

= Prado Navarette v. California =

Prado Navarette v. California , 572 U.S. __ _ (2014) , was a case in which the United States Supreme Court clarified when police officers may make arrests or conduct temporary detentions based on information provided by anonymous tips . In 2008 , police in California received a 911 call that a pickup truck was driving recklessly along a rural highway . Officers spotted a truck matching the description provided in the 911 call and followed the truck for five minutes , but did not observe any suspicious behavior . Nevertheless , officers conducted a traffic stop and discovered 30 pounds (14 kg) of marijuana in the truck . At trial , the occupants of the car argued that the traffic stop violated the Fourth Amendment of the United States Constitution , because the tip was unreliable , and officers did not personally observe criminal activity . Writing for a majority of the Court , Justice Clarence Thomas held that the 911 call was reliable , and that officers need not personally observe criminal activity when acting upon information provided by an anonymous 911 call .

Justice Antonin Scalia wrote a " scathing " dissenting opinion , in which he argued that the tip was unreliable , and that the majority 's opinion threatened the freedom and liberty of all citizens . Likewise , many commentators have noted Navarette represented a departure from earlier precedent , and that the opinion opened the door for expansive new police powers . Some commentators have also noted that the case leaves open several important questions , including the unanswered question of whether anonymous reports of extremely dangerous behavior require fewer indicia of reliability before police may act upon those reports . Other scholars have argued it was highly unlikely that Lorenzo and Jose Prado Navarette were actually driving under the influence of drugs or alcohol when they were stopped by police .

= = Background = =

= = = Fourth Amendment guidelines for traffic stops = = =

Although criminal detentions usually require probable cause that the suspect has engaged in criminal activity , an officer may conduct a traffic stop if the officer has a reasonable , articulable suspicion that the driver is engaging in criminal activity . Officers may not rely upon a mere " hunch " , but the level of suspicion required to conduct a traffic stop is ? considerably less than proof of wrongdoing by a preponderance of the evidence ? , and less than is necessary for probable cause . However , the Supreme Court of the United States has clarified that the reasonable suspicion required to justify a traffic stop depends upon " both the content of information possessed by police and its degree of reliability " , while taking into account ? the totality of the circumstances ? the whole picture . ?

= = = Fourth Amendment searches and seizures based on anonymous tips = = =

In Illinois v. Gates , the Supreme Court established that courts should apply a " totality of the circumstances " test to determine whether an anonymous tip is sufficiently reliable to provide probable cause to issue an arrest warrant . Although officers in Gates did not personally witness any criminal activity , the Supreme Court held that the anonymous tip in question was reliable , because officers could verify several events predicted by the anonymous tip . Seven years after Gates , the Supreme Court held in Alabama v. White that an anonymous tip was sufficiently reliable to provide reasonable suspicion to justify a temporary detention , because the tip accurately predicted several key details . Although the Court conceded that White was a " close case " , the tip in question " exhibited sufficient indicia of reliability " to justify a temporary detention . The Court explained that if " an informant is shown to be right about some things , he is probably right about other facts that he has alleged , including the claim that the object of the tip is engaged in criminal activity . "

However , in Florida v. J.L. , the Supreme Court ruled that police officers did not have reasonable suspicion to detain a suspect based on an anonymous tip ? that a young black male standing at a

particular bus stop and wearing a plaid shirt was carrying a gun . ? The Court held that the tip " lacked the moderate indicia of reliability present in White and essential to the Court ? s decision in that case . The anonymous call concerning J.L. provided no predictive information , and therefore left the police without means to test the informant ? s knowledge or credibility . ? The Court declined to create a " firearm exception " for anonymous tips , but the court noted in dicta that a tip describing a bomb threat need not bear the indicia of reliability otherwise required of other anonymous tips . The Supreme Court of California would later rely upon this " bomb exception " in People v. Wells , when it ruled that an anonymous tip that accurately described a vehicle ? weaving all over the roadway ? justified a traffic stop . The California court held that ? considerations of public safety and common sense ? permit officers to conduct traffic stops based on anonymous tips " to confirm the officer ? s reasonable suspicion of intoxicated driving before a serious traffic accident can occur . ?

= = = Arrest and Trial of Lorenzo and Jose Prado Navarette = = =

On August 23 , 2008 , a California Highway Patrol (" CHP ") dispatcher in Humboldt County , California received a 911 call from an anonymous caller . According to the dispatcher , the caller reported a silver Ford F150 pickup with the license plate number " 8D94925 " ran them off the highway . The caller stated that the truck was last seen heading southbound on California State Route 1 . CHP dispatchers relayed the report to officers in the geographic area , and the vehicle was soon spotted traveling southbound at mile marker 66 near Fort Bragg , California . Officers pulled over the vehicle and discovered that Lorenzo Prado Navarette and Jose Prado Navarette were the only occupants . After standing next to the cab of the pickup truck , the officers noticed " a very distinct smell of marijuana coming from the vehicle " . Officers then searched the vehicle and found four large bags containing 30 pounds (14 kg) of marijuana , an unopened box of oven bags , clippers , and fertilizer in the bed of the truck .

On August 26 , 2008 , a felony complaint was filed in Mendocino County Superior Court , charging Lorenzo Prado Navarette and Jose Prado Navarette with transportation of marijuana in violation of section 11360 (a) of the California Health and Safety Code , and possession of marijuana for sale in violation of section 11359 of the California Health and Safety Code . On June 26 , 2009 , Lorenzo Prado Navarette and Jose Prado Navarette filed a motion to suppress evidence , claiming that the traffic stop violated the Fourth Amendment of the United States Constitution , because officers " lacked reasonable suspicion of criminal activity " . However , the magistrate who presided over the suppression hearing , and the superior court , both rejected the motion . Lorenzo Prado Navarette and Jose Prado Navarette subsequently pleaded guilty to transporting marijuana , and were sentenced to 90 days in prison and three years of probation .

Lorenzo Prado Navarette and Jose Prado Navarette filed an appeal in the California Court of Appeal , but the court affirmed the judgment of the Superior Court . Relying on the " public safety " exception established in People v. Wells , the court held that " ongoing danger to other motorists [justified] the stop without direct corroboration of the vehicle 's illegal activity " . The court noted that the vehicle was traveling on an " undivided two @-@ lane road , thus raising the risk of a collision with oncoming traffic , which poses a particular risk to human life and limb . " However , the court also held that the " anonymous tip itself had several indicia of reliability ? the content of the tip strongly suggested it came from the victim and the tipster accurately described the appearance , location and direction of the vehicle . " Lorenzo and Jose appealed again to the Supreme Court of California , but the Court declined to review their case . They then appealed to the Supreme Court of the United States , which granted their petition for certiorari on October 1 , 2013 .

= = Opinion of the Court = =

Writing for a majority of the Court , Justice Clarence Thomas held that the 911 call contained sufficient indicia of reliability to justify the traffic stop . Although he acknowledged that this was a " close case " , Justice Thomas concluded that indicia of the 911 caller 's reliability were stronger than those in Florida v. J.L. , where the Court held a " bare @-@ bones " tip was unreliable . Justice

Thomas began his opinion by emphasizing that the Supreme Court had " firmly rejected the argument that reasonable cause for an investigative stop can only be based on the officer 's personal observation , rather than on information supplied by another person . " By identifying the make , model , and license plate number of the pickup truck , Justice Thomas argued that " the caller necessarily claimed eyewitness knowledge of the alleged dangerous driving , " and that basis of knowledge supported the tip 's reliability . Furthermore , Justice Thomas concluded that " [a] driver 's claim that another vehicle ran her off the road , however , necessarily implies that the informant knows the other car was driven dangerously . " Justice Thomas also noted that the calls made through the 911 emergency system are particularly reliable , because calls are recorded and individuals may face prosecution for making false reports .

Justice Thomas also clarified that officers need not " rule out the possibility of innocent conduct " before making a traffic stop based on an anonymous tip . In light of the facts described in the 911 call , Justice Thomas argued that the reckless driving described in the 911 call " [bear] too great a resemblance to paradigmatic manifestations of drunk driving to be dismissed as an isolated example of recklessness . " He concluded that officers therefore acted reasonably " under these circumstances in stopping a driver whose alleged conduct was a significant indicator of drunk driving " . Justice Thomas noted that many drivers will behave more cautiously when followed by police officers , and he concluded that there was no need to conduct " [e] xtended observation " in this case , because " allowing a drunk driver a second chance for dangerous conduct could have disastrous consequences " .

= = = Dissenting opinion of Justice Scalia = = =

In his dissenting opinion , Justice Antonin Scalia argued that the majority 's opinion was a " freedom @-@ destroying cocktail . " Although he recognized anonymous tips may sometimes be reliable , he rejected the majority 's conclusion that " anonymous 911 reports of traffic violations are reliable so long as they correctly identify a car and its location . " He wrote , " [t] his is not my concept , and I am sure would not be the Framers ' , of a people secure from unreasonable searches and seizures . " Justice Scalia argued that anonymous tips are inherently unreliable , because anonymous tipsters can " lie with impunity . " While he admitted 911 calls are , in fact , easily traceable , Justice Scalia argued that there was no evidence the 911 caller knew they could be identified when they placed the call . Additionally , Justice Scalia distinguished the tip in this case from the tip in *White* , where " the reliability of the tip was established by the fact that it predicted the target 's behavior in the finest detail ? a detail that could be known only by someone familiar with the target 's business . " He argued that the general details provided in this case 's 911 call were unreliable , because " everyone in the world who saw the car would have that knowledge , and anyone who wanted the car stopped would have to provide that information . " Likewise , Justice Scalia argued that there was no evidence that the report of being run off the road was actually true .

Justice Scalia also criticized the majority 's conclusion that the tip provided reasonable suspicion that Lorenzo and Jose Prado Navarette were driving while drunk , because " the truck might have swerved to avoid an animal , a pothole , or a jaywalking pedestrian Or , indeed , he might have intentionally forced the tipster off the road because of some personal animus , or hostility to her ' Make Love , Not War ' bumper sticker . " Furthermore , Justice Scalia argued that one discrete instance of irregular driving does not give rise to the reasonable suspicion of an ongoing threat of an intoxicated driver on the road . Justice Scalia also argued that the anonymous tip 's claims of reckless driving were ultimately discredited by the fact that officers followed Lorenzo and Jose for five minutes , but observed nothing suspicious . He wrote , " I take it as a fundamental premise of our intoxicated @-@ driving laws that a driver soused enough to swerve once can be expected to swerve again ? and soon . If he does not , and if the only evidence of his first episode of irregular driving is a mere inference from an uncorroborated , vague , and nameless tip , then the Fourth Amendment requires that he be left alone . " In his concluding remarks , Justice Scalia wrote " [d] runken driving is a serious matter , but so is the loss of our freedom to come and go as we please without police interference After today 's opinion all of us on the road , and not just drug dealers

, are at risk of having our freedom of movement curtailed on suspicion of drunkenness , based upon a phone tip , true or false , of a single instance of careless driving . "

= = Subsequent developments = =

Many federal circuit courts and state supreme courts interpreting *Navarette* have affirmed the rule that officers need not personally corroborate incriminating details before making an arrest based on information provided by an anonymous tip . However , other courts interpreting *Navarette* have held that uncorroborated anonymous tips are not sufficient to provide reasonable suspicion of ongoing criminal activity . Additionally , courts in some jurisdictions have held that in order for officers to act upon an anonymous tip , the tip must provide a report of an ongoing crime , rather than a report of an isolated event that occurred in the past . Some courts have also rejected the assertion that the availability of caller information makes 911 calls inherently reliable . However , some courts have agreed with the notion that 911 calls are more reliable because callers may face criminal prosecution for making false reports . Other courts interpreting *Navarette* have held that the case established that less reliability is required when anonymous tips report " serious crime [s] or potential danger " .

= = Analysis and commentary = =

= = = Immediate reactions = = =

After the Court released its opinion , many commentators suggested that *Navarette* represented a significant expansion of the police 's power to stop drivers on the road . Lyle Denniston , for example , remarked that the Court 's opinion " gave police broad new authority . " In its review of cases from the 2013 term , the Harvard Law Review suggested that " *Navarette* may add to the police 's already expansive power , " and that the case " heralds unwarranted curtailment of Fourth Amendment protections . " Other commentators remarked that the case " seemed to lower the bar for assessments of anonymous tipsters . " Paul Kleven , attorney for Lorenzo and Jose Prado *Navarette* , said that the ruling " makes it easier for anonymous tipsters to call in and sic police on people they don 't like , " while a spokesperson for the California Attorney General 's office said " [w] e are pleased with the court 's ruling , which supports the hard work of law enforcement . "

= = = Scholarly analysis = = =

Scholars have observed that *Navarette* marked a departure from earlier precedent on the subject of anonymous tips , and some have argued that the case signifies a " dilution " of the Fourth Amendment 's reasonable suspicion standard . One analyst argued that this departure " could encourage passive and sloppy policing , for officers will be tempted to rely on easily acquired anonymous tips rather than engage in arduous collection of evidence . " Commentators have argued that Justice Kennedy 's endorsement of the reliability of anonymous 911 calls signified a departure from earlier decisions that analyzed the reliability of tips under a totality of the circumstances framework . These commentators suggest that this departure " increases the risk of fabricated tips . " Some analysts have also observed that the Court 's opinion left several questions unanswered from earlier anonymous tip cases , including the question of whether there was an exception for dangerous crimes , and that the Court " missed an opportunity to give lower courts some much needed guidance . " One commentator wrote , " [t] he time bomb mentioned in *J.L.* is still ticking " . Another commentator argued that because Lorenzo Prado *Navarette* 's driving was " irreproachable " for at least five minutes , " the probability that Lorenzo *Navarette* was legally drunk was surely less than the probability for the average daytime driver of a pickup truck ; indeed , it ostensibly was all but zero . "