"In Navarette, the US Supreme Court Affirms 'Anonymous Tips' to Justify Traffic Stops"

CASE NAME: Lorenzo Prado Navarette and Jose Prado Navarette vs California [No. 12-9490; April 22, 2014]

FACTS:
On August 23, 2008, a Mendocino County 911 dispatch team for the California Highway Patrol (CHP) received a call from another CHP dispatcher in neighboring Humboldt County. The Humboldt County dispatcher relayed a tip from a 911 caller, which the Mendocino County team recorded as follows: "Showing southbound Highway 1 at mile marker 88, Silver Ford 150 pickup. Plate of 8-David-94925. Ran the reporting party off the roadway and was last seen approximately five [minutes] ago." The Mendocino County team then broadcast that information to CHP officers at 3:47 p.m. A CHP officer heading northbound toward the reported vehicle responded to the broadcast. At 4:00 p.m., the officer passed the truck near mile marker 69. At about 4:05 p.m., after making a U-turn, he pulled the truck over. A second officer, who had separately responded to the broadcast, also arrived on the scene. As the two officers approached the truck, they smelled marijuana. A search of the truck bed revealed 30 pounds of marijuana. The officers arrested the driver, petitioner Lorenzo Prado Navarette, and the passenger, petitioner José Prado Navarette.

PROCEDURAL HISTORY:
Petitioners initially moved to suppress the evidence, arguing that the traffic stop violated the Fourth Amendment because the officer lacked reasonable suspicion of criminal activity. Both the magistrate who presided over the suppression hearing and the Superior Court disagreed. Petitioners pleaded guilty to transporting marijuana and were sentenced to 90 days in jail plus three years of probation. The California Court of Appeal affirmed, concluding that the officer had reasonable suspicion to conduct an investigative stop. The court reasoned that the content of the tip indicated that it came from an eyewitness victim of reckless driving, and that the officer's corroboration of the truck's description, location, and direction established that the tip was reliable enough to justify a traffic stop. Finally, the court concluded that the caller reported driving that was sufficiently dangerous to merit an investigative stop without waiting for the officer to observe additional reckless driving himself. The California Supreme Court denied review. The US Supreme Court granted certiorari.

ISSUE:
Can an "anonymous tip" to law enforcement provide the legal basis to justify a traffic stop in accordance with the Fourth Amendment?

HOLDING:
Yes. The Fourth Amendment permits brief investigative stops—such as the traffic stop in this case—when a law enforcement officer has "a particularized and objective basis for suspecting the particular person stopped of criminal activity." The "reasonable suspicion" necessary to justify such a stop "is dependent upon both the content of information possessed by police and its degree of reliability." The standard takes into account "the totality of the circumstances— the

whole picture." Although a mere "'hunch'" does not create reasonable suspicion, the level of suspicion the standard requires is "considerably less than proof of wrongdoing by a preponderance of the evidence," and "obviously less" than is necessary for probable cause. These principles apply with full force to investigative stops based on information from anonymous tips. Under appropriate circumstances, an anonymous tip can demonstrate "sufficient indicia of reliability to provide reasonable suspicion to make [an] investigatory stop." The initial question in this case is whether the 911 call was sufficiently reliable to credit the allegation that petitioners' truck "ran the [caller] off the roadway." Even assuming for present purposes that the 911 call was anonymous, we conclude that the call bore adequate indicia of reliability for the officer to credit the caller's account. The officer was therefore justified in proceeding from the premise that the truck had, in fact, caused the caller's car to be dangerously diverted from the highway. By reporting that she had been run off the road by a specific vehicle—a silver Ford F-150 pickup, license plate 8D94925—the caller necessarily claimed eyewitness knowledge of the alleged dangerous driving. That basis of knowledge lends significant support to the tip's reliability. A driver's claim that another vehicle ran her off the road, necessarily implies that the informant knows the other car was driven dangerously. There is also reason to think that the 911 caller in this case was telling the truth. Police confirmed the truck's location near mile marker 69 (roughly 19 highway miles south of the location reported in the 911 call) at 4:00 p.m. (roughly 18 minutes after the 911 call). That timeline of events suggests that the caller reported the incident soon after she was run off the road. That sort of contemporaneous report has long been treated as especially reliable. Another indicator of veracity is the caller's use of the 911 emergency system. A 911 call has some features that allow for identifying and tracing callers, and thus provide some safeguards against making false reports with immunity. As this case illustrates, 911 calls can be recorded, which provides victims with an opportunity to identify the false tipster's voice and subject him to prosecution. The 911 system also permits law enforcement to verify important information about the caller; and although callers may ordinarily block call recipients from obtaining their identifying information, FCC regulations exempt 911 calls from that privilege. None of this is to suggest that tips in 911 calls are "per se" reliable. Given the foregoing technological and regulatory developments, however, a reasonable officer could conclude that a false tipster would think twice before using such a system. The caller's use of the 911 system is therefore one of the relevant circumstances that, taken together, justified the officer's reliance on the information reported in the 911 call. Even a reliable tip will justify an investigative stop only if it creates reasonable suspicion that "criminal activity may be afoot." We must therefore determine whether the 911 caller's report of being run off the roadway created reasonable suspicion of an ongoing crime such as drunk driving as opposed to an isolated episode of past recklessness. We conclude that the behavior alleged by the 911 caller, "viewed from the standpoint of an objectively reasonable police officer, amount[s] to reasonable suspicion" of drunk driving. The stop was therefore proper. Reasonable suspicion depends on "the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act." Under that commonsense approach, we can appropriately recognize certain driving behaviors as sound indicia of drunk driving. Indeed, the accumulated experience of thousands of officers suggests that these sorts of erratic behaviors are strongly correlated with drunk driving. Of course, not all traffic infractions imply intoxication. Unconfirmed reports of driving without a seatbelt or slightly over the speed limit, for example, are so tenuously connected to drunk driving that a stop on those grounds alone would be constitutionally suspect. But a reliable tip alleging the

dangerous behaviors discussed above generally would justify a traffic stop on suspicion of drunk driving. The 911 caller in this case reported more than a minor traffic infraction and more than a conclusory allegation of drunk or reckless driving. Instead, she alleged a specific and dangerous result of the driver's conduct: running another car off the highway. That conduct bears too great a resemblance to paradigmatic manifestations of drunk driving to be dismissed as an isolated example of recklessness. Running another vehicle off the road suggests lane-positioning problems, decreased vigilance, impaired judgment, or some combination of those recognized drunk driving cues. And the experience of many officers suggests that a driver who almost strikes a vehicle or another object—the exact scenario that ordinarily causes "running [another vehicle] off the roadway"—is likely intoxicated. As a result, we cannot say that the officer acted unreasonably under these circumstances in stopping a driver whose alleged conduct was a significant indicator of drunk driving. Petitioners' attempts to second-guess the officer's reasonable suspicion of drunk driving are unavailing. It is true that the reported behavior might also be explained by, for example, a driver responding to "an unruly child or other distraction." But we have consistently recognized that reasonable suspicion "need not rule out the possibility of innocent conduct." Nor did the absence of additional suspicious conduct, after the vehicle was first spotted by an officer, dispel the reasonable suspicion of drunk driving. It is hardly surprising that the appearance of a marked police car would inspire more careful driving for a time. Extended observation of an allegedly drunk driver might eventually dispel a reasonable suspicion of intoxication, but the 5-minute period in this case hardly sufficed in that regard. Of course, an officer who already has such a reasonable suspicion need not surveil a vehicle at length in order to personally observe suspicious driving. Once reasonable suspicion of drunk driving arises, "[t]he reasonableness of the officer's decision to stop a suspect does not turn on the availability of less intrusive investigatory techniques." This would be a particularly inappropriate context to depart from that settled rule, because allowing a drunk driver a second chance for dangerous conduct could have disastrous consequences. Under the totality of the circumstances, we find the indicia of reliability in this case sufficient to provide the officer with reasonable suspicion that the driver of the reported vehicle had run another vehicle off the road. That made it reasonable under the circumstances for the officer to execute a traffic stop.

ACCORDINGLY, the decision of the California Court of Appeals is affirmed.