONSIBLE, IF HER ALLEGATION TURNED OUT TO BE FABRICATED, ANONYMOUS TIP, ALONE, SELDOM DEMONSTRATES THE INFORMANT'S BASIS OF KNOWLEDGE OR VERACITY, SO, HERE, IF WE DETERMINE, FROM THE RECORD, THAT THERE WAS ENOUGH FOR THIS TO BE A KNOWN INFORMANT, WHO COULD BE HELD RESPONSIBLE, IF IT WAS DEMONSTRATED THAT HER INFORMATION WAS UNTRUE, THAT IT SEEMS TO ME THAT TAKES YOU OUT OF THE JL CASE. THEN WE GET BACK TO OUR PRIOR CASE LAW, AND I THINK THAT IS WHAT WE HAVE BEEN TRYING TO STRUGGLE WITH, IS THAT THIS DOESN'T APPEAR, ANYMORE, TO BE ANONYMOUS TIP, AND THEREFORE THE ISSUE OF WHAT THE SUPREME COURT SAID ABOUT ABILITY TO VERIFY OR CALL BACK, REALLY, APPLIES ONLY IN THE ANONYMOUS TIP SITUATION, NOT IN THE CITIZEN INFORMANT SITUATION.

AND I UNDERSTAND, YOUR HONOR'S CONCERN WITH THAT. I THINK IT IS A REASONABLE ONE. I AM SAYING THAT THIS IS A GRAY AREA SITUATION. IT IS NOT JUST A SINGLE POINT THAT WE CAN DETERMINE. IT IS A CONTINUUM. I AM SAYING THIS FALSE WITHIN THE CONTINUUM. SHE REMAINS ANONYMOUS, UNTIL BETTER IDENTIFIED, AND THAT IS FOR MY SUBMISSION, THAT THE FOLK -- THAT THE FOCUS OF OUR ANALYSIS SHOULD BE ON THE LAW ENFORCEMENT OFFICER AT THE SCENE.

SO, ARE YOU ASKING, THEN, THAT WE HAVE A RULE THAT SAYS ANY TIME THERE IS A PHONE CALL, AND NO MATTER HOW MUCH INFORMATION IS GIVEN, THAT THE POLICE MUST DO SOMETHING, BEYOND ACCEPTING THE PHONE CALL, IN ORDER TO HAVE A VALID STOP AND FRISK?

I BELIEVE THEY MUST DO SOMETHING IN A SITUATION LIKE OR SIMILAR TO THIS, TO GET BACK AND VERIFY, AND WHEN WE LOOK AT THE OTHER CASES, BOTH THAT I HAVE RELIED ON AND THE STATE HAS RELIED ON, THERE HAS BEEN ADDITIONAL, SHALL WE SAY, ACCOUNTABILITY AND CREDIBILITY, PROVIDED BY, EITHER, A SITUATION WHERE THE PERSON FOLLOWED UP, VERY QUICKLY, LAW ENFORCEMENT FOLLOWED UP, OR THE PERSON WAS FACE-TO-FACE, HOWEVER BRIEFLY, WITH LAW ENFORCEMENT, AND THE MOTHER WAS NOT FACE-TO-FACE HERE.

THANK YOU, MR. HOLLOW WAY. I THINK YOUR TIME IS UP.

THANK YOU.

MS. BOCK.

JUST BRIEFLY. I WANT TO MAKE SURE THAT THE COURT IS AWARE OF THE STATE'S ARGUMENT IN FORCE. IT IS THAT THIS SHOULD HAVE BEEN A CITIZEN INFORMANT. THAT THE TRIAL COURT MADE THE RIGHT DECISION. THE SECOND DISTRICT COURT OF APPEAL, THEN, RECATAGORIZED HER AND THEN COMPOUNDED THAT ERROR, BY SAYING THAT, EVEN IF SHE WERE ANONYMOUS, THE INDICIA OF REALLYABILITY WAS NOT THERE, EVEN WITH ALL OF THE INFORMATION THAT WAS GIVEN.

EVEN IF SHE WAS A CITIZEN INFORMANT.

I AM SAYING IF THIS COURT DOES FIND THAT THE SECOND WAS CORRECT IN RECATAGORIZING HER, THAT, THEN, THERE IS SUFFICIENT INDICIA OF RELIABILITY, WITH THE INFORMATION GIVEN, THAT WE SHOULD HAVE GONE BEYOND THE NEED FOR ANYTHING ELSE AND IT THE --, AND THE STOP WAS PROPER. BEYOND THE TWO POINTS, JUSTICE PARIENTE, CLEARLY CAUGHT DRIFT MY ARGUMENT, IS THAT THIS WAS A CITIZEN INFORMANT CALL. TO ASK MORE, I BELIEVE THE TRIAL COURT SAID, WOULD GIVE THE POSITION OF LEWIN AS I, BASICALLY, TO -- OF LUNACI, BASICALLY, TO ASK THIS KIND OF INFORMATION, BEFORE MAKING A STOP, WITH ALL OF THE INFORMATION THAT WAS AVAILABLE, WOULD BE BEYOND WHAT WAS EXPECTED.

WAS THE DISPATCH REPORT IN THE RECORD?

THE DISPATCH REPORT WAS NOT. IT IS ONLY RELATED THROUGH THE DISPATCH OFFICER, AND HE MADE THE STOP. I WILL SAY THIS, AS TO THE QUESTION OF WHETHER OR NOT HE KNEW THE NAME AND THE PHONE NUMBER. HE DID NOT KNOW THE PHONE NUMBER AT THE TIME, BUT HE KNEW THAT IT WAS THE MOTHER. HE STATES, IN HIS TESTIMONY, THAT HE KNEW IT WAS THE MOTHER, AT THE TIME HE MADE THE STOP.

AND DID HE KNOW, THE QUESTION MAY BE DIFFERENCE WITHOUT A DISTINCTION OR OTHERWISE, BUT DID SHE GIVE HER ADDRESS OR DID SHE SAY THAT SHE NEW MAIN ARRESTED WAS MOVING FROM THIS ADDRESS FOR ANOTHER ADDRESS? -- TO ANOTHER ADDRESS?

MY UNDERSTANDING, YOUR HONOR, IS SHE SAID THIS IS MY ADDRESS. I AM AT THIS ADDRESS. MY SON JUST LEFT THE HOME, SO THE SAME ADDRESS.

NOW, THE SECOND ISSUE IS ABOUT THE PHONE NUMBER. IS THERE ANYTHING IN THE RECORD TO DETERMINE HOW THAT WAS KNOWN, WHETHER IT WAS A CALL -- CALLER I.D.?

LIKE A TRACE AND TRAP BY THE POLICE DEPARTMENT? THERE IS NOT ANYTHING TO SAY THAT THAT IS HOW THEY GOT IT, BUT THEY DO SAY THEY HAD IT. IN OTHER WORDS SHE SOMEHOW RELATED THE PHONE NUMBER TO THE DISPATCHER.

OR SOMEHOW THE PHONE NUMBER WAS OBTAINED, AS OPPOSED TO RELATED.

IT WAS A KNOWN. IT WAS NOT AN UNKNOWN. IT WAS A KNOWN, AT THE TIME THAT THE DISPATCH WAS MADE.

OKAY.

THANK YOU, YOUR HONORS.

THANK YOU. THANK YOU, COUNSEL, VERY MUCH. THE COURT WILL BE IN RECESS. THE MARSHAL: PLEASE RISE.