

SUPREME COURT OF LOUISIANA

10-KO-595

STATE OF LOUISIANA

vs.

JEFFERY JAMES BUTLER

**ON WRIT OF REVIEW TO THE COURT OF APPEAL,
FIFTH CIRCUIT, PARISH OF JEFFERSON**

Johnson, J. would grant this writ application.

In this matter, Jefferson Parish Sheriff's Office Deputy Louis Adams merely observed two black men near a vehicle described by an anonymous tipster. In fact, even though two white men were also allegedly involved, Adams did not observe these men, despite arriving at the location a few minutes after he received the information. There is no indication that Deputy Adams adequately corroborated the anonymous tip and, thus, it cannot solely form the basis for reasonable suspicion to stop the defendant. The record does not indicate that Deputy Adams testified to any behavior, or any other fact that would have justified a *Terry* stop. See, *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed. 2d 889 (1968). In my view, the defendant was unlawfully seized at the time he dropped the contraband. Evidence abandoned by an individual and recovered by the police as a direct result

of an unconstitutional seizure may not be used in a resulting prosecution against the individual. *State v. Chopin*, 372 So.2d 1222 (La. 1979). I would reverse the defendant's conviction and sentence, since the trial court erred in denying defendant's motion to suppress.