

NO. _____

IN THE SUPREME COURT OF THE UNITED STATES

JOHN EARL BROOMFIELD JR.,

Petitioner

Vs.

UNITED STATES OF AMERICA,

Respondent

ON PETITION FOR WRIT OF CERTIORARI TO
THE EIGHTH CIRCUIT COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the 911 callers in this matter were “anonymous” callers, and, if so, was the opinion in this matter then in conflict with *Florida v. J.L.*, 529 U.S. 266 (2000).

TABLE OF CONTENTS

QUESTION PRESENTED.....	ii
TABLE OF CONTENTS.....	iii
TABLE OF AUTHORITIES.....	iv
PETITION FOR A WRIT OF CERTIORARI.....	1
DECISION BELOW.....	1
JURISDICTION.....	1
STATEMENT OF THE CASE.....	2
I. The 911 calls.....	4
II. Reasonable suspicion.....	4
III. The Eighth Circuit affirmed the order of the District Court overruling the Petitioner's motion to suppress.....	5
REASONS FOR GRANTING THE WRIT.....	6
CONCLUSION.....	9

INDEX TO APPENDICES

APPENDIX A.....	The Decision from the Eighth Circuit
APPENDIX B.....	The Decision from the United States District Court
APPENDIX C.....	The Decision denying Petition for Re Hearing
APPENDIX D.....	The order of appointment for the Undersigned

TABLE OF AUTHORITIES

Cases

<i>Florida v. J.L.</i> , 529 U.S. 266 (2000).....	ii, 5, 7
<i>Illinois v. Gates</i> , 462 U.S. 213 (1983).....	5
<i>Terry v. Ohio</i> , 392 U.S. 1 (1968).....	7
<i>Florida v. Royer</i> , 460 U.S. 491 (1983).....	7
<i>Alabama v. White</i> , 496 U. S. 325.....	7

Statutes

28 U.S.C. 1254.....	1
U.S.C. 922(g)(1).....	3
U.S.C. 924 (a)(2).....	3

PETITION FOR A WRIT OF CERTIORARI

Petitioner, John Earl Broomfield Jr., respectfully requests the issuance of a writ of certiorari to review the judgment of the United States Court of Appeals for the Eighth Circuit

DECISION BELOW

The decision of the United States Court of Appeals for the Eighth Circuit was an unpublished opinion and can be found at Pet. App. A.

JURISDICTION

The Eighth Circuit entered judgement on June 3, 2024. The Eighth Circuit denied the Petitioner's request for rehearing on July 16, 2024, Appendix C. This Court's jurisdiction is invoked under 28 U.S.C. 1254.

STATEMENT OF THE CASE

In this case, city of Council Bluffs Officers were dispatched to the BLK bar on December 19, 2021 for reports of a large disturbance. Officer Benson was given a description of a black male, with a black coat, jeans, and a New Orleans Saints hat via dispatch and he then relayed that description on to Officer Archibald at the scene. Shortly after the officers arrive at the scene, the body worn camera (Exhibits 2 and 3-All record citations in this Writ are to the record filed on the Eighth Circuit) of the officers is activated and captures all of the relevant interactions.

The officers pass by a rather large group of people that are congregating presumably near the unconscious male party, although that is not readily apparent from the body worn camera. *Id.* The officers make their way to the front of the bar where the body worn camera footage makes it obvious that the bar patrons are in a single file line to exit the BLK. *Id.* The Petitioner is about the 4th or 5th person in that single file line waiting to exit. *Id.*

The body worn camera moves pretty quickly at this point in the video. It does appear as if the Petitioner makes an attempt to walk away from the officers, and both Officer Benson and Officer Archibald testified as such. *Id.* The reason the Petitioner walks away though is not clear from the video or the testimony. The video and the testimony indicate that the officers begin to follow the Petitioner through the bar towards the back entrance. *Id.* What is in conflict at this point is whether or not officers are making verbal commands for the Petitioner to stop and talk to them. The undersigned contends that the body worn camera does not

support Officer Benson's testimony that he was asking the Petitioner to stop as they were walking towards the back of the bar. *Id.* Additionally, Officer Archibald testified that he could not recall any verbal commands as the parties were moving towards the back of the bar.

Body worn video footage and testimony support the fact that near the back of the BLK bar, Officer Benson grabs the Petitioner and spins him around. *Id.* The gun falling from the Petitioner's coat pocket is not visible in the video, but you can hear officers yell "gun". *Id.* The Petitioner, who is apparently stunned by the fact that somebody grabbed him by the coat, spins out of his coat and starts to run out the back of the bar where he is quickly apprehended by officers and arrested. *Id.* Based on a prior felony conviction of the Petitioner, the Petitioner was charged with being a Felon in Possession of a Firearm under U.S.C. 922(g)(1) and 924 (a)(2).

There were two 911 calls in this case. (Exhibit 1). Neither caller said that a person matching the description they gave (the Petitioner) was doing more than yelling while in the general vicinity of the unconscious male party. In fact, the second 911 caller indicated that it might have been someone else who punched the unconscious man at the scene. (Exhibit 1).

The Petitioner filed a motion to suppress at the trial level, which was denied. The Petitioner then entered a guilty plea, but retained his right to appeal the suppression issues. The Petitioner did appeal the above mentioned issue to the Eighth Circuit Court of Appeals and then filed a motion for rehearing, which were both denied.

I. The 911 calls

There were two 911 calls that were made by two different individuals at the scene of the disturbance outside the Council Bluffs bar. Both calls were recorded and marked as exhibits at the time of the suppression hearing. (Ex.1). Admittedly, both callers gave an accurate description of the Petitioner, but neither caller saw any of the events that led up to the victim being on the ground. *Id.* The second caller stated that the Petitioner was yelling at or toward the victim and then stated that the Petitioner walked away from the scene and towards a neighboring bar. *Id.* It is likely (as the Eighth Circuit found) that the second 911 caller also spoke with Officer Benson, the first officer on the scene.

Both callers did provide their full name and phone numbers to the 911 operators. *Id.* It is also important to note that neither 911 caller described any criminal or illegal activity on the part of the Petitioner. *Id.*

II. Reasonable suspicion

The Eighth Circuit, in its opinion, seemed to rely on the accuracy of the description from the 911 callers and the Petitioner walking away from the officers as they approached him.

III. The Eighth Circuit affirmed the order of the District Court overruling the Petitioner's motion to suppress

On appeal, the Petitioner challenged the District Court's order overruling his motion to suppress. The Eighth Circuit affirmed the ruling of the District Court. They specifically found that there was reasonable suspicion to detain the Petitioner. The Eighth Circuit based this finding on the fact that the Petitioner matched the description given by the 911 callers, and, that when approached by officers, the Petitioner began to move away from them.

Additionally, the Eighth Circuit found that the 911 callers in this case were not anonymous callers. The Eighth Circuit based this conclusion on the fact that both callers gave their full names and phone numbers to the 911 dispatcher. Thus distinguishing the Petitioner's case from *Florida v. J.L.*, 529 U.S. 266 (2000).

REASONS FOR GRANTING THE WRIT

The Eighth Circuit found that the 911 callers were not anonymous callers. They based this finding on the fact that both 911 callers gave their full name and phone numbers. Additionally, one of the 911 callers remained at the scene, and, more than likely, spoke with one of the reporting officers.

The fact that the 911 callers gave their full names and phone numbers to the 911 dispatcher does nothing to establish their “veracity” or their “reliability”. See *Illinois v. Gates*, 462 U.S. 213 (1983). It does nothing to further the concept of reasonable suspicion. There was no information that law enforcement was familiar with either of these callers and knew them to be reliable and/or truthful. The providing of a name and phone number does not remove the anonymity that these two 911 callers had within the framework of reasonable suspicion.

Additionally, there is nothing in the record to suggest that these two 911 callers even gave accurate information to the 911 dispatcher. Granted, it seems somewhat unlikely that a person calling 911 would give fake information, but it bears mentioning here that there was nothing done to verify the information they gave. The first officer on the scene, Officer Benson testified that there was a large crowd gathered surrounding the victim on the ground. (Motion to Suppress TR., Vol. 1 p.5:12-16). Officer Benson could have spoken with any of these individuals to try and ascertain more information about the scene and the potential perpetrator before proceeding to apprehend the Petitioner. The only information Officer Benson

had at this point was a description of a person that was yelling in what was presumably a pretty chaotic scene, certainly the scene of some sort of altercation.

If these 911 callers were anonymous, then the officers had far less than reasonable suspicion to apprehend the Petitioner according to *Florida v. J.L.*, 529 U.S. 266 (2000). In *Florida v. J.L.*, 529 U.S. 266 (2000), this Court held that for a completely anonymous tip to justify even a "stop and frisk" of a suspect pursuant to *Terry v. Ohio*, 392 U.S. 1 (1968), it must be "suitably corroborated" with both the accurate prediction of future activity of the subject and accurate in its assertion of potential criminal activity. An anonymous tip that a person is carrying a gun is not, without more, sufficient to justify a police officer's stop and frisk of that person. Here, the officers' suspicion that J. L. was carrying a weapon arose not from their own observations but solely from a call made from an unknown location by an unknown caller. The tip lacked sufficient indicia of reliability to provide reasonable suspicion to make a Terry stop: It provided no predictive information and therefore left the police without means to test the informant's knowledge or credibility. See *Alabama v. White*, 496 U. S. 325, 327. See also *Florida v. Royer*, 460 U.S. 491 (1983). The officers in this case had far less than that. Specifically, the officers in J.L. had information that J.L. was carrying a gun. In this case, the Petitioner was accused of yelling.

Plain and simple the officers acted too quickly and too aggressively in seizing the Petitioner. They did not have reasonable suspicion to do so and there was no immediate danger to anyone else there that night that would have prompted

officers to take the actions they did that night. The evidence against the Petitioner should have been suppressed and for the District Court to find that it should not have been, was error.

Because the lower court erred when it held that the 911 callers were not anonymous and that there was reasonable suspicion, this Court's review is warranted. This Court's review is also requested as the decision of the Eighth Circuit in this matter conflicts with a case previously decided by this Court.

CONCLUSION

The Petitioner, Mr. Broomfield, respectfully requests that this Court issue a writ of certiorari.

Respectfully submitted,

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October 11, 2024