



The United States Supreme Court will soon hear the case of *Navarette v. California*. The court's decision could have a huge impact on traffic stop cases in state and federal courts.

According to the legal briefs filed with the U.S. Supreme Court, in 2008, Lorenzo and Jose Navarette were traveling a California highway in a pickup truck with four large bags of marijuana in the bed. Unbeknownst to the brothers, an anonymous caller had alerted the California Highway Patrol (CHP) to a "reckless driver," identifying the make and color of the pickup truck and providing license plate information. A CHP officer spotted the Navarettes' vehicle. The officer did not observe reckless driving or any other illegal activity while following the vehicle. Based solely upon the anonymous tip, the officer conducted a traffic stop. The Navarette brothers were charged with transportation of marijuana. After losing a motion to suppress, they pleaded guilty and were sentenced to probation and 90 days in jail. The California appellate courts affirmed, and the United States Supreme Court will consider the case this term.

The main question presented by *Navarette* is: 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?

In *Florida v. J.L.*, 529 U.S. 266 (2000), the Supreme Court reaffirmed that law enforcement may conduct a stop only where an anonymous tip has a "moderate indicia of reliability" and a "tendency to identify a determinate person." The court in *J.L.* also rejected the state's request to adopt a "firearms exception" to this rule, based upon the dangerousness of an armed suspect. The court noted that such an exception would subject citizens to intrusive police searches based upon a mere "bare-boned tip about guns." The facts of *Navarette* provide another opportunity for the court to decide this issue — this time examining whether there should be some exception for dangerous or drunk drivers.

Florida courts frequently find that an anonymous tip that is only corroborated by observing the physical characteristics of a driver or the make, model, and color of the vehicle do not justify a stop. In *Wands v. Dep't of Highway*



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Safety, 13 Fla. L. Weekly Supp. 305 (Fla. 7th Cir. Ct. Jan. 27, 2006), the court examined facts similar to *Navarette*. The officer in *Wands* had received an anonymous tip of a reckless driver but personally observed nothing illegal before conducting a stop. The court found there was not reasonable suspicion for the stop. In the DUI context, another Florida court made

clear that an officer investigating a tip must observe "independent suspicious activity before they make a valid stop." *State v. Goepfert*, 15 Fla. L. Weekly Supp. 305 (Fla. 6th Cir. Ct. Jan. 10, 2008).

The court's decision in *Navarette* will have some bearing on any criminal case involving a stop based upon an uncorroborated anonymous tip. However, DUI cases may be most affected by the court's opinion. Defense counsel should closely follow this case and preserve any

arguments that could be supported by a reversal in *Navarette*.

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