

SUPREME COURT OF LOUISIANA

No. 2017-KK-1571

STATE OF LOUISIANA

VERSUS

ELLIS JONES

**ON SUPERVISORY WRITS TO THE CRIMINAL
DISTRICT COURT, PARISH OF ORLEANS**

JOHNSON, C.J., would deny.

The trial court did not abuse its discretion in granting the defendant's motion to suppress the evidence. Louisiana Code of Criminal Procedure Article 215.1 provides that a law enforcement officer may stop a person in a public place whom he reasonably believes is committing, has committed, or is about to commit an offense. If the officer elects to conduct a stop pursuant to this article, he may frisk the suspect's outer clothing for weapons only if he reasonably believes that he is in danger. Judge Derbigny considered the testimony of the arresting officer to conclude that the officer could not have reasonably believed that he was in danger. The officer testified that the defendant and his companions were not acting suspiciously, nor engaging in any illegal activity other than walking in the street where a sidewalk is provided. The officer and his partner elected to conduct the pat down despite the fact that defendant and his companions fully complied with the officers' instructions. Without a reasonable belief that the officer was in danger, there is no justification for the frisk and the evidence was therefore properly suppressed.