

No. SC-2025-0372

IN THE SUPREME COURT OF ALABAMA

MICHAEL JEROME JENNINGS,
Plaintiff-Petitioner,

v.

CHRISTOPHER SMITH, JUSTIN GABLE, JEREMY BROOKS,
and CITY OF CHILDERSBURG,
Defendants-Respondents.

CERTIFIED QUESTION FROM THE U.S. DISTRICT COURT FOR
THE NORTHERN DISTRICT OF ALABAMA, EASTERN DIVISION
CASE NO. 1:22-CV-01165-RDP

**BRIEF OF AMICI CURIAE ALABAMA STATE TROOPER
ASSOCIATION, ALABAMA PEACE OFFICERS' ASSOCIATION,
ALABAMA SHERIFFS ASSOCIATION, ALABAMA STATE
FRATERNAL ORDER OF POLICE, AND ALABAMA
ASSOCIATION OF CHIEFS OF POLICE**

Oral Argument Requested

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Statement Regarding Oral Argument

The certified question implicates tasks that are fundamental to police work – the temporary detention and positive identification of a person who a law enforcement officer reasonably suspects of criminal activity. A panel of the U.S. Court of Appeals for the Eleventh Circuit held a criminal suspect does not commit the crime of obstructing governmental operations when the suspect refuses to identify and walks away from an officer during a lawful investigative stop. In so holding, the panel stripped Alabama law enforcement officers of their primary tool to identify and apprehend criminals. The Court should grant oral argument to examine whether the panel misinterpreted Alabama law.

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Statement of Interests of Amici

On June 26, 1980, forty-one Alabama State Troopers formed the Alabama State Trooper Association (ASTA). Today, ASTA proudly represents more than 1,100 members—approximately 90% of active, commissioned officers—as well as a significant number of Alabama state trooper and state police retirees. ASTA exists to promote the principles of professional law enforcement and to protect the community and uphold the rights of all citizens in the State of Alabama; to support the ongoing advancement of the criminal and civil justice systems in both the State of Alabama and the United States of America; to actively support legislation that enhances law enforcement, and to keep members informed about legislation that affects them or relates to their duties; to represent the collective interests of ASTA members, including supporting or opposing legislation or addressing other matters that directly impact the membership, as directed by a vote of the board of directors; and to uphold our sworn duty as law enforcement officers, recognizing that our role is to enforce the law under all circumstances.

The Alabama Peace Officers' Association (APOA) is the grandfather of law enforcement organizations in the State of Alabama being

organized in 1933. At its founding, the APOA was known as “The Alabama Sheriffs’ and Peace Officers’ Association.” In 1967, the Association became known as “The Alabama Peace Officers’ Association,” incorporating all levels of law enforcement within the State of Alabama. The APOA is comprised of over 4,000 members who strive for excellence and quality concerning the level of law enforcement provided to the public. The APOA exists to preserve the peace and dignity of the people of Alabama; to enhance the efficiency and professionalism of and the public confidence in its members; to improve the quality of its members through enhanced selection and education of its members; to improve the working conditions of its members; to improve the uniform application of the civil service system for meritorious appointment and promotion of qualified members, where applicable; to sponsor and support legislation to enhance public safety; and to foster a sense of duty, cooperation, and community among its members.

The Alabama Fraternal Order of Police (ALFOP) was established in 1947, consists of sixty-four subordinate lodges, and has over 8,400 members. The ALFOP is a member of the National Fraternal Order of Police (FOP), which was established in Pittsburgh, Pennsylvania, in

1915. The ALFOP was established to support and defend the Constitution of the United States and the Constitution of the State of Alabama; to inculcate loyalty and allegiance to the United States of America; to promote and foster the impartial enforcement of law and order; to improve the individual proficiency of its members in the performance of their duties; to encourage social, charitable, and educational activities among all law enforcement officers; to advocate and strive for uniform application of the civil service and merit system for all law enforcement officers; to create a tradition of esprit de corps insuring fidelity to duty under all conditions and circumstances; to cultivate a spirit of fraternalism and mutual helpfulness among its membership and the people its members serve; and to increase the efficiency of the police profession and thus more firmly establish the confidence of the public in the service that is dedicated to the protection of life and property.

The Alabama Sheriffs Association (ASA) is a not-for-profit corporation established in 1889 to support, educate, and promote the awareness of issues that all county sheriffs, their deputies, and support staff face every day in their mission to provide exceptional public safety and security to all Alabama's citizens. ASA's membership is comprised of

Alabama's sixty-seven elected county sheriffs, deputy sheriffs, retired county sheriffs, and other law enforcement-related associate members. ASA has a vested interest in the outcome of this case because it will greatly impact its members' policies and procedures on many facets of their daily interactions with the general public going forward.

The Alabama Association of Chiefs of Police (AACOP) is a not-for-profit organization made up of the most experienced and respected law enforcement officials in the State of Alabama, including police chiefs, commissioners, superintendents, executives, administrators, and agents-in-charge. The AACOP advances the general welfare of the police profession through the education of its members, and its ultimate goal is to develop a more efficient and effective law enforcement and criminal justice system.

All the above law enforcement associations are critically interested in law enforcement officers' authority to stop and identify suspected criminals and to enforce lawful orders when conducting investigative stops.

Statement of the Issue

On June 27, 2025, this Court consented to answer the following certified question:

Under Alabama Code § 15-5-30, when a law enforcement officer asks a person for his name, address, and explanation of his actions, and the person gives an incomplete or unsatisfactory oral response, does the statute prohibit the officer from demanding or requesting physical identification?

(Ala. S. Ct. Order, June 27, 2025).

Investigative Stops Are Vital to Public Safety

It is impossible to overstate the importance of investigative stops. Investigative stops are indispensable to stopping crimes in progress and solving crimes that have already occurred.

I. The Atlanta Child Murders

On July 28, 1979, the bodies of Edward Hope Smith and Alfred James Evans were discovered in a wooded area in southwest Atlanta. Smith and Evans are believed to have been the first victims of what became known as the Atlanta Child Murders. Between 1979 and 1981, at least twenty-eight Black children and adults are believed to have become victims of the same killer.

On the morning of May 22, 1981, an Atlanta police officer and an FBI agent conducted an investigative stop on a white Chevrolet station

wagon that had just crossed a bridge over the Chattahoochee River after a surveillance team heard a loud splash in the waters below. They identified the driver as twenty-three year-old Wayne Betram Williams, but released him because they lacked sufficient evidence for an arrest.



Wayne Bertram Williams

Two days later, the body of Nathaniel Cater was found floating downstream from the bridge. Through an exhaustive investigation, the FBI forensically linked hairs and carpet fibers to Williams's home and car. Williams was convicted of two of the murders, including Cater's, and is serving a life sentence. There is no way to know how many more of

Atlanta's children would have become victims if law enforcement had not been able to stop and identify Williams.¹

II. The Centennial Olympic Park Bombing and the Murder of a Birmingham Police Officer

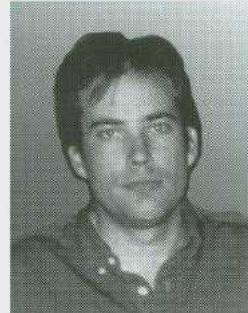
On July 27, 1996, Eric Robert Rudolph detonated a bomb in Centennial Olympic Park in Atlanta during the 1996 Summer Olympics, killing one person and injuring over a hundred more. On January 16, 1997, Rudolph bombed an abortion clinic in Sandy Springs, Georgia. On January 29, 1998, Rudolph bombed an abortion clinic in the Five Points South neighborhood of Birmingham, killing Birmingham Police Officer Robert "Sande" Sanderson. On February 21, 1998, Rudolph bombed a nightclub in Atlanta.

¹ See Jack Mallard, *The Atlanta Child Murders* (2009); Audra D. S. Burch, *Who Killed Atlanta's Children*, N.Y. Times, Apr. 30, 2019; https://en.wikipedia.org/wiki/Atlanta_murders_of_1979%E2%80%931981 (last visited Sept. 18, 2025).

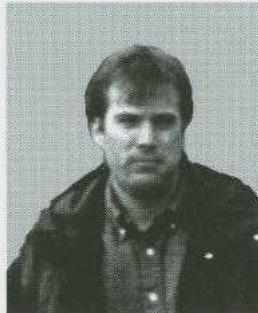
FBI TEN MOST WANTED FUGITIVE

MALICIOUSLY DAMAGED, BY MEANS OF AN EXPLOSIVE DEVICE,
BUILDINGS AND PROPERTY AFFECTING INTERSTATE COMMERCE WHICH
RESULTED IN DEATH AND INJURY

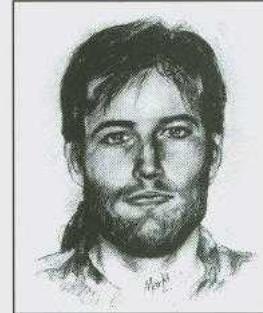
ERIC ROBERT RUDOLPH



Date of photograph October 1997



Date of photograph October 1997



Artist rendition July 1998

Aliases: Bob Randolph, Robert Randolph, Bob Rudolph, Eric Rudolph and Eric R. Rudolph.

Rudolph remained at large until 2003, when a rookie patrol officer in Murphy, North Carolina, conducted an investigative stop after he found Rudolph scavenging for food in a trash container behind a Sav-a-Lot grocery store around 4:30 a.m. Rudolph initially gave a false name, but a sheriff's deputy recognized him. Rudolph might still be planting bombs if the officers in North Carolina had lacked the authority to stop and identify him.²

² See David M. Halbfinger, *Suspect in '96 Olympic Bombing and 3 Other Attacks is Caught*, N.Y. Times, May 31, 2003; see also <https://www.fbi.gov/history/famous-cases/eric-rudolph> (last visited Sept. 18, 2025); <https://www.dncr.nc.gov/blog/2016/05/31/fugitive-bombers-run-ended-murphy> (last visited Sept. 18, 2025); https://en.wikipedia.org/wiki/Eric_Rudolph (last visited Sept. 18, 2025).

III. The Attempted Murder of Officer Brianna Tedesco

Offenders often lie about their name to avoid arrest for serious crimes. Shortly before dawn on July 26, 2018, in the small town of Lakemoor, Illinois, an occupied suspicious vehicle was backed onto a gravel road. Lakemoor Police Officer Brianna Tedesco spotted the vehicle, approached the driver, and requested the driver's name. A *Chicago Tribune* article describes what happened next:

[The video] shows Martell gave Tedesco a mix of truth and lies when she came upon his SUV shortly before 5 a.m. on July 26 near Four Seasons and Sullivan Lake boulevards, on the east side of the Lakemoor Golf Club. She had been driving north on Four Seasons Boulevard when she spotted an SUV backed onto a gravel path with its lights off, according to her official account of the event.

Martell was lying back when she shined her flashlight into the SUV. He said he was from Pennsylvania and was heading west, and gave his name as "James Dunkin."

"I just have to make sure, you now, you don't have any warrants or anything — which I'm sure you don't," Tedesco said.

But he did.

Just three days before, Martell had tied up, then beat and stabbed 88-year-old Theodore Garver in his Beaver Township home in Pennsylvania. Martell abducted others and forced them at gunpoint to help dispose of the body in a lake near Garver's home.

A warrant was issued for Martell's arrest. Family members told investigators Martell used drugs, including methamphetamine, and had told friends and relatives that "cops were going to kill him over a drug bust" and he was "not going down without a fight," according to Lake County State's Attorney Michael G. Nerheim.

Surprised as he sat parked in his SUV, the man wanted for murder pointed a gun at Lakemoor Police Officer Brianna Tedesco and pulled the trigger.

The gun didn't fire.

For the next 20 seconds, Tedesco and the man fought for control of the gun, Tedesco repeatedly screaming "No" and finally, "Please don't shoot me!" according to newly released video of the encounter last July in Lake County.

Another officer arriving on the scene drew his gun and, when Tedesco stepped away from the SUV, fired as the man raised both hands, a weapon in each.

The man, later identified as Kenneth Martell, was struck in the head and died. He had been wanted in Pennsylvania for beating and stabbing an elderly man to death. An autopsy found Martell, 36, had amphetamine, methamphetamine and marijuana in his system.

Katherine Rosenberg-Douglas, *Video shows Ill. cop struggling with murder suspect, partner firing fatal shot*, Chicago Tribune, Jan. 8, 2019, <https://www.police1.com/officer-shootings/articles/video-shows-ill-cop-struggling-with-murder-suspect-partner-firing-fatal-shot-LecPZOcn18Ui3gr4/> (last visited Sept. 19, 2025).

“Policing is difficult and dangerous work.” *United States v. Knights*, 989 F.3d 1281, 1291 (11th Cir. 2021) (Rosenbaum, J., concurring). “People detained for minor offenses can turn out to be the most devious and dangerous criminals.” *Florence v. Bd. of Chosen Freeholders*, 566 U.S. 318, 334 (2012). The authority to demand identification of some kind from a criminal suspect to verify the suspect’s name is critical to protect police officers, state troopers, and sheriff’s deputies in real situations in the field.

Statement of the Facts

On Sunday, May 22, 2022, Officer Christopher Smith, Officer Justin Gable, and Sgt. Jeremy Brooks of the Childersburg Police Department responded to a 911 report of a suspicious person (and possible burglary-in-progress) at a home in Childersburg. (911 Call at 00:31–01:34.) The 911 caller reported that her neighbors had left town that morning to travel to Gatlinburg. (911 Call at 00:24–00:31.) The caller said a young Black male and a gold SUV were behind the neighbor’s house and she did not think they belonged there. (911 Call at 00:31–00:35, 00:48–00:55, 00:58:–01:00.) The caller said the residents were an elderly White couple. (911 Call at 01:03–01:04.) The caller said

she initially heard the male talking at the back door, that she could no longer hear him talking, and that he may have entered the house. (911 Call at 01:17–01:34.)

At 6:23 p.m., Officer Smith arrived. (Smith BWC Video at 18:23:51.) Officer Smith parked in front of the house, exited his police vehicle, and circled around the south side of the house. (Smith BWC Video at 18:23:51.) Behind the house, Officer Smith encountered the plaintiff, Michael Jerome Jennings, spraying water on plants with a garden hose. (Smith BWC Video at 18:24:08.) Jennings was a Black male, as the 911 caller described. (Smith BWC Video at 18:24:08.) Jennings was dressed in all dark clothing. (Smith BWC Video at 18:24:08.) The gold SUV that the 911 caller described was also present. (Smith BWC Video at 18:24:16.)



Officer Smith encounters Jennings and the gold SUV behind the house.

Officer Smith asked Jennings what he was doing. (Smith BWC Video at 18:24:13.) Jennings said he was watering flowers. (Smith BWC Video at 18:24:15.) Officer Smith asked Jennings if the vehicle belonged to him. (Smith BWC Video at 18:24:17.) Jennings said the vehicle was not his and that it was “the neighbors’ vehicle.” (Smith BWC Video at 18:24:19.)

Officer Smith asked Jennings if he lived at the house. (Smith BWC Video at 18:24:27.) Jennings said he did not live there. (Smith BWC Video at 18:24:28.) Signs that read “NO TRESPASSING” and “PRIVATE PROPERTY” were posted on the side of the house. (Smith BWC Video at 18:24:30.)



The homeowners had posted “NO TRESPASSING” and “PRIVATE PROPERTY” signs on the side of the house.

Officer Smith told Jennings that the 911 caller reported he was not supposed to be there. (Smith BWC Video at 18:24:30.) Jennings responded, “I’m supposed to be here. I’m Pastor Jennings. I live across the street.” (Smith BWC Video at 18:24:36.) Jennings added, “I’m looking out for they house while they gone. I’m watering they flowers.” (Smith BWC Video at 18:24:41.)

Officer Smith asked Jennings if he had ID. (Smith BWC Video at 18:24:45.) Jennings answered, “Oh, no, man. I’m not gonna give you no ID.” (Smith BWC Video at 18:24:47.) Officer Smith asked, “Why not?”

(Smith BWC Video at 18:24:48.) Jennings said, “I ain’t did nothing wrong.” (Smith BWC Video at 18:24:49.)

Officer Smith explained that he was not accusing Jennings of doing anything wrong. (Smith BWC Video at 18:24:51.) Officer Smith said, “There’s a suspicious person in the yard, and if you’re not going to identify yourself . . .” (Smith BWC Video at 18:25:01.) Jennings cut off Officer Smith and insisted, “I don’t have to identify myself. It’s not a stop-and-identify state.” (Smith BWC Video at 18:25:06.)

Officer Gable arrived. (Smith BWC Video at 18:25:11; Gable BWC Video at 18:25:11.) Jennings claimed Officer Gable knew him from a prior incident. (Smith BWC Video at 18:25:04; Gable BWC Video at 18:25:04.) Jennings said, “I live right over there across the street.” (Smith BWC Video at 18:25:15; Gable BWC Video at 18:25:15.)

Even though Officer Smith had already told Jennings that the 911 caller reported that Jennings did not belong there, Jennings accused the officers of racially profiling him: “You see a Black man out here watering his neighbors’ flowers . . . You have no right to approach me if I ain’t did nothing suspicious or nothing wrong. Told him I’m a pastor. I pastor a church.” (Smith BWC Video at 18:25:21; Gable BWC Video at 18:25:21.)

Jennings started shouting, “You want to lock me up, lock me up! . . . I’m not showing y’all anything!” (Smith BWC Video at 18:25:34; Gable BWC Video at 18:25:34.) Officer Gable told Jennings no one wanted to lock him up. (Smith BWC Video at 18:25:36; Gable BWC Video at 18:25:36.) Officer Gable explained that the officers had received a call. (Smith BWC Video at 18:25:41; Gable BWC Video at 18:25:41.) Jennings shouted, “I don’t care who called y’all.” (Smith BWC Video at 18:25:42; Gable BWC Video at 18:25:42.)

Jennings walked away from the officers, daring them to arrest him. (Smith BWC Video at 18:25:44; Gable BWC Video at 18:25:44.) Jennings said, “Lock me up and see what happens! I want you to!” (Smith BWC Video at 18:25:44; Gable BWC Video at 18:25:44.)

Officer Smith told Jennings, “Hey, man. Just come here and talk to us.” (Smith BWC Video at 18:25:47; Gable BWC Video at 18:25:47.) Jennings disobeyed Officer Smith’s order to “come here” and continued to walk away. (Smith BWC Video at 18:25:49; Gable BWC Video at 18:25:49.) Officer Gable warned Jennings that he would “catch an obstruction charge” if he continued to walk away. (Smith BWC Video at 18:25:57; Gable BWC Video at 18:25:57.) Jennings again dared Officer

Gable to arrest him: “Do it! Do it!” (Smith BWC Video at 18:26:01; Gable BWC Video at 18:26:01.)

Officer Smith told Jennings that the officers were just trying to talk to him. (Smith BWC Video at 18:26:03; Gable BWC Video at 18:26:03.) Officer Smith again ordered Jennings to “Come here.” (Smith BWC Video at 18:26:04; Gable BWC Video at 18:26:04.) Officer Gable also twice ordered Jennings to “Come here.” (Smith BWC Video at 18:26:04, 18:26:07; Gable BWC Video at 18:26:04, 18:26:07.) Jennings disobeyed the officers’ orders and continued to walk away. (Smith BWC Video at 18:26:04; Gable BWC Video at 18:26:04.)



Jennings walks away from Officers Smith and Gable.

Officer Gable grasped Jennings's left arm and handcuffed him. (Smith BWC Video at 18:26:09; Gable BWC Video at 18:26:09.) Jennings told the officers, "Do what you got to do. Go on and lock me up." (Smith BWC Video at 18:26:23; Gable BWC Video at 18:26:23.) Jennings added, "It's already a lawsuit." (Smith BWC Video at 18:26:25; Gable BWC Video at 18:26:25.) Jennings complained to Officers Smith and Gable about an unrelated incident in Michigan in which he alleged that three police officers racially profiled his son. (Smith BWC Video at 18:26:44; Gable BWC Video at 18:26:44.)

Sgt. Brooks arrived. (Brooks BWC Video at 18:26:50.)

Jennings declared, "I don't have to ID myself." (Smith BWC Video at 18:27:01; Gable BWC Video at 18:27:01; Brooks BWC Video at 18:27:01.) Officer Gable told Jennings, "I have a call on you, you have to identify yourself to me." (Smith BWC Video at 18:27:03; Gable BWC Video at 18:27:03; Brooks BWC Video at 18:27:03.) Jennings responded, "No, I don't. No, I don't. No, I don't. . . . Take me down and book me. Go ahead and do what you need to do." (Smith BWC Video at 18:27:05; Gable BWC Video at 18:27:05; Brooks BWC Video at 18:27:05.)

Jennings accused the officers of unlawfully detaining him. (Smith BWC Video at 18:27:37; Gable BWC Video at 18:27:37; Brooks BWC Video at 18:27:37.) Jennings said, “You have no right to ID me.” (Smith BWC Video at 18:27:45; Gable BWC Video at 18:27:45; Brooks BWC Video at 18:27:45.) Sgt. Brooks told Jennings, “They have a right to identify you.” (Smith BWC Video at 18:27:48; Gable BWC Video at 18:27:48; Brooks BWC Video at 18:27:48.) Jennings responded, “No, they don’t.” (Smith BWC Video at 18:27:49; Gable BWC Video at 18:27:49; Brooks BWC Video at 18:27:49.)

Sgt. Brooks told Jennings, “Everything is being audio and video recorded. You won’t shut your mouth.” (Smith BWC Video at 18:27:53; Gable BWC Video at 18:27:53; Brooks BWC Video at 18:27:53.) Jennings yelled, “You don’t shut your mouth. You don’t talk to me like I’m a child, boy!” (Smith BWC Video at 18:27:57; Gable BWC Video at 18:27:57; Brooks BWC Video at 18:27:57.) The officers placed Jennings under arrest. (Smith BWC Video at 18:28:01; Gable BWC Video at 18:28:01; Brooks BWC Video at 18:28:01.)

Jennings was charged with obstructing governmental operations under Alabama Code § 13A-10-2. *See Jennings v. Smith*, No. 23-14171,

2024 WL 4315127, at *3 (11th Cir. Sept. 27, 2024). On June 1, 2022, the obstruction charge was dismissed. *See Jennings v. Smith*, No. 1:22-CV-01165-RDP, 2023 WL 8851623, at *1 (N.D. Ala. Dec. 21, 2023), *vacated and remanded*, No. 23-14171, 2024 WL 4315127 (11th Cir. Sept. 27, 2024).

Summary of the Argument

In *Jennings v. Smith*, No. 23-14171, 2024 WL 4315127, at *1 (11th Cir. Sept. 27, 2024), a three-judge panel of the Eleventh Circuit twice misinterpreted Alabama law in ways that render Alabama's law enforcement officers powerless to enforce lawful investigative stops. First, the panel held that a person is free to walk away from a lawful investigative stop without risk of arrest for obstructing governmental operations because, in the panel's opinion, walking away from an investigative stop does not physically interfere with the stop or constitute an independently unlawful act. Second, the panel held that a person is free to refuse to identify themselves without risk of arrest for obstructing governmental operations because, in the panel's opinion, disobeying a lawful order to identify oneself does not physically interfere with an investigation or otherwise constitute an independently unlawful act. The

panel reached both holdings despite Alabama Code § 15-5-30's explicit declaration that a law enforcement officer "may stop any person abroad in a public place whom he reasonably suspects is committing, has committed or is about to commit a felony or other public offense and may demand of him his name, address and an explanation of his actions."

If the Eleventh Circuit's holdings stand, investigative stops in Alabama will become a thing of the past. Law enforcement officers will be powerless to enforce lawful orders to stop and identify – orders that the legislature explicitly authorized in § 15-5-30. It is impossible to overstate the importance of investigative stops in the prevention of crime, the investigation of crimes, and the apprehension of criminals. In the interest of public safety, this Court should correct the panel's errors and restore the authority of Alabama's law enforcement officers to stop and identify people they reasonably suspect of criminal activity.

Argument

I. The officers had reasonable suspicion to detain Jennings under Alabama Code § 15-5-30.

In the circumstances of this case, there appears to be no dispute that the officers had reasonable suspicion to detain Jennings for investigation under Alabama Code § 15-5-30 and the U.S. Supreme

Court's opinion in *Terry v. Ohio*. "Beginning with *Terry v. Ohio*, 392 U.S. 1 . . . (1968), the [U.S. Supreme] Court has recognized that a law enforcement officer's reasonable suspicion that a person may be involved in criminal activity permits the officer to stop the person for a brief time and take additional steps to investigate further." *Hiibel v. Sixth Jud. Dist. Ct. of Nev.*, 542 U.S. 177, 185 (2004).

Alabama codified the type of investigative stops that *Terry* authorizes – stopping persons an officer reasonably suspects of criminal activity – in Alabama Code § 15-5-30:

A sheriff or other officer acting as sheriff, his deputy or any constable, acting within their respective counties, any marshal, deputy marshal or policeman of any incorporated city or town within the limits of the county or any highway patrolman or state trooper may stop any person abroad in a public place whom he **reasonably suspects is committing, has committed or is about to commit a felony or other public offense** and may demand of him his name, address and an explanation of his actions.

Ala. Code § 15-5-30 (emphasis added); *see also Schultz v. State*, 437 So. 2d 670, 673 (Ala. Crim. App. 1983) ("statutory authority for the type of investigatory detention approved in *Terry v. Ohio* . . . is found in Section 15-5-30, Code of Alabama 1975"); *Buchanan v. State*, 435 So. 2d 142, 145 (Ala. Crim. App. 1982) ("With remarkable prescience the Legislature of

Alabama enacted, more than a year before *Terry v. Ohio*, the following, as it now appears in Code of Alabama 1975, § 15-5-30 . . .").

Officer Smith, Officer Gable, and Sgt. Brooks responded to a 911 caller's report of a possible burglary-in-progress. (911 Call.) The caller reported that a Black male and a gold SUV were behind a house, the elderly owners of which were traveling out of state. (911 Call.) When Officer Smith arrived, he found a Black male (Jennings) and a gold SUV behind the house just like the caller reported. (Smith BWC Video at 18:24:08.) Jennings was dressed in all dark clothing. (Smith BWC Video at 18:24:08.) Signs posted on the house read "PRIVATE PROPERTY" and "NO TRESPASSING." (Smith BWC Video at 18:24:30.) Jennings admitted he did not live there. (Smith BWC Video at 18:24:28.)

Jennings was uncooperative, belligerent, and walked away from the officers despite their repeated orders to "come here." (Smith BWC Video at 18:24:47 to 18:26:09.) At the very least, the officers had reasonable suspicion to detain Jennings to investigate whether he was trespassing on the property, *see Ala. Code § 13A-7-4(a)* ("A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in or upon premises."), and to determine whether he was

burglarizing the home, *see* Ala. Code § 13A-7-7(a)(1) (“A person commits the crime of burglary in the third degree if . . . (1) He or she knowingly enters or remains unlawfully in a dwelling with the intent to commit a crime therein”).

II. Jennings committed the crime of obstructing governmental operations when he walked away from the officers after they ordered him to stop.

Before reaching the question of whether Jennings committed a crime by failing to identify himself, a comment on the most obvious criminal act is in order. Jennings committed the crime of obstructing governmental operations by walking away from Officers Smith and Gable in defiance of five lawful orders to stop:

(a) A person commits the crime of obstructing governmental operations if, by means of intimidation, physical force or **interference** or by **any other independently unlawful act** [e.g., a violation of § 15-5-30], he:

(1) Intentionally **obstructs, impairs or hinders the administration of law** [e.g., the investigation of a 911 call] or other governmental function; or

(2) Intentionally **prevents a public servant from performing a governmental function** [e.g., the investigation of a 911 call].

(b) This section does not apply to the obstruction, impairment or hindrance of the making of an arrest.

(c) Obstructing governmental operations is a Class A misdemeanor.

Ala. Code § 13A-10-2 (emphases added).

After Officers Smith and Gable developed reasonable suspicion to detain Jennings to investigate his presence behind the house, Jennings walked away from the officers defying four lawful orders to “come here” and one express warning that he would be arrested if he did not stop. At 18:25:49, and again at 18:26:04, Officer Smith ordered Jennings to “come here.” At 18:26:04, and again at 18:26:07, Officer Gable also ordered Jennings to “come here.” At 18:25:57, Officer Gable warned Jennings, “You’re going to catch an obstruction charge if you keep walking away from me,” which a reasonable person would have interpreted as a fifth order to stop. Despite those five orders, Jennings continued to walk away from Officers Smith and Gable until Officer Gable grasped Jennings’s arm and handcuffed him. (Smith BWC Video at 18:26:09; Gable BWC Video at 18:26:09.)

Citing the Court of Criminal Appeals’ opinion in *D.A.D.O. v. State*, 57 So. 3d 798, 806–07 (Ala. Crim. App. 2009), the Eleventh Circuit panel asserted, “Walking *toward* officers while yelling or speaking can supply the physical interference or intimidation element; walking *away* does

not.” *Jennings v. Smith*, No. 23-14171, 2024 WL 4315127, at *3 (11th Cir. Sept. 27, 2024) (emphases in original). The Eleventh Circuit misinterpreted *D.A.D.O.* In *D.A.D.O.*, walking away did not supply the interference or intimidation element because the officer in *D.A.D.O.* **asked the juvenile to leave the area.** See *D.A.D.O. v. State*, 57 So. 3d 798, 806 (Ala. Crim. App. 2009) (“once the officer requested that D.A.D.O. leave the office, he complied”). *D.A.D.O.* did **not** hold that a suspect’s failure to obey a police officer’s lawful order to stop does not satisfy the interference element of obstructing governmental operations.

To the contrary, in *A.A.G. v. State*, 668 So. 2d 122 (Ala. Crim. App. 1995), the Court of Criminal Appeals affirmed the appellant’s adjudication of juvenile delinquency for obstructing governmental operations based on the appellant’s evasive behavior when police officers tried to investigate a potential burglary. The officers were responding to a burglar alarm at a home when the appellant became belligerent. The Court of Criminal Appeals noted that “[b]ecause of the appellant’s inexplicably combative behavior, the officers could not be expected to accept at face value the appellant’s claim that she lived in the house.” *Id.* at 127. The Court of Criminal Appeals added the officers “could not know

whether appellant was lawfully present in the house" and "reasonably could have concluded that the appellant was a participant in a burglary." *Id.* The appellant "left the foyer and ran into another room of the house, despite the fact that the officers had explained their presence and had requested that the appellant remain with her sisters and with Officer Melton in a secure area." *Id.* The appellant also "continually jumped up and struggled to run away," "eluded Officer Melton," and "ran into the hall." *Id.* The Court of Criminal Appeals held those actions supplied the "intimidation, physical force[,] or interference,' as required by § 13A-10-2(a)," *id.* at 128 (brackets in original), to sustain a conviction for obstructing governmental operations.

The only real difference between *A.A.G.* and this case is that *A.A.G.* originated with a burglar alarm while this case originated with a 911 call from a witness reporting a possible burglary. In both cases, the suspect was "inexplicably combative," *A.A.G.*, 668 So. 2d at 127, and walked away from officers despite their orders to stop. In light of the Court of Criminal Appeals' holding in *A.A.G.*, the Eleventh Circuit panel's conclusion that walking away from a lawful investigative stop does not constitute obstructing governmental operations was mistaken.

If, as the Eleventh Circuit panel apparently believed, law enforcement officers are powerless to enforce compliance with a valid investigative stop, § 15-5-30 becomes meaningless and the police lose their most effective tool to protect Alabamians from crime. This Court should clarify that a person who refuses to submit to a lawful investigative stop commits the crime of obstructing governmental operations.

It appears that this Court has never interpreted § 15-5-30 in a majority opinion (the statute was enacted in 1966). Alabama's law enforcement officers cannot afford to wait for another case involving § 15-5-30 to reach this Court. The District Court's certification recognized that this Court "may, in its discretion, restate the issue." Now that the Court has viewed the videos showing Jennings's clear obstruction of a lawful investigative stop by walking away despite five orders to stop, the Court should hold that a person commits the crime of obstructing governmental operations when he or she walks away from (or otherwise flees) a lawful investigative stop. The Court should not allow the Eleventh Circuit panel's misinterpretation of *D.A.D.O.* to emasculate officers' authority to enforce lawful investigative stops.

III. Jennings also committed the crime of obstructing governmental operations when he verbally declared that he would not identify himself during a lawful investigative stop.

Much focus has been placed on the phrasing of Officer Smith's initial request for ID at the beginning of the stop when the real focus should be on Jennings's repeated refusals to identify himself. Jennings committed the crime of obstructing governmental operations when he verbally declared that he would not identify himself.

Too much emphasis has been placed on the manner in which Officer Smith phrased his initial request for Jennings to identify himself. Initially, Officer Smith asked Jennings, "Do you have, like, ID?" (Smith BWC Video at 18:24:45.) Officer Smith's request for identification was simply one way to ask Jennings to identify himself in a reliable manner. Section 15-5-30 does not require an officer to merely ask for a name or to accept an oral response.

Less than fifteen seconds after Jennings refused to produce identification, Officer Smith tried to ask Jennings to identify himself without referring to physical identification, but Jennings cut him off and declared that he would not identify himself at all:

Officer Smith: There's a suspicious person in the yard, and if you're not going to identify yourself . . .

Jennings: I don't have to identify myself. It's not a stop-and-identify state.

(Smith BWC Video at 18:25:01.)

A reasonable jury could have found that Jennings understood that Officer Smith was simply trying to obtain his actual name in a verifiable form and that Jennings refused a lawful demand to identify himself. In any event, Officer Smith's requests were not the officers' only requests for Jennings to identify himself. Even if the Court entirely discounts Officer Smith's requests for Jennings to identify himself, Officer Gable also ordered Jennings to identify himself and Officer Gable's order did not refer to a physical ID.

After Officer Gable handcuffed Jennings, but before Jennings was placed under arrest, Officer Gable told Jennings that he had to identify himself. (Smith BWC Video at 18:27:03; Gable BWC Video at 18:27:03; Brooks BWC Video at 18:27:03.) Officer Gable did *not* say that Jennings had to produce physical identification; he only said Jennings had to identify himself. (Smith BWC Video at 18:27:03; Gable BWC Video at 18:27:03; Brooks BWC Video at 18:27:03.) Jennings told Officer Gable, "No, I don't. No, I don't. No, I don't. . . . Take me down and book me. Go ahead and do what you need to do." (Smith BWC Video at 18:27:05; Gable

BWC Video at 18:27:05; Brooks BWC Video at 18:27:05.) Jennings's failure to identify himself to Officer Gable was a separate, additional refusal by Jennings to obey a lawful order to identify himself. Jennings's refusal to identify himself to Officer Gable provided an independent ground for Jennings's arrest.

In their amici brief, the American Civil Liberties Union, the Cato Institute, the Southern Poverty Law Center, and the Woods Foundation **agree** that Alabama law required Jennings to comply with an order to identify himself – they merely maintain that Jennings was not required to produce physical identification:

[U]nlike when the police engage someone in voluntary questioning, **responses to questioning under § 15-5-30 are mandatory**. But neither the word 'demand,' nor any other word in § 15-5-30, suggests a mandate to provide a document in addition to oral responses.

(Amici Br. at 24 (emphasis added and internal citation omitted).)

When the Court views the police videos in their totality, it becomes clear that the officers were simply trying to identify Jennings. Officer Smith initially requested Jennings's physical identification as a convenient and reliable method to identify Jennings. Jennings made clear that he would not identify himself by any means. Jennings also

refused to allow the officers to explain the stop-and-identify requirement and, instead, belligerently escalated the encounter by shouting at the officers and walking away from them. Under these circumstances, a reasonable police officer – and a reasonable jury – could have believed Jennings was refusing to provide the officers his full “name,” not merely refusing to produce physical identification.

IV. Investigative stops are an essential tool for effective law enforcement.

Requesting physical identification from a suspect is a core investigative technique utilized by law enforcement officers worldwide. Criminals frequently give false names. Officers investigating potential crimes would be derelict in their duty if they did not seek positive identification of a person under investigation. Officers across the state routinely ask suspects for their driver’s license or other physical ID, even if the suspects are not driving.

The U.S. Supreme Court’s “decisions make clear that questions concerning a suspect’s identity are a routine and accepted part of many *Terry* stops.” *Hiibel v. Sixth Jud. Dist. Ct. of Nev.*, 542 U.S. 177, 186 (2004). “Obtaining a suspect’s name in the course of a *Terry* stop serves important government interests. Knowledge of identity may inform an

officer that a suspect is wanted for another offense, or has a record of violence or mental disorder. On the other hand, knowing identity may help clear a suspect and allow the police to concentrate their efforts elsewhere.” *Id.*

In the typical investigative stop, a law enforcement officer will request physical identification because it is a reliable and efficient means to ascertain the suspect’s full legal name. State-issued identification cards contain the correct spelling of the suspect’s name, provide an identification number that facilitates a quick and accurate warrant check, and minimize the risk of mistaken identity. Requesting physical identification is simply the most reliable and efficient method to accomplish one of the lawful objectives of § 15-5-30.

If the suspect does not have an identification card, the officer will ask the suspect to state his or her full name and address verbally instead. The officer can then access the same information that the state-issued identification card would have provided through the LETS system on the officer’s laptop computer. The University of Alabama’s Center for Advanced Public Safety explains:

The Law Enforcement Tactical System (LETS) is a secure web-based search engine that has been designed to provide

law enforcement and criminal justice agencies information about individuals and vehicles by searching various databases. LETS is an integration mechanism for vehicle, driver, and violation data and even produces photos to aid in positive identification of apprehended or wanted individuals. It was released in mid-January of 2003 and it rapidly became a major tool. It currently has over 1,000 agencies and over 14,000 users and its success stories are numerous.

LETS is available to all law enforcement agencies over the Internet and to officers in the field through mobile devices used in patrol cars.

<https://www.caps.ua.edu/software/letsgo/> (last visited Sept. 16, 2025); *see*

also Ex. 1.

Once an officer obtains a suspect's true name, the same information that appears on the suspect's state-issued identification is also available to the officer through the LETS system.



Sample LETS Screen

Demanding that a criminal suspect produce an identification card does not result in the disclosure of information that is not already lawfully available to the officer from running a full, accurate name and address through the LETS system.

No one is suggesting that a suspect is subject to arrest for failing to carry physical identification. But when a lawfully detained person who is carrying physical identification refuses to produce that identification and also refuses to identify himself, that person has committed the crime of obstructing governmental operations.

A suspect does not satisfy the requirements of § 15-5-30 by providing a partial name, such as “Pastor Jennings.” “Pastor” was not Jennings’s name, Jennings is a common last name, and Jennings refused to disclose that his first name was Michael and that his middle name was Jerome. The officers could not have conducted a warrant check using “Pastor Jennings.” If Jennings had been the subject of an active arrest warrant or had an arrest history for burglary, the officers would not have had access to that information because Jennings refused to disclose his full name.

V. The Court should overrule *D.A.D.O. v. State* and hold that the word “physical” in Alabama Code § 13A-10-2 does not modify the word “interference” and that any failure to comply with a lawful order during a valid investigative stop may constitute interference.

In *D.A.D.O. v. State*, 57 So. 3d 798 (Ala. Crim. App. 2009), a majority opinion of the Court of Criminal Appeals held the phrase “by means of intimidation, physical force or interference or by any other independently unlawful act” in Alabama Code § 13A-10-2 applies only to interference that is physical in nature. The majority relied on the New York Court of Appeals’ holding in *People v. Case*, 42 N.Y.2d 98 (1977), which interpreted a similar phrase and held the word “physical” modifies the word “interference.” However, the New York statute has a comma between the phrase “physical force or interference” and the phrase “or by means of any independently unlawful act.” N.Y. Penal Law § 195.05. Section 15-5-30 does not have that comma. In *D.A.D.O.*, Presiding Judge Wise dissented, questioning “whether the Legislature intended for the word ‘physical’ to modify the word ‘interference’ as well as the word ‘force.’” *D.A.D.O.*, 57 So. 3d 798.

In *A.A.G. v. State*, 668 So. 2d 122 (Ala. Crim. App. 1995), the Court of Criminal Appeals implicitly interpreted “physical” **not** to modify

“interference” when it inserted a comma in brackets after the word “force”: “intimidation, physical force[,] or interference.” *Id.* at 128 (brackets in original). This Court should adopt A.A.G.’s interpretation of § 13A-10-2.

This Court should overrule *D.A.D.O.* and hold that any form of interference – including the failure to obey a lawful order – satisfies the interference element of § 13A-10-2. This Court should also hold that a refusal to produce physical identification during a lawful investigative stop satisfies the interference element when a suspect has physical identification readily available and refuses to produce it.

Even if the Court does not overrule *D.A.D.O.*, the Court should hold that walking away from (or fleeing) a lawful investigative stop and failing to identify oneself during a lawful investigative stop constitute independently unlawful acts under § 13A-10-2 because those acts defy lawful demands under § 15-5-30.

Conclusion

This Court should view Jennings’s actions “from the perspective of a reasonable officer.” *Washington v. Howard*, 25 F.4th 891, 898 (11th Cir. 2022). Officer Smith, Officer Gable, and Sgt. Brooks responded to a 911

call reporting a possible burglary-in-progress. The caller reported that the elderly homeowners were traveling out of state and that the suspect may have already entered the home. “PRIVATE PROPERTY” and “NO TRESPASSING” signs evidenced the homeowners’ desire for people to stay off their property. The officers found Jennings behind the home dressed in dark clothing. Jennings easily could have picked up the garden hose when he heard the first police car arrive. Jennings became combative, shouted at the officers, and adamantly refused to identify himself. When the officers tried to speak to Jennings, he cut them off and walked away, defying five lawful orders to stop. Were the officers supposed to let Jennings walk away?

At that point, the officers had no way of knowing whether Jennings had broken into the house. Jennings could have had been concealing stolen jewelry or a stolen handgun under his clothing. He could have already carried away property from inside the home and returned for more. “A policeman’s lot is not so unhappy that he must choose between being charged with dereliction of duty if he does not arrest when he has probable cause, and being mulcted in damages if he does.” *Pierson v. Ray*, 386 U.S. 547, 555 (1967).

The Eleventh Circuit panel may as well have repealed § 15-5-30 and abrogated *Terry v. Ohio* for Alabama's police officers. The opinion strips officers of their authority to enforce compliance with § 15-5-30's stop-and-identify requirements. If we are going to have effective law enforcement in this State, this Court must act. This Court should declare that when law enforcement officers have reasonable suspicion to conduct an investigative stop, a suspect commits the crime of obstructing governmental operations if he or she fails to stop **or** fails to identify, including failure to produce physical identification when it is readily available.

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Exhibit 1

LETS Flyer

LETS Go

LAW ENFORCEMENT TACTICAL SYSTEM

LETSGO is a secure web-based search engine that simultaneously searches many Alabama state databases with one query. This tool was developed to aid law enforcement by providing them with critical information at the roadside – including vehicle, driver, and violation data. It even displays driver license photos to aid in positive identification of apprehended or wanted individuals. Officers with internet connectivity can use LETSGo in their patrol cars.

FEATURES

- LETSGo is an improved version of LETS
- Fourth major version release
- Built-in text to speech engine that produces voice readout of the critical summary information
- Commercial vehicle and carrier data included
- Faster information returns
- Searches approximately 30 databases
- 850 user agencies & over 14,000 individual users
- LETSGo is integrated into MOVE (Mobile Officer Virtual Environment)
- Online Insurance Verification

FEATURES FOR COMMERCIAL VEHICLE ENFORCEMENT OFFICERS

- Contains commercial vehicle data
- Contains carrier data so you can get detailed information about carriers and all their associated vehicles
- Screen shots show the multitude of information that can be returned from a search
- CVIEW and SAFER are searched
- IRP, IFTA and SafeStat statuses are displayed, among others



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