



LEGAL UPDATE · RESOURCES · SUPREME COURT CASES

Legal Update: United States v. Jones

By **Daigle Law Group**

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Today, we review the use of the ShotSpotter gunshot detection system and a *Terry* stop. ShotSpotter is “a surveillance network of GPS-enabled acoustic sensors” that “use[s] sophisticated microphones to record gunshots in a specific area.” In today’s case, the use of ShotSpotter helped officers pinpoint their suspect which then led to the *Terry* stop.

Under *Terry v. Ohio*, the Supreme Court held that officers may stop a citizen if they are “able to point to specific and articulable facts which, taken together with rational inferences from those facts, support a reasonable and articulable suspicion that the person seized is engaged in criminal activity.” A *Terry* stop constitutes a Fourth Amendment seizure and it “occurs when physical force is used to restrain movement or when a person submits to an officer’s show of authority.” The Supreme Court clarified in *Illinois v. Wardlaw* that evidence must include more than mere “presence in an area of expected criminal activity.”

Facts

On the night of April 6, 2019, the Metropolitan Police Department (MPD) alerted two police officers that its ShotSpotter system had identified the sound of gunshots in the 3500 block of 13th Street Southeast in Washington, D.C.

The officers arrived on the block a minute and a half after receiving the alert. The officers saw a man, later identified as Chauncey Jones, walking and observed that there was no one else outside on the block. While the officers checked for victims, a dispatcher reported over their radio that citizens on neighboring blocks were calling 911 to report gunshots heard at either end of the 3500 block. The officers believed these were the same shots reported by ShotSpotter, as they had heard no additional shots since arriving on the block.

Finding no victims, the officers decided to stop Jones, following him around the corner onto Trenton Place, where a third officer joined them. As Jones continued to walk away, one of the officers called out to him, “Hello, how ya doin’? Hello. Excuse me! Hello. You don’t hear me talking to you?” After approximately ten seconds, Jones, who was wearing a hooded jacket, stopped and turned back toward the officers, removing the headphones he was wearing under the jacket’s hood.

According to officer testimony, Jones “kept moving, like moving a lot,” and his “hand kept moving, gravitating towards his waistband area,” which led one of the officers to grab Jones’s hand while telling

him to stop moving. Observing an item move around in Jones's waistband, another officer tackled Jones and, after a struggle, recovered the item, which was a pistol.

Jones, who had a previous felony conviction, was charged with unlawful possession of a firearm and filed a motion to suppress the pistol, arguing that the police officers' stop had violated the Fourth Amendment because they lacked a reasonable and articulable suspicion that Jones was engaged in criminal activity. The district court denied the motion and Jones was convicted.

On appeal, Jones claimed that the pistol should have been suppressed because the officers lacked reasonable suspicion to stop him in the first place.

District of Colombia Circuit Court of Appeals Opinion

The D.C. Circuit Court of Appeals disagreed. In the case at hand, both parties agreed that the *Terry* stop occurred when Jones stopped walking and removed his headphones at the officer's direction. Jones conceded that the officers had reasonable suspicion that a gun was fired on the 3500 block of 13th Street Southeast shortly before their arrival, but Jones disputed whether the officers had grounds to suspect that he had been involved.

The court found that the totality of the information known to officers when Jones was stopped sufficed to raise a reasonable suspicion because: 1) the ShotSpotter alert and dispatcher report from MPD indicated that shots were fired in the 3500 block of 13th Street Southeast; 2) the officers arrived at the location of the reported gunshots within a minute and a half of the MPD call; 3) officers testified that they saw that Jones was the only person on that block; 4) Jones was walking quickly away from the location of the shooting; and 5) Jones did not initially respond to an officer's repeated efforts to get his attention and continued to walk away.

While Jones did not initially respond to one officer's repeated efforts to get his attention, when he did finally respond, he reached up in a gesture suggesting he was removing earbuds, which might indicate that he didn't hear the officer's calling out to him. While officers could have drawn an alternative, non-suspicious inference from Jones's failing to respond and continuing to walk away, e.g., he could have been listening to loud music and initially failed to hear calls out to him, the district court found that when the officer commanded Jones to stop, the officer could not see that Jones was wearing headphones and, therefore, it was reasonable for officers to treat Jones's non-responsiveness as grounds for suspicion.

The D.C. Circuit Court of Appeals affirmed the district court's denial of Jones's motion to suppress the firearm seized from his waistband, stating that the officers that seized the gun had reasonable

suspicion, based on the totality of the facts, that Jones was involved in criminal activity.

Takeaways

This case is further proof that technology can be a blessing for officers. Because of ShotSpotter, officers were able to arrive at the scene within a minute and a half of the MPD call. The suspect was moving quickly and may have gotten away from the area before officers even had a chance to get there had it not been for ShotSpotter. As a matter of fact, officers' quick actions became a key point in justifying the *Terry* stop. At times, new technology can be intimidating, but in today's case it helped prove the need for a *Terry* stop and may have assisted in keeping the community safe.

United States v. Jones, 2021 U.S. App. LEXIS 17756 (D.C. Cir. June 15, 2021)

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