

**SUPREME COURT OF LOUISIANA**

**No. 17-KK-0135**

**STATE OF LOUISIANA**

**VS.**

**JAMAL FLETCHER**

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

**Writ granted.** The state's writ application, contesting the suppression of certain statements made by the defendant is granted. Upon review, we find the trial court erred in treating all statements made by defendant following the traffic stop *in globo* and ordering them all suppressed. The U.S. Supreme Court has ruled that statements made by a defendant pursuant to police questioning after being given incomplete *Miranda* advice must be suppressed. *Florida v. Powell*, 539 U.S. 50, 130 S.Ct. 1195, 175 L.Ed.2d 1009 (2010). However, it is equally settled that statements made prior to arrest and *Miranda* advisement in response to preliminary, on-scene questioning do not have to be suppressed. *State v. Shirley*, 08-2106 (La. 5/5/09), 10 So.3d 224. Similarly, voluntary and spontaneous statements made following arrest but not in response to police questioning and made with no expectation of privacy do not have to be suppressed. *State v. Koon*, 96-1208 (La. 5/20/97), 704 So.2d 756, *cert. denied*, 522 U.S. 1001, 118 S.Ct. 570, 139 L.Ed.2d 410 (1997). Therefore, we find that the initial admission by defendant of non-ownership of the scooter, made during preliminary, on-scene questioning, prior to arrest and before *Miranda* advisement, was erroneously included in the suppression ruling. We also find that the acknowledgement of the gun by

defendant during the pat down for officer safety, as well as statements made during his telephone conversation to his friend, were voluntary and spontaneous statements not made in response to police questioning and with no expectation of privacy and erroneously included in the suppression order. Accordingly, the writ is granted and the ruling suppressing all statements made by the defendant following the traffic stop is reversed in part as outlined above. The case is remanded for further proceedings in accord with this Court's ruling.