

SUPREME COURT OF NEW JERSEY
A-38 September Term 2012
071272

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

KENNETH W. VERPENT,

Defendant-Appellant.

FILED

MAY 12 2015


CLERK

The Court having granted defendant's petition for certification in this matter on a suppression issue and two trial issues; and

The Court having heard argument on the merits on November 7, 2013, and the Court having been asked to consider the application of Missouri v. McNeely, ___ U.S. ___, 133 S. Ct. 1552, 185 L. Ed. 2d 696 (2013) to the suppression issue raised herein; and

Following the oral argument conducted in this matter, a question about the retroactive effect to be given to McNeely having been raised; and

The Court having heard argument on that retroactivity question on December 3, 2014, in State v. Adkins, (A-91-13), and, on that same day, having heard reargument in this matter limited to the question of McNeely's retroactive application; and

The Court having issued its decision in State v. Adkins, __
N.J. __ (2015), on May 4, 2015, holding that McNeely shall
receive retroactive application;

It is hereby ORDERED as follows:

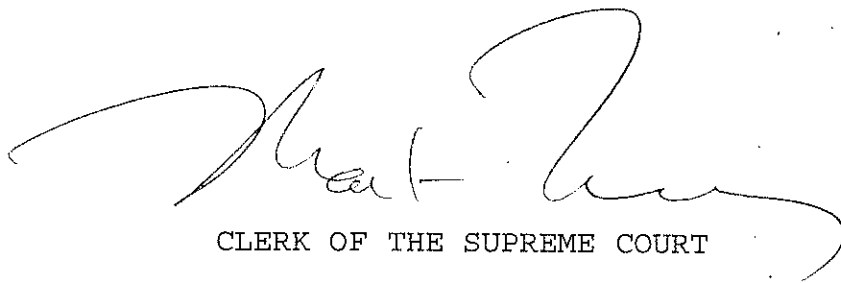
(1) A new suppression hearing must be conducted in this
matter in order that exigency may be assessed on a newly
developed and fuller record in light of this Court's holding in
Adkins;

(2) The judgment on the suppression issue is reversed and
the matter is remanded for the new suppression hearing; and

(3) The Court has determined that certification was
improvidently granted as to the two trial issues, and the appeal
as to those issues is dismissed.


Jurisdiction is not retained.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at
Trenton, this 12th day of May, 2015.



CLERK OF THE SUPREME COURT

The foregoing is a true copy
of the original on file in my office.



CLERK OF THE SUPREME COURT
OF NEW JERSEY