

SUPREME COURT OF LOUISIANA

98-KK-2146

STATE OF LOUISIANA

versus

LEE MISKELL

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

KIMBALL, J., dissenting.

In my opinion, the majority misapplies the holding of *Richard v. Wisconsin*, 520 U.S. 385, 117 S.Ct. 1416, 137 L.Ed.2d 615 (1997) by creating a blanket exception to justify a no-knock entry in cases involving burglar bars. The unanimous holding of *Richard* makes clear that no *per se* exception to the general rule that, under the Fourth Amendment, police knock and announce themselves when executing a warrant exists in searches involving narcotics, despite the ease with which drugs may be discarded or destroyed and despite the known association of drugs and firearms. The burglar bars at issue in this case constitute the kind of security measure, such as solid doors or a deadbolt, that alone may not give rise to a reasonable suspicion justifying a no-knock entry. Such security measures represent the protective steps anyone may take to guard his or her property, not for purposes of impeding the entry of the police, as the majority seems to conclude, but to secure the premises generally. The security measures used by the defendant in this case do not distinguish him from hundreds of other homeowners in the city of New Orleans. Further, they certainly create no more exigency than a closed and dead bolted door. Therefore, I would affirm the holding and reasoning of the court of appeal.

For these reasons, I respectfully dissent.