

SUPREME COURT OF LOUISIANA

NO. 2011-KK-1736

STATE OF LOUISIANA

VERSUS

DORANCE FLEMING

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
FOURTH CIRCUIT, PARISH OF ORLEANS

PER CURIAM

Writ granted. The ruling of the trial court granting the motion to suppress is reversed, and the motion to suppress is denied. The trial court erred in relying on *Kirk v. Louisiana*, 536 U.S. 635, 122 S.Ct. 2458, 153 L.Ed.2d 599 (2002). Based on the totality of the evidence presented at the hearing on the motion to suppress, the investigating officers had exigent circumstances to enter the structure located behind the residence after they observed: (1) marijuana smoked inside which was capable of being immediately destroyed; and (2) two guns (perhaps relating to the planned armed robbery described by the anonymous caller) creating a situation they had not yet figured out, thus justifying the need to take unquestioned command of the situation immediately. The case is remanded to the trial court for further proceedings.