

## "US Supreme Court Agrees to Hear California Appeal Over Anonymous Tips"

On Tuesday, October 1, 2013, the United States Supreme Court decided to determine whether a police officer needs to have more than "an anonymous tip" to stop a suspected drunken or reckless driver.

The name of the case is Navarette v California, a California Court of Appeals decision rendered in October of 2012. (See digest of opinion below)

The issues before the Court in the Navarette case are as follows:

1. Does the Fourth Amendment require an officer who receives an anonymous tip regarding a drunken or reckless driver to corroborate dangerous driving before stopping the vehicle?
2. Does an anonymous tip that a specific vehicle ran someone off the road provide the necessary legal "reasonable suspicion" to stop the vehicle, where the officer could not corroborate any dangerous driving despite following the suspect vehicle for almost five minutes?

In other words, the legal issue before the Supreme Court is whether or not an officer needs to observe evidence of illegal or reckless driving firsthand in order to meet the US Constitution's requirement of "reasonable suspicion" to initiate a traffic stop.

**CASE:** People v Navarette (Mendocino County, Superior Court - A13-2353, October 12, 2012)

### **FACTS:**

On August 23, 2008, California Highway Patrol dispatchers in Mendocino County received a call from an unidentified party reporting that a silver Ford F-150 pickup truck (license plate number 8D94925) had "run the reporting party off the roadway" a few minutes earlier. The dispatcher who ultimately reported the 911 call to the arresting officers did not know whether the original dispatcher had actually spoken to the person in the 911 report. A computer generated message was disbursed as follows: "Showing southbound Highway 1 at mile marker 88, silver Ford F-150 pickup. Plate of 8-D-94925. Ran the reporting party off the roadway and was last seen approximately five minutes ago." Ultimately, the dispatcher broadcast this information to California Highway Patrol officers. Shortly thereafter two officers testified that they had each spotted a vehicle matching the description. Five minutes later, two CHP officers pulled the pickup truck over. From the location where the truck was pulled over, the officers testified that they smelled marijuana and ordered the defendants to exit the vehicle. A search of the vehicle disclosed four large bags of marijuana in the truck bed, along with fertilizer, hand clippers, and oven bags.

At the trial court, the defendant's motions to suppress were denied by the judge. Afterwards, the appellants plead guilty to charges of "illegal transportation of marijuana." The defendants were placed on three years probation after the service of 90 days in the county jail. This appeal followed.

### **PROCEDURAL HISTORY:**

The defendants initially argued to the trial court that the evidence did not establish reasonable suspicion of criminal activity justifying the traffic stop. Specifically, the defendants argued that the tipster's report was too vague to support the stop without further inquiry by the officers, and that the officers who pulled over the vehicle did not directly observe any erratic driving that might have established reasonable suspicion of unlawful activity. The magistrate denied the motion to suppress. The judge

specifically ruled that "reasonable suspicion" had been established under the standards announced in the Wells case in that the anonymous tipster's report of reckless driving here was comparable to the report of a vehicle weaving all over the road (as in the Wells case), and that the officers confirmed the innocent details of the anonymous tip just as the officers had done in Wells.

The defendants then moved to set aside the charges under penal code section 995 on the grounds that the magistrate had erred in denying the motions to suppress. In a written order, Superior Court Judge Clayton Brennan denied the motion.

This appeal to the California Court of Appeals, First Appellate District followed.

**ISSUE:**

Does the Fourth Amendment require an officer who receives an anonymous tip regarding a drunken or reckless driver to corroborate dangerous driving before stopping the vehicle?

**HOLDING:**

No. The lower court rulings denying the defendant's motion to suppress were correct. Under the "totality of the circumstances" test in this case, the traffic stop by the police officers was justified. Because the detention was supported by reasonable suspicion, the appellate suppression motion was properly denied and the lower court judgments are affirmed.

In the case at bar, there was sufficient evidence before the magistrate to establish that an anonymous tip was in fact received by the police department and was not fabricated. "When it comes to justifying police activity in a court of law, the People must prove that the source of the information is something other than the imagination of an officer who does not become a witness." In informant cases, "The best way of negating its insufficient probable cause is to have the officer who received the information from outside the police department testify, but that is not the only way." Evidence that corroborates information in the tip may also satisfy legal requirements. In the present case, the veracity of the dispatcher's statements can be circumstantially proved. The testimony offered at the preliminary hearing established sufficient corroborating evidence that the tip was not manufactured by the police department. Summarily, the description, the license plate number, location and direction of the vehicle were sufficient corroborating details to authenticate the tip. Critically, "significant" details of the tip were corroborated by the two arresting officers. Here, the officers properly relied on information relayed to them by the dispatchers. That information, along with the officers corroboration of significant parts of that information, justified the stop here in light of the public danger posed by the reported reckless driving.

In Wells, the Supreme Court reiterated the well-established reasonable suspicion standard for investigative stops by law enforcement officers. Tips from citizens, victims or eyewitnesses are generally sufficient alone to supply reasonable suspicion, "especially if the circumstances are deemed exigent by reason of possible reckless driving or other similar threats to public safety." However, special concerns do arise when tips come from an anonymous source. Accordingly, and to establish reasonable suspicion in an anonymous victim or eyewitness tip case, the tip must exhibit sufficient indicia of reliability and be "suitably corroborated" to pass legal muster. Reasonable suspicion can be established under the totality of the circumstances present.

Under the Wells standard, the officers here had reasonable suspicion to conduct an investigative stop of the defendant's vehicle. The contents of the tip supported an inference that it came from the victim of

the reported reckless driving. The officers prompt corroboration of significant details of the tip (a detailed description of the vehicle, including its license plate number and the accurate description of its location and direction of travel) sufficiently established the reliability of the tip to support reasonable suspicion.

In some, the People have established that the officers had reasonable suspicion of unlawful activity justifying their initial investigative stop of the appellant's vehicle. The lower court properly denied appellant's motions to suppress the investigative stop as "fruit of the poisonous tree."

**THEREFORE**, the lower court judgment is affirmed.