

SUPREME COURT OF LOUISIANA

No. 99-KK-0732

STATE OF LOUISIANA

VERSUS

JAMES WILLIAMS, JR.

**Appeal from the Criminal District Court,
Parish of Orleans,
Honorable Sharon K. Hunter, Judge**

CALOGERO, Chief Justice,* Dissenting

I respectfully dissent. The basic purpose of the knock-and-announce requirement is to give notice to the occupant of premises which is the subject of a search warrant in order to avoid a forcible entry by law enforcement. When police do not provide an occupant with adequate time to respond to their knock and announcement, the purpose of this requirement is defeated. While I agree with the majority that the amount of time that must elapse before an occupant's lack of response may be construed as a refusal of admittance depends greatly on the circumstances of each case, in this case I do not believe the police officers in this case could reasonably construe the occupant's failure to respond in the few seconds that elapsed between the officer's knock and announcement, and forcible entry, as a refusal of admittance. Therefore, I would not reverse the findings of both the district court and court of appeal on this essentially factual determination.