

SUPREME COURT OF LOUISIANA

No. 2001-KK-0732

STATE OF LOUISIANA

Versus

JAMES WILLIAMS, JR.

APPEAL FROM THE CRIMINAL DISTRICT COURT, PARISH OF
ORLEANS, HONORABLE JUDGE SHARON K. HUNTER

JOHNSON, J., dissenting

We granted this writ application to determine whether sufficient time elapsed between the time the police officers knocked and announced their presence to execute the search warrant, and the time the officers battered down defendant's front door. While I agree with the majority that it is impossible to create a bright-line rule, I believe that it is imperative that we rely on trial judges to listen to evidence, make credibility determinations, and decide what is reasonable under the circumstances. In this case, after hearing the testimony of all of the witnesses, the trial judge concluded that the officers did not wait an appropriate amount of time after knocking and announcing before they forced their way into defendant's home.

Moreover, in order to justify this forced entry at 4:30 a.m., these officers needed to show exigent circumstances. I find no evidence in this record to support a presumption that drug evidence was being destroyed, or that the occupants of this residence were arming themselves. Any testimony that the residents might attempt to flee or resist arrest is sheer speculation.

For the aforementioned reasons, I would affirm the trial court's ruling to suppress the evidence seized pursuant to the search warrant.