

2/9/01

SUPREME COURT OF LOUISIANA

No. 2000-K-1238

STATE OF LOUISIANA

v.

ROBERT M. LAGARDE, JR.

On Writ of Certiorari to the
First Circuit Court of Appeal

PER CURIAM:*

Granted. The rulings below on the motion to suppress are reversed, relator's conditional guilty plea under State v. Crosby, 338 So.2d 584 (La. 1976), is vacated, and this case is remanded to the district court for further proceedings. Even assuming that the police had reasonable suspicion to conduct an investigatory stop and to conduct a self-protective frisk for weapons, see United States v. Trullo, 809 F.2d 108, 113-14 (1st Cir. 1987), the search of the cigarette pack which the defendant had voluntarily removed from his pocket, leading to the discovery of a crack-pipe, exceeded the permissible scope of the pat-down frisk sanctioned by Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968), and "amounted to the sort of evidentiary search that Terry expressly refused to authorize" Minnesota v. Dickerson, 508 U.S. 366, 378, 113 S.Ct. 2130, 2139, 124 L.Ed.2d 334 (1993). See State v. James, 99-3304 (La. 12/8/00), ___ So.2d ___; State v. Sheehan, 99-0725 (La. 7/2/99), 767 So.2d 1; State v. Thornton,

* James C. Gulotta, Justice *Pro Tempore*, sitting for Associate Justice Harry T. Lemmon.

621 So.2d 173 (La. App. 4th Cir. 1993), writ denied, 93-2109
(La. 9/23/94), 642 So.2d 1307.