

Office of Attorney General Terry Goddard



STATE OF ARIZONA
DEPARTMENT OF LAW
1275 W. WASHINGTON STREET
PHOENIX, ARIZONA 85007-2926
WWW.AZAG.GOV

ANNE TITUS HILBY
PRESS SECRETARY
PHONE: (602) 542-8019
CELL PHONE: (602) 725-2200
ANNE.HILBY@AZAG.GOV

FOR IMMEDIATE RELEASE

Attorney General's Office to Argue *State v. Johnson* at U.S. Supreme Court

(Phoenix, Ariz. – Dec. 8, 2008) The U.S. Supreme Court will hear oral arguments on Tuesday in an Arizona case regarding a Tucson police officer's pat-down search of Lemon Montrea Johnson during a traffic stop.

Assistant Attorneys General Joe Parkhurst and Kent Cattani will represent the State in the case of *State of Arizona vs. Lemon Montrea Johnson* on Tuesday at 8 a.m. MST.

The State will argue that a police officer may conduct a pat-down search of a passenger of a vehicle following a lawful traffic stop when the officer has an articulable basis for believing that the passenger might be armed and dangerous. The state will further contend that an officer is not required to have reason to believe the passenger is committing, or has committed, a criminal offense to conduct a pat-down search for officer safety reasons.

Background

This case involves a valid traffic stop for a registration violation and a pat-down search of the backseat passenger. Although the police officer lacked articulable grounds to believe that the passenger was committing or had committed a criminal offense, the officer reasonably believed that the passenger might be armed and posed a safety risk.

On April 19, 2002, police officers who were members of the state gang task force were patrolling the "Sugar Hill" area of Tucson, which was known to be a Crips street gang neighborhood. One of the officers ran the license plate number on a vehicle traveling on a major street bounding the Sugar Hill neighborhood, and the plate number came back with a mandatory insurance suspension, a civil infraction warranting a citation. The task force initiated a traffic stop of the vehicle. The vehicle had three occupants – a driver, a front-seat passenger, and a back-seat passenger.

While Officer Maria Trevizo approached the vehicle on foot, she noticed Johnson, the back-seat passenger, look back at the police vehicle, say something to the people in the front seat, then continue to look back at the police vehicle. While the other detectives contacted the front-seat passengers, Officer Trevizo approached Johnson. She asked him for identification. She noticed that he had a police scanner in his jacket pocket. She also noted that he was wearing colors associated with the Crips gang. Johnson told Officer Trevizo that he was from Eloy, a

town in which Officer Trevizo knew that the Trekkle Park Crips were the predominant street gang. Johnson also told Trevizo that he had done prison time for burglary and had been out of prison for about a year.

Officer Trevizo asked Johnson to exit the vehicle, intending to talk to Johnson away from the other passengers to gather intelligence about his gang. Once he got out of the vehicle, Officer Trevizo asked him to turn around so that she could pat him down. She testified that she patted him down because the information she had obtained gave her reason to believe that Johnson might have a weapon. When she conducted a pat-down search for weapons, she found a handgun. Johnson was arrested and subsequently convicted for possession of a weapon by a prohibited possessor and possession of marijuana.

The legal issue concerns whether the pat-down violated requirements of the Fourth Amendment. In a divided opinion, the Arizona Court of Appeals reversed Johnson's conviction because it concluded that the pat-down search was not permissible in the circumstances of this case. The Arizona Supreme Court declined to accept review, but the United States Supreme Court subsequently granted certiorari in the case.

For additional information, please contact Anne Hilby at (602) 542-8019.

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