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STOPS, SEARCHES AND SEIZURES – SCOTUS CASE SYNOPSES

As another year draws to a close – and since there are no new Maryland appellate cases of note on the horizon – I thought I would take this opportunity to present case synopses of some of the most iconic Supreme Court cases relating to stops, searches and seizures. Some of them you've heard of. Some of them you've not. All are important. None are particularly funny.

STOPS

***Delaware v. Prouse*, 440 U.S. 648 (1979)** - A New Castle County Delaware officer stopped defendant's automobile and seized marijuana in plain view on the car floor. Defendant was indicted for illegal possession of a controlled substance. The officer testified that he had made the stop only in order to check the driver's license and registration. The trial court granted defendant's motion to suppress, finding the stop and detention to have been wholly capricious and, therefore, violative of the *Fourth Amendment.* The Court granted certiorari to resolve whether the *Fourth Amendment* prohibited the automobile stop. The Court held that, except in those situations in which there was reasonable suspicion that a motorist was unlicensed or that an automobile was not registered, or that either the vehicle or an occupant was otherwise subject to seizure for violation of law, stopping an automobile and detaining the driver in order to check his driver's license and the registration of the automobile was unreasonable under the *Fourth Amendment*. The Court held that the states were not precluded from developing methods for spot checks that involved less intrusion or that did not involve the unconstrained exercise of discretion.

The Court affirmed the granting of a motion to suppress evidence in favor of defendant because the officer did not have a reasonable suspicion that defendant had violated any law and stopping defendant's vehicle and detaining him in order to check his driver's license and registration was unreasonable under the *Fourth Amendment.*

***U.S. v. Sokolow*, 490 U.S. 1 (1989)** - Drug Enforcement Administration (DEA) agents in Honolulu learned that defendant had paid cash for his $2,100 airline tickets to spend a short time in Miami, a hotbed of drug activity. In addition, the defendant appeared nervous and was travelling under a false

name. Agents stopped him when he returned to Honolulu and cocaine was discovered in his suitcase. The defendant entered a conditional plea of guilty to possession with intent to distribute cocaine in violation of 21 U.S.C.S. § 841(a)(1).

The appellate court reversed, holding that the DEA agents had no reasonable suspicion to stop the defendant. On certiorari, the U.S. Supreme Court held that although each of defendant's actions by itself might have been innocent, the totality of all the circumstances together with all of defendant's actions were sufficient for DEA agents to have a reasonable suspicion that defendant was committing a drug crime. Because the standard for reasonable suspicion for an investigatory stop was less than for probable cause, the Court determined that the DEA agents were justified in making the stop. The Court reversed the judgment of the appellate court and remanded the case.

HOLDING: Police can stop and briefly detain a person for investigative purposes if the officer has a reasonable suspicion supported by articulable facts that criminal activity may be afoot, even if the officer lacks probable cause. The officer, of course, must be able to articulate something more than an inchoate and unparticularized suspicion or hunch. The *Fourth Amendment* requires some minimal level of objective justification for making the stop. That level of suspicion is considerably less than proof of wrongdoing by a preponderance of the evidence. Probable cause means a fair probability that contraband or evidence of a crime will be found, and the level of suspicion required for a *Terry* stop is obviously less demanding than that for probable cause.

In the words of the classic song from Boston, you've got to have "more than a feeling"!

***Illinois v. Cabellas*, 543 U.S. 405 (2005)** – An Illinois state trooper stopped a driver for speeding on a highway. When the trooper radioed the police dispatcher to report the stop, a second trooper overheard the transmission. Although the second trooper presumably had no information about the driver except that the driver had been stopped for speeding, the second trooper headed for the scene with a narcotics-detection dog. While the first trooper was writing a warning ticket, the second trooper walked the dog around the car, and the dog alerted at the trunk. On the basis of the alert, the troopers searched the trunk, found marijuana, and arrested the driver. The entire incident lasted less than 10 minutes.

The U.S. Supreme Court granted certiorari on the question of whether the *Fourth Amendment* required reasonable, articulable suspicion to justify using a drug-detection dog to sniff a vehicle during a legitimate traffic stop. The state trial court concluded that the duration of the stop was entirely justified by the traffic offense and the ordinary inquiries incident to such a stop. The state supreme court concluded that because the canine sniff was performed without any specific and articulable facts to suggest drug activity, the use of the dog unjustifiably enlarged the scope of a routine traffic stop into a drug investigation.

HOLDING: The U.S. Supreme Court held that the use of a well-trained narcotics-detection dog--one that did not expose noncontraband items that otherwise would have remained hidden from public view--during a lawful traffic stop, generally did not implicate legitimate privacy interests. The dog sniff was performed on the exterior of respondent's car while he was lawfully seized for a traffic violation. Any intrusion on respondent's privacy expectations did not rise to the level of a constitutionally cognizable infringement.

***Terry v. Ohio*, 392 U.S. 1 (1968)** - A Cleveland detective (McFadden), on a downtown beat which he had been patrolling for many years, observed two strangers (John Terry and another man, Richard

Chilton) on a street corner. He saw them proceed alternately back and forth along an identical route, pausing to stare in the same store window, which they did about 24 times. Even Barney Fife would have found that suspicious! Every completion of the route was followed by a conference between the two on a corner, at one of which they were joined by a third man (Katz) who left toot sweet. Suspecting the two men of "casing a job, a stick-up," the officer followed them and saw them rejoin Katz a couple of blocks away in front of a store. The officer approached the three, identified himself as an officer and asked the men their names. The men "mumbled something," whereupon McFadden spun Terry around, patted down his outside clothing, and felt in his overcoat pocket, a pistol. The officer removed Terry's overcoat, took out the revolver, and ordered the three to face the wall with their hands raised. He patted down the outer clothing of Chilton and Katz and seized another revolver from Chilton's outside overcoat pocket. He did not put his hands under the outer garments of Katz (since he discovered nothing in his pat-down which might have been a weapon), or under Terry's or Chilton's outer garments until he felt the guns. The three were taken to the police station. Terry and Chilton were charged with carrying concealed weapons. The defense moved to suppress the weapons. Though the trial court rejected the prosecution theory that the guns had been seized during a search incident to a lawful arrest, the court denied the motion to suppress and admitted the weapons into evidence on the ground that the officer had cause to believe that terry and Chilton were acting suspiciously; that their interrogation was warranted; and that the officer for his own protection had the right to pat down their outer clothing having reasonable suspicion to believe that they might be armed. The court distinguished between an investigatory "stop" and an arrest, and between a "frisk" of the outer clothing for weapons and a full-blown search for evidence of crime. Terry and Chilton were found guilty, an intermediate appellate court affirmed, and the State Supreme Court dismissed the appeal on the ground that "no substantial constitutional question" was involved.

HOLDING: The court affirmed a judgment that affirmed Terry's conviction for carrying a concealed weapon because the "stop and frisk" tactics used by the police in the search of terry's person and the seizure of the weapon produced from the search were reasonable under the *Fourth Amendment*, as the arresting officer reasonably concluded that petitioner was armed and was about to engage in criminal activity.

***Alabama v. White*, 496 U.S. 325 (1990)** - An officer of the Montgomery (Alabama) Police Department received a telephone call from an anonymous person. The caller stated that the accused would be leaving a certain apartment within an apartment complex at a particular time in a brown Plymouth station wagon with the right taillight lens broken; that she would be going to a certain motel; and that she would be in possession of about an ounce of cocaine inside a brown attaché case. After the call, the officer and his partner proceeded to the apartment complex. They saw a brown Plymouth station wagon with a broken right taillight in the parking lot in front of the building which contained the apartment identified by the caller. The officers observed the accused leave the building, carrying nothing in her hands, and enter the station wagon. The officers followed the vehicle as it drove for a distance of 4 miles, including several turns, along the most direct route to the motel which the caller had identified. After one of the officers requested a patrol unit to stop the vehicle, the vehicle was stopped, just short of the motel. The officer who had received the call asked the accused to step to the rear of the vehicle, where the officer informed the accused that she had been stopped because she was suspected of carrying cocaine in the vehicle. When asked by the officer if the police could look for cocaine, the accused consented. During a search of the vehicle, officers found a locked brown attaché case, and, upon request, the accused provided the combination to the lock. The officers found marijuana in the attaché case and placed the accused under arrest. During processing at the station, the officers found 3 milligrams of cocaine in the accused's purse. After being charged in a Montgomery County, Alabama trial court with possession of marijuana and possession of cocaine, the accused moved to suppress the marijuana and the cocaine. The trial court denied the suppression motion, whereupon the accused,

reserving her right to appeal such denial, pleaded guilty to the charges. On appeal, the Court of Criminal Appeals of Alabama, reversing the trial court's suppression ruling, held that the accused's motion to suppress should have been granted, since the officers did not have the reasonable suspicion necessary under *Terry v Ohio* , 392 US 1 (1968), to justify the investigatory stop of the accused's car. The Supreme Court of Alabama denied the state's petition for writ of certiorari.

The State sought review of a judgment holding that officers did not have the reasonable suspicion necessary to justify an investigatory stop of respondent's car based on an anonymous tip and that the marijuana and cocaine seized were fruits of respondent's unconstitutional detention.

HOLDING: The United States Supreme Court reversed and remanded, noting that a "totality of circumstances" approach was used to determine whether an informant's tip established probable cause or the reasonable suspicion required by an officer to make a *Terry* stop. The level of suspicion required for a *Terry* stop was less demanding than that required for probable cause, and reasonable suspicion could arise from information less reliable than that required to show probable cause. When the officers stopped respondent, the anonymous tip had been sufficiently corroborated to furnish reasonable suspicion that respondent was engaged in criminal activity. The investigative stop, therefore, did not violate the Fourth Amendment. When significant aspects of the informant's predictions were verified, there was reason to believe that the informant was honest and well-informed.

The Court reversed the judgment of the appellate court and remanded for further proceedings because when the officer's stopped respondent, the anonymous tip from the informant had been sufficiently corroborated to furnish reasonable suspicion that respondent was engaged in criminal activity. The investigative stop did not violate the Fourth Amendment.

***U.S. v. Arvizu*, 534 U.S. 266 (2002)** - Defendant, traveling with a woman and children in a minivan, was stopped by an agent on an unpaved and rarely traveled road near the United States border, a route commonly used by smugglers to avoid a border patrol checkpoint. The agent determined that the unusual behavior of the occupants justified an investigatory stop, during which the agent discovered a substantial amount of drugs. The appellate court found that certain of the suspicious circumstances, evaluated in isolation, were susceptible to innocent explanations and thus insufficient to support a finding of reasonable suspicion of criminal activity to justify the investigatory stop.

HOLDING: The United States Supreme Court overturned the appellate court, holding that suppression of the drug evidence was not required since the totality of the circumstances warranted the stop for further investigation of the defendant's vehicle, regardless of whether the facts taken in isolation appeared innocent. *It was reasonable for the agent to make commonsense inferences based upon his observations, training, knowledge and experience* that the defendant was attempting to avoid the checkpoint, rather than taking his family on a recreational outing.

***Florida v. Royer*, 460 U.S. 491 (1983)** - Narcotic detectives determined that the defendant fit the profile of a person transporting illegal drugs because he was carrying heavy American Tourister luggage, was between the ages of 25-35, was casually dressed, appeared pale and nervous, paid for his ticket with cash, and wrote only a name and destination on his luggage tag. When officers stopped defendant and asked to see his identification, the name on the airline ticket did not match defendant's driver's license. Without returning defendant's documents, the officers asked defendant to accompany them to a small room. The officers retrieved the defendant's luggage and asked for his permission to open the luggage. Defendant handed them a key without giving an affirmative answer.

HOLDING: The Supreme Court held that the defendant's consent was involuntary because defendant was being illegally detained when he consented to the search of his luggage. When the officers identified themselves as narcotics agents, told defendant he was suspected of transporting narcotics, and asked him to accompany them to the police room while retaining his ticket and driver's license, defendant was effectively seized for purposes of the *Fourth Amendment.*

What had begun as a consensual inquiry in a public place escalated into an investigatory procedure in a police interrogation room, and respondent, as a practical matter, was under arrest at that time. Moreover, the detectives' conduct was more intrusive than necessary to effectuate an investigative detention otherwise authorized by the *Terry* line of cases.

***Kansas v. Glover*, 140 S. Ct. 1183 (2020)** – the issue in this case revolved around whether a police officer violates the *Fourth Amendment* by initiating an investigative traffic stop after running a vehicles license plate and learning that the registered owner had a revoked driver's license.

HOLDING: The Supreme Court held that when an officer lacks information negating an inference that the owner is the driver of the vehicle, the stop is reasonable; and [2] the facts known to a deputy sheriff at the time of the stop gave rise to a reasonable suspicion. Before initiating the stop, the deputy observed an individual operating a pickup truck with a Kansas license plate. The deputy also knew that the registered owner of the truck had a revoked license and that the model of the truck matched the observed vehicle. The deputy drew the commonsense inference that defendant was likely the driver of the vehicle, which provided more than reasonable suspicion to initiate the stop.

***Illinois v. Wardlow*, 528 U.S. 119 (2000)** - Respondent Wardlow fled upon seeing police officers patrolling an area known for heavy narcotics trafficking. Two of the officers caught up with him, stopped him and conducted a protective pat-down search for weapons. Upon discovering a .38-caliber handgun, the officers arrested Wardlow.

On September 9, 1995, Officers Nolan and Harvey were working as uniformed officers in the special operations section of the Chicago Police Department. The officers were driving the last car of a four-car caravan converging on an area known for heavy narcotics trafficking in order to investigate drug transactions. The officers were traveling together because they expected to find a crowd of people in the area, including lookouts and customers. As the caravan passed 4035 West Van Buren, Officer Nolan observed respondent Wardlow standing next to the building holding an opaque bag. Respondent looked in the direction of the officers and fled. Nolan and Harvey turned their car southbound, watched him as he ran through the gangway and an alley, and eventually cornered him on the street. Nolan then exited his car and stopped respondent. Officer Nolan immediately conducted a pat-down search for weapons under *Terry* because in his experience it was common for there to be weapons in the near vicinity of narcotics transactions. During the frisk, Officer Nolan squeezed the bag respondent was carrying and felt a heavy, hard object similar to the shape of a gun. The officer then opened the bag and discovered a .38-caliber handgun with five live rounds of ammunition. The officers arrested Wardlow.

HOLDING: *Unprovoked* flight is simply not a mere refusal to cooperate. Flight, by its very nature, is not going about one's business; in fact, it is just the opposite. Allowing officers confronted with such flight to stop the fugitive and investigate further is quite consistent with the individual's right to go about his business or to stay put and remain silent in the face of police questioning.

***Whren v. U.S.*, 517 U.S. 806 (1996)** - Plainclothes officers patrolling a "high drug area" in an unmarked vehicle observed a truck driven by petitioner Brown waiting at a stop sign at an intersection for an unusually long time; the truck then turned suddenly, without signaling, and sped off at an "unreasonable" speed. The officers stopped the vehicle, allegedly to warn the driver about traffic violations, and upon approaching the truck observed plastic bags of crack cocaine in petitioner Whren's

hands. Both petitioners were arrested. Prior to trial on federal drug charges, they moved for suppression of the evidence, arguing that the stop had not been justified by either a reasonable suspicion or probable cause to believe petitioners were engaged in illegal drug-dealing activity, and that the officers' traffic-violation grounds for stopping the truck was pretextual. The motion to suppress was denied, petitioners were convicted, and the Court of Appeals affirmed.

HOLDING*:* The temporary detention of a motorist upon probable cause to believe that he has violated the traffic laws does not violate the *Fourth Amendment's* prohibition against unreasonable seizures, even if a reasonable officer would not have stopped the motorist absent some additional law enforcement objective.

(a) Detention of a motorist is reasonable where probable cause exists to believe that a traffic violation has occurred. See, *e.g., Delaware* v. *Prouse*, 440 U.S. 648. Petitioners claim that, because the police may be tempted to use commonly occurring traffic violations as means of investigating violations of other laws, the *Fourth Amendment* test for traffic stops should be whether a reasonable officer would have stopped the car for the purpose of enforcing the traffic violation at issue. However, this Court's cases foreclose the argument that ulterior motives can invalidate police conduct justified on the basis of probable cause. See, *e.g., United States* v. *Robinson*, 414 U.S. 218, 221, Subjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis. Pp. 809-813.

SEARCHES

***Carroll v. U.S*. 267 U.S. 132 (1925)** - The defendants, George Carroll and John Kiro, were indicted and convicted for transporting in an automobile "intoxicating spirituous liquor", to wit: 68 quarts of bonded whiskey and gin, in violation of the National Prohibition Act. The ground on which they attacked the conviction is that the trial court admitted in evidence two of the 68 bottles, one of whiskey and one of gin, found by searching the automobile. It is contended that the search and seizure were in violation of the *Fourth Amendment*, and therefore that use of the liquor as evidence was not proper. Before the trial a motion was made by the defendants that all the liquor seized be returned to the defendant Carroll, who owned the automobile. Talk about chutzpah! Their motion was denied.

The search and seizure were conducted by prohibition agents Cronenwett, Scully and Thayer, along with a state officer, in December, 1921, as the car was going westward on the highway between Detroit and Grand Rapids at a point 16 miles outside of Grand Rapids. The facts leading to the search and seizure were as follows: On September 29th, Cronenwett and Scully were in an apartment in Grand Rapids. Three men came to the apartment, a man named Kruska and the two defendants, Carroll and Kiro. Cronenwett was introduced to them as one "Stafford", working in the Michigan Chair Company in Grand Rapids, who wished to buy three cases of whiskey. The price was fixed at $130 a case. The three men said they had to go to the east end of Grand Rapids to get the liquor and that they would be back in half or three-quarters of an hour. They went away and in a short time Kruska came back and said they could not get it that night, that the man who had it was not in, but that they would deliver it the next day. They had come to the apartment in an automobile known as an Oldsmobile Roadster, which was identified by both Cronenwett and Scully. Carroll and Kiro did not return the next day, without explanation. Cronenwett and his subordinates continued to patrol the road leading from Detroit to Grand Rapids, looking for violations of the Prohibition Act. On the 6th of October, Carroll and Kiro, going eastward from Grand Rapids in the same Oldsmobile Roadster, passed Cronenwett and Scully some distance out from Grand Rapids. The officers followed as far as East Lansing, half way to Detroit, but there lost trace of them. On the 15th of December, some two months later, Scully and Cronenwett, on their regular tour of duty, with the state officer, were going from Grand Rapids to Ionia, on the road to Detroit, when Kiro and Carroll met and passed them in the same automobile, coming from the direction of Detroit to Grand Rapids. The government agents turned their car and followed the defendants to a point some sixteen miles east of Grand Rapids, where they stopped them and searched the car. They

found 68 bottles behind the upholstering of the seats. These had labels on them, indicating that the contents were blended Scotch whiskeys, and the rest that the contents were Gordon gin made in London. When the defendants were arrested, Carroll said to Agent Cronenwett, "Take the liquor and give us one more chance and I will make it right with you," and he pulled out a roll of bills, of which one was for $10. Ten dollars!!! The officers were not anticipating that the defendants would be coming through on the highway at that particular time, but when they saw them at that location they believed them to be carrying liquor; and hence the search, seizure and arrest.

HOLDING: The Supreme Court held that the right to search and the validity of the seizure were not dependent on the right to arrest, but were dependent on the reasonable cause the seizing liquor agents had for their belief that the contents of defendant's automobile were illegal. The court found that the evidence showed that the agents had ample reason to believe defendants' vehicle contained illegal liquor because defendants were known to transport liquor in that vehicle, were recognized by the agents, and were on a route known for illegal liquor traffic. Those circumstances provided sufficient probable cause to search the vehicle.

The defendants' convictions for transporting alcohol in a vehicle were affirmed because the liquor agents had sufficient probable cause to search the defendants' vehicle because defendants were recognized by the agents, were known to transport liquor in that vehicle, and were on a route notorious for the illegal transport of liquor. In other words, the officers had probable cause to believe the vehicle contained contraband.

***U.S. v. Ross*, 456 U.S. 798 (1982)** - A reliable informant contacted the police department, describing respondent's vehicle, the location of the vehicle and the respondent and stating that he had just seen respondent complete a drug sale. At the scene, a license and computer check revealed that a matching car was registered to a person fitting respondent's description. Five minutes later, police officers observed the vehicle being driven by respondent and stopped the vehicle. The police officers discovered a bullet in the front seat and a pistol in the glove compartment. Upon respondent's arrest, police officers opened the trunk and found a closed paper bag containing a white powder. At issue was whether the warrantless search of the vehicle stopped by police officers who had probable cause to believe that the vehicle contained contraband was unreasonable under the *Fourth Amendment*.

HOLDING: The scope of a warrantless search of an automobile was defined by the object of the search and the places in which there was probable cause to believe it would be found. Probable cause justifying the search of a lawfully stopped vehicle justified the search of its contents that could have concealed the object of the search. The Court held that police officers who have legitimately stopped an automobile and who have *probable cause to believe that contraband is concealed somewhere within* may conduct a warrantless search of the vehicle, including compartments and containers within the vehicle whose contents are not in plain view, that is as thorough as a magistrate could authorize in a warrant particularly describing the place to be searched, the scope of the warrantless search authorized by the so-called "automobile exception" being no broader and no narrower than a magistrate could legitimately authorize by warrant, so that if probable cause justifies the search of a lawfully stopped vehicle, it justifies the search of every part of the vehicle and its contents that may conceal the object of the search.

***New York v. Belton*, 453 U.S. 454 (1981)** - A New York state police officer stopped an automobile for traveling at an excessive rate of speed and, in the course of checking the driver's license and registration, smelled burnt marijuana and observed an envelope on the floor of the vehicle which he associated with marijuana. The policeman directed the automobile's four occupants to get out of the car and told them they were under arrest for the unlawful possession of marijuana. After separating the occupants, the officer searched each of them and then searched the passenger compartment of the car. On the back seat he found a black leather jacket belonging to one of the occupants, unzipped one of the

pockets, and discovered cocaine. At his subsequent trial for criminal possession of a controlled substance, the occupant's motion to suppress the cocaine seized from the jacket pocket was denied, and he pleaded guilty to a lesser included offense, while preserving his claim that the cocaine had been seized in violation of the *Fourth* and *Fourteenth Amendments*. The Appellate Division of the New York Supreme Court upheld the constitutionality of the search and seizure, reasoning that once the occupant was validly arrested for possession of marijuana, the officer was justified in searching the immediate area for other contraband. The Court of Appeals of New York reversed, holding that a warrantless search of the zippered pockets of an inaccessible jacket may not be upheld as a search incident to a lawful arrest where there is no longer any danger that the arrestee or a confederate might gain access to the article.

HOLDING: On certiorari, the United States Supreme Court reversed, holding that (1) a policeman who has made a lawful custodial arrest of the occupant of an automobile may, as a contemporaneous incident of that arrest, search the passenger compartment of the automobile and may examine the contents of any containers found within the passenger compartment, the term "container" denoting any object capable of holding another object and including closed or opened glove compartments, consoles, or other receptacles, as well as luggage, boxes, bags, clothing, and the like, and (2) the search of the jacket was a search incident to a lawful custodial arrest and did not violate the *Fourth* and *Fourteenth Amendments*, it not being questioned that the jacket's owner was the subject of a lawful custodial arrest on a charge of possessing marijuana, the search following immediately upon that arrest, and the jacket being located inside the passenger compartment of the car in which the owner had been a passenger just before he was arrested. In order to search a vehicle incident to arrest, one of the following circumstances must be met:

a. To prevent the suspect from gaining entry and getting access to a weapon;
b. To prevent the suspect from gaining entry and destroying evidence; or
c. If it is reasonable to believe the vehicle contains evidence of the crime for which the person is being arrested.

***Arizona v. Gant*, 556 U.S. 332 (2009)** - On August 25, 1999, acting on an anonymous tip that the residence at 2524 North Walnut Avenue was being used to sell drugs, Tucson police officers Griffith and Reed knocked on the front door and asked to speak to the owner. Gant answered the door and, after identifying himself, stated that he expected the owner to return later. The officers left the residence and conducted a records check, which revealed that Gant's driver's license had been suspended and there was an outstanding warrant for his arrest for driving with a suspended license. When the officers returned to the house that evening, Gant was not present, but they found a man near the back of the house and a woman in a car parked in front of it. After a third officer arrived, they arrested the man for providing a false name and the woman for possessing drug paraphernalia. Both arrestees were handcuffed and secured in separate patrol cars. At that point, Gant arrived. The officers recognized his car as it entered the driveway, and Officer Griffith confirmed that Gant was the driver by shining a flashlight into the car as it drove by him. Gant parked at the end of the driveway, got out of his car, and shut the door. Griffith, who was about 30 feet away, called to Gant, and they approached each other, meeting 10-to-12 feet from Gant's car. Griffith immediately arrested Gant and handcuffed him.

Because the other arrestees were secured in the only patrol cars at the scene, Griffith called for backup. When two more officers arrived, they locked Gant in the backseat of their vehicle. After Gant had been handcuffed and placed in the back of a patrol car, two officers searched his car: One of them found a gun, and the other discovered a bag of cocaine in the pocket of a jacket on the backseat.

Gant was charged with two offenses--possession of a narcotic drug for sale and possession of drug paraphernalia (*i.e.*, the plastic bag in which the cocaine was found). He moved to suppress the evidence seized from his car on the ground that the warrantless search violated the *Fourth Amendment*. Among other things, Gant argued that *Belton* did not authorize the search of his vehicle because he posed no threat to the officers after he was handcuffed in the patrol car and because he was arrested for a traffic offense for which no evidence could be found in his vehicle.

HOLDING: The Supreme Court rejected a broad reading of *Belton* that would permit a vehicle search incident to a recent occupant's arrest even if there were no possibility the arrestee could gain access to the vehicle at the time of the search. The safety and evidentiary justifications underlying *Chimel*'s exception authorize a vehicle search only when there is a reasonable possibility of such access. Although it does not follow from *Chimel*, circumstances unique to the automobile context also justify a search incident to a lawful arrest when it is "reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle."

***U.S. v. Sharpe*, 407 U.S. 675 (1985)** - A DEA agent, while patrolling a highway in an area under surveillance for suspected drug trafficking, noticed an apparently overloaded pickup truck with an attached camper traveling in tandem with a Pontiac. Respondent Savage was driving the truck, and respondent Sharpe was driving the Pontiac. After following the two vehicles for about 20 miles, the agent decided to make an "investigative stop" and radioed the South Carolina State Highway Patrol for assistance. An officer responded, and he and the DEA agent continued to follow the two vehicles. When they attempted to stop the vehicles, the Pontiac pulled over to the side of the road, but the truck continued on, pursued by the state officer. After identifying himself and obtaining identification from Sharpe, the DEA agent attempted to radio the State Highway Patrol officer. The DEA agent was unable to contact the state officer to see if he had stopped the truck, so he radioed the local police for help. In the meantime, the state officer had stopped the truck, questioned Savage, and told him that he would be held until the DEA agent arrived. The agent, who had left the local police with the Pontiac, arrived at the scene approximately 15 minutes after the truck had been stopped. After confirming his suspicion that the truck was overloaded and upon smelling marihuana, the agent opened the rear of the camper without Savage's permission and observed a number of burlap-wrapped bales resembling bales of marihuana that the agent had seen in previous investigations. The agent then placed Savage under arrest and, returning to the Pontiac, also arrested Sharpe. Chemical tests later showed that the bales contained marihuana. Respondents were charged with federal drug offenses, and, after the District Court denied their motion to suppress the contraband, were convicted. The Court of Appeals reversed, holding that because the investigative stops failed to meet the *Fourth Amendment's* requirement of brevity governing detentions on less than probable cause, the marihuana should have been suppressed as the fruit of unlawful seizures.

HOLDING: The Supreme Court stated that in assessing whether a police detention was too long in duration to be justified as an investigative stop, it was appropriate to examine whether the officer diligently pursued a means of investigation that was likely to confirm or dispel his suspicions quickly, during which time it was necessary to detain defendants. The Court held that because the officer pursued his investigation of defendants in a diligent and reasonable manner, and the delay was attributable almost entirely to the evasive actions of one defendant, the 20-minute stop was not violative of the *Fourth Amendment*.

***Rodriguez v. U.S.*, 575 U.S. 348 (2015)** - Officer Struble, a K-9 officer, stopped petitioner Rodriguez for driving on a highway shoulder, a violation of Nebraska law. After Struble attended to everything relating to the stop, including, checking the driver's licenses of Rodriguez and his passenger and issuing a

warning for the traffic offense, he asked Rodriguez for permission to walk his dog around the vehicle. When Rodriguez refused, Struble detained him until a second officer arrived. Struble then retrieved his dog, who alerted to the presence of drugs in the vehicle. The ensuing search revealed methamphetamine. Seven or eight minutes elapsed from the time Struble issued the written warning until the dog alerted.

Rodriguez was indicted on federal drug charges. He moved to suppress the evidence seized from the vehicle. One of the grounds, among others, was that Ofc. Struble had prolonged the traffic stop without reasonable suspicion in order to conduct the dog sniff. The Magistrate Judge found no reasonable suspicion supporting detention once Struble issued the written warning, he determined that under Eighth Circuit precedent, prolonging the stop by "seven to eight minutes" for the dog sniff was only a *de minimis* intrusion on Rodriguez's *Fourth Amendment* rights and was for that reason, deemed the detention permissible. The District Court then denied the motion to suppress. Rodriguez entered a conditional guilty plea and was sentenced to five years in prison. The Eighth Circuit affirmed. Noting that the seven- or eight-minute delay was an acceptable "*de minimis* intrusion on Rodriguez's personal liberty," the court declined to reach the question whether Struble had reasonable suspicion to continue Rodriguez's detention after issuing the written warning.

HOLDING: Absent reasonable suspicion, police extension of a traffic stop in order to conduct a dog sniff violates the Constitution's shield against unreasonable seizures.

A routine traffic stop is more like a brief stop under *Terry* v. *Ohio*, 392 U. S. 1, than an arrest, see, *e.g., Arizona* v. *Johnson*, 555 U. S. 323, 330. Its tolerable duration is determined by the seizure's "mission," which is to address the traffic violation that warranted the stop, Illinois v. Caballes, 543 U. S. 405, 407, and attend to related safety concerns. Authority for the seizure ends when tasks tied to the traffic infraction are--or reasonably should have been--completed. The *Fourth Amendment* may tolerate certain unrelated investigations that do not lengthen the roadside detention, *Johnson*, 555 U. S., at 327-328, 129 S. Ct. 781; *Caballes*, 543 U. S., at 406, 408, 125 S. Ct. 834, (dog sniff), but a traffic stop "become[s] unlawful if it is prolonged beyond the time reasonably required to complete the mission" of issuing a warning ticket,.

Beyond determining whether to issue a traffic ticket, an officer's mission during a traffic stop typically includes checking the driver's license, *determining whether there are outstanding warrants against the driver*, inspecting the automobile's registration and proof of insurance and checking on the welfare of passengers. These checks serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated safely and responsibly. See *Delaware v. Prouse,* 440 U. S. 648, 658-659, 99 S. Ct. 1391. Lacking the same close connection to roadway safety as the ordinary inquiries, a dog sniff is not fairly characterized as part of the officer's traffic mission.

***Bell v. Wolfish*, 441 U.S. 520 (1979)** – For purposes of this blog, the primary reason this case is being mentioned is how it relates to roadside strip searches.

Inmates of a federally-operated, short-term custodial facility, designed primarily to house pretrial detainees, brought a class action in the United States District Court for the Southern District of New York by filing in the District Court a writ of habeas corpus to challenge numerous conditions of confinement and practices at the facility. Among the practices challenged were (1) the facility's "double-bunking" of inmates--assigning inmates to rooms originally intended for single occupancy in which the single bunks were replaced by double bunks, (2) a prohibition against inmates receiving hardcover books unless they were mailed directly from publishers, book clubs, or bookstores, (3) a rule prohibiting

inmates from receiving packages from outside the facility containing items of food or personal property, except for one package of food at Christmas, (4) searches of the inmates' rooms during which inmates were not allowed to be present, and (5) strip searches of inmates conducted after every contact visit with a person from outside the institution, including exposure of the inmates' body cavities for visual inspection.* On partial summary judgment motions, the District Court enjoined, on various constitutional grounds, the double-bunking practice and the enforcement of the "publisher-only" rule and, after a trial, enjoined the other conditions and practices. On appeal, the United States Court of Appeals for the Second Circuit affirmed the District Court's rulings insofar as they applied to pretrial detainees at the facility.

HOLDING: The Supreme Court held that the test of reasonableness under the *Fourth Amendment* is not capable of precise definition or mechanical application. In each case it requires a balancing of the need for the particular search against the invasion of personal rights that the search entails. Courts must consider: 1. the scope of the particular intrusion; 2. the manner in which it is conducted; 3. the justification for initiating it; and 4. the place in which it is conducted. A detention facility is a unique place fraught with serious security dangers. Smuggling of money, drugs, weapons, and other contraband is all too common an occurrence. And inmate attempts to secrete these items into the facility by concealing them in body cavities are documented in this record, and in other cases.

* For practical application, strip searches should be avoided at roadside - if at all possible - if officer safety or destruction of evidence are not legitimate concerns.

***Maryland v. Pringle*, 540 U.S. 366 (2003)** -A police officer stopped a car for speeding at 3:16 a.m.; searched the car, seizing $763 from the glove compartment and cocaine from behind the back-seat arm rest. The vehicle's three occupants were after they all denied ownership of the drugs and money. Respondent Pringle, the front-seat passenger, was convicted of possession with intent to distribute cocaine and possession of cocaine, and was sentenced to 10 years' incarceration without the possibility of parole. The Maryland Court of Special Appeals affirmed, but the State Court of Appeals reversed, holding that, absent specific facts tending to show Pringle's knowledge and dominion or control over the drugs, the mere finding of cocaine in the back armrest when Pringle was a front-seat passenger in a car being driven by its owner was insufficient to establish probable cause for an arrest for possession.

HOLDING: The Supreme Court determined that because the officer had probable cause to arrest Pringle, the arrest did not contravene the *Fourth* and *Fourteenth Amendments*. Maryland law authorizes police officers to execute warrantless arrests, *inter alia*, where the officer has probable cause to believe that a felony has been committed or is being committed in the officer's presence. Here, it is uncontested that the officer, upon recovering the suspected cocaine, had probable cause to believe a felony had been committed. The question is whether he had probable cause to believe Pringle committed that crime. The "substance of all the definitions of probable cause is a reasonable ground for belief of guilt," *Brinegar v. United States,* 338 U.S. 160, and that belief must be particularized with respect to the person to be searched or seized, *Ybarra v. Illinois,* 444 U.S. 85, 91. To determine whether an officer had probable cause to make an arrest, a court must examine the events leading up to the arrest, and then decide "whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to probable cause." As it is an entirely reasonable inference from the facts here that any or all of the car's occupants had knowledge of, and exercised dominion and control over, the cocaine, a reasonable officer could conclude that there was probable cause to believe Pringle committed the crime

of possession of cocaine, either solely or jointly. The Court determined Pringle's attempt to characterize this as a guilt-by-association carried no water.

***Pennsylvania v. Mimms*, 443 U.S. 106 (1977)** - While on routine patrol, two Philadelphia police officers observed respondent Harry Mimms driving an automobile with an expired license plate. The officers stopped the vehicle for the purpose of issuing a traffic summons. One of the officers approached and asked respondent to step out of the car and produce his owner's card and operator's license. Respondent alighted, whereupon the officer noticed a large bulge under respondent's sports jacket. Fearing that the bulge might be a weapon, the officer frisked respondent and discovered in his waistband a .38-caliber revolver loaded with five rounds of ammunition. The other occupant of the car was carrying a .32-caliber revolver. Respondent was immediately arrested and subsequently indicted for carrying a concealed deadly weapon and for unlawfully carrying a firearm without a license. His motion to suppress the revolver was denied; and, after a trial at which the revolver was introduced into evidence, respondent was convicted on both counts.

Holding: The order to get out of the car, issued after the respondent was lawfully detained, was reasonable and thus permissible under the *Fourth Amendment*. The State's proffered justification for such order--the officer's safety--is both legitimate and weighty, and the intrusion into respondent's personal liberty occasioned by the order, being at most a mere inconvenience, cannot prevail when balanced against legitimate concerns for the officer's safety.

2. Under the standard announced in *Terry v. Ohio*, whether "the facts available to the officer at the moment of the seizure or the search 'warrant a man of reasonable caution in the belief' that the action taken was appropriate"--the officer was justified in making the search he did once the bulge in respondent's jacket was observed.

***Maryland v. Wilson*, 519 U.S. 408 (1997)** - A Maryland state trooper saw a passenger car driving in excess of the posted speed limit. The trooper observed that (1) the car had no regular license tag, and (2) a torn piece of paper bearing the name of a car rental agency dangled from the rear of the car. The trooper activated his car's lights and sirens and signaled for the passenger car to pull over. In the course of his pursuit of the passenger car for a mile and a half before it finally pulled over, the trooper noticed that two passengers in the car turned to look at him several times, ducked below sight level, and then reappeared. After both cars pulled over and the trooper approached the passenger car on foot, the driver alighted and met the trooper halfway. The driver produced a valid driver's license, and the trooper instructed the driver to return to the car and retrieve the car rental documents. During his encounter with the driver, the trooper had noticed that the car's front-seat passenger was sweating and appeared extremely nervous. While the driver was sitting in the driver's seat looking for the rental documents, the trooper ordered the front-seat passenger out of the car. When the passenger did so, a quantity of crack cocaine fell to the ground. The passenger was then arrested and charged with possession of cocaine with intent to distribute. Before trial in the Circuit Court for Baltimore County, Maryland, the accused moved to suppress the evidence on the ground that the trooper's ordering him out of the car constituted an unreasonable seizure under the *Fourth Amendment.* The Circuit Court granted the accused's motion to suppress. On appeal, the Court of Special Appeals of Maryland, affirming, expressed the view that the United States Supreme Court's ruling in *Pennsylvania v Mimms* to the effect that a police officer may, as a matter of course, order the driver of a lawfully stopped car to exit the vehicle--did not apply to passengers. The Court of Appeals of Maryland denied certiorari.

HOLDING: The Supreme Court reversed the Court of Special Appeals' judgment and remanded the case for further proceedings. It held that (1) consistent with the *Fourth Amendment*, a police officer making a

traffic stop may order passengers to get out of the car pending completion of the stop, and (2) the rule of *Pennsylvania v Mimms* extended to passengers as well.

***Brendlin v. California*, 551 U.S. 249 (2007)** - Early in the morning of November 27, 2001, Deputy Sheriff Robert Brokenbrough and his partner saw a parked Buick with expired registration tags. In his ensuing conversation with the police dispatcher, Brokenbrough learned that an application for renewal of registration was being processed. The officers saw the car again on the road, and this time Brokenbrough noticed its display of a temporary operating permit with the number "11," indicating it was legal to drive the car through November. The officers decided to pull the Buick over to verify that the permit matched the vehicle, even though, as Brokenbrough admitted later, there was nothing unusual about the permit or the way it was affixed. Brokenbrough asked the driver, Karen Simeroth, for her license and saw a passenger in the front seat, petitioner Bruce Brendlin, whom he recognized as being one of the Brendlin brothers. He recalled that either Scott or Bruce Brendlin had dropped out of parole supervision and asked Brendlin to identify himself. Brokenbrough returned to his cruiser, called for backup, and verified that Brendlin was a parole violator with an outstanding no-bail warrant for his arrest. While he was in the patrol car, Brokenbrough saw Brendlin briefly open and then close the passenger door of the Buick. Once reinforcements arrived, Brokenbrough went to the passenger side of the Buick, ordered him out of the car at gunpoint, and declared him under arrest. When the police searched Brendlin incident to arrest, they found an orange syringe cap on his person. A patdown search of Simeroth revealed syringes and a plastic bag of a green leafy substance, and she was also formally arrested. Officers then searched the car and found tubing, a scale, and other things used to produce methamphetamine.

Brendlin was charged with possession and manufacture of methamphetamine, and he moved to suppress the evidence obtained in the searches of his person and the car as fruits of an unconstitutional seizure, arguing that the officers lacked probable cause or reasonable suspicion to make the traffic stop. He did not assert that his Fourth Amendment rights were violated by the search of Simeroth's vehicle, cf. *Rakas* v. *Illinois*, 439 U.S. 128, (1978), but claimed only that the traffic stop was an unlawful seizure of his person. The trial court denied the suppression motion after finding that the stop was lawful and Brendlin was not seized until Brokenbrough ordered him out of the car and formally arrested him. Brendlin pleaded guilty, subject to appeal on the suppression issue, and was sentenced to four years in prison.

The California Court of Appeal reversed the denial of the suppression motion, holding that Brendlin was seized by the traffic stop, which the court held unlawful. By a narrow majority, the Supreme Court of California reversed. The State Supreme Court noted California's concession that the officers had no reasonable basis to suspect unlawful operation of the car, but still held suppression unwarranted because a passenger "is not seized as a constitutional matter in the absence of additional circumstances that would indicate to a reasonable person that he or she was the subject of the peace officer's investigation or show of authority. The court reasoned that Brendlin was not seized by the traffic stop because Simeroth was its exclusive target, that a passenger cannot submit to an officer's show of authority while the driver controls the car, and that once a car has been pulled off the road, a passenger "would feel free to depart or otherwise to conduct his or her affairs as though the police were not present.

HOLDING: The Supreme Court held that when a police officer makes a traffic stop, the driver of the car is seized within the meaning of the *Fourth Amendment*. The question in this case is whether the same is true of a passenger. The Court held that a passenger is seized as well and so may challenge the constitutionality of the stop.

***Rakas v. Illinois*, 439 U.S. 128 (1978)** - After a police search of an automobile in which they were riding as passengers uncovered a rifle under the seat and shells in the glove compartment, certain defendants were tried and convicted of armed robbery in the Circuit Court of Kankakee County, Illinois. The rifles and shells were admitted into evidence at trial over the defendants' motion to suppress, which alleged that the items were the product of an unlawful search and seizure. The defendants neither owned the automobile nor asserted that they owned the rifle or shells, and the trial court, denying the motion to suppress, reasoned that the defendants lacked standing* to object to the lawfulness of the search.

* While under *Brendlin v. California*, the passengers would have standing to object to the constitutionality of the *stop*, their standing to object to a *search* is limited.

HOLDING: The Supreme Court affirmed, holding that criminal defendants who assert neither a property nor a possessory interest in an automobile in which they were passengers at the time of a police search which encompassed the glove compartment and an area under the seat, and who do not assert an interest in a rifle and shells which were seized, cannot challenge, through a motion to suppress the evidence at their state court trial, the search as violative of the *Fourth Amendment,* since the search did not violate any of their right. The fact that they were legitimately on the premises - in the sense that they were in the car with the permission of its owner - was determinative of whether they had a legitimate expectation of privacy in the particular areas of the automobile searched. Furthermore, the defendants' claim would also fail in an analogous situation in a dwelling place, since no showing of any legitimate expectation of privacy in the glove compartment or area under the seat of the car was made, and, like the trunk of an automobile, these are areas in which a passenger qua passenger would not normally have such expectation.

***Arizona v. Johnson*, 555 U.S. 323 (2009)** - On April 19, 2002, Officer Maria Trevizo and Detectives Machado and Gittings, all members of Arizona's gang task force, were on patrol in Tucson near a neighborhood associated with the Crips gang. At approximately 9 pm., the officers pulled over an automobile after a license plate check revealed that the vehicle's registration had been suspended for an insurance-related violation. Under Arizona law, the violation for which the vehicle was stopped constituted a civil infraction warranting a citation. At the time of the stop, the vehicle had three occupants--the driver, a front-seat passenger, and a passenger in the back seat, Lemon Montrea Johnson, the respondent. In making the stop the officers had no reason to suspect anyone in the vehicle of criminal activity.

The three officers left their patrol car and approached the stopped vehicle. Ofc. Machado instructed all of the occupants to keep their hands visible. He asked whether there were any weapons in the vehicle - all responded “no”. Machado then directed the driver to get out of the car. Ofc. Gittings dealt with the front-seat passenger, who stayed in the vehicle throughout the stop. While Machado was getting the driver's license and information about the vehicle's registration and insurance, Ofc. Trevizo attended to Johnson.

Ofc. Trevizo noticed that, as the police approached, Johnson looked back and kept his eyes on the officers. When she drew near, she observed that Johnson was wearing clothing, including a blue bandana, that she considered consistent with Crips membership. She also noticed a scanner in Johnson's jacket pocket, which "struck [her] as highly unusual and cause [for] concern," because "most people" would not carry around a scanner that way "unless they're going to be involved in some kind of criminal activity or [are] going to try to evade the police by listening to the scanner." In response to Trevizo's questions, Johnson provided his name and date of birth but said he had no identification with him. He volunteered that he was from Eloy, Arizona, a place Trevizo knew was home to a Crips gang. Johnson further told Trevizo that he had served time in prison for burglary and had been out for about a year.

Trevizo wanted to question Johnson away from the front-seat passenger to gain "intelligence about the gang [Johnson] might be in." For that reason, she asked him to get out of the car. Johnson complied. Based on Trevizo's observations and Johnson's answers to her questions while he was still seated in the car, Trevizo suspected that "he might have a weapon on him." When he exited the vehicle, she therefore "patted him down for officer safety." During the pat down, Trevizo felt the butt of a gun near Johnson's waist. At that point Johnson began to struggle, and Trevizo placed him in handcuffs.

HOLDINGS: Passengers could be ordered to get out during a traffic stop and the interest in officer safety allowed for pat downs for weapons if the officer reasonably concluded the passenger could be armed and dangerous. Respondent was lawfully detained incident to the valid stop of the car in which he was a passenger. It was unrealistic to characterize the officer/respondent interaction as "consensual." The encounter took place within minutes of the stop, the pat down followed within moments of respondent's exit from the car, and the point at which he could have felt free to leave had not yet occurred. The officer's inquiries into gang activity matters, unrelated to the justification for the traffic stop, did not convert the encounter into something other than a lawful seizure, since the inquiries did not measurably extend the stop's duration. Nothing could have conveyed to respondent that, prior to the frisk, the stop had ended or that he was otherwise free to leave without permission. The officer was not constitutionally required to give him an opportunity to leave after he exited the car without first ensuring that, in so doing, she was not permitting a dangerous person to get behind her.

For the duration of a traffic stop, the Court noted that they had recently confirmed that a police officer effectively seizes "everyone in the vehicle," the driver and all passengers. *Brendlin* v. *California*, 551 U.S. 249, 255 (2007). Accordingly, the Court held that, in a traffic-stop setting, the first *Terry* condition--a lawful investigatory stop--is met whenever it is lawful for police to detain an automobile and its occupants pending inquiry into a vehicular violation. The police need not have, in addition, cause to believe any occupant of the vehicle is involved in criminal activity. To justify a pat down of the driver or a passenger during a traffic stop, however, just as in the case of a pedestrian

reasonably suspected of criminal activity, the police must harbor reasonable suspicion that the person subjected to the frisk is armed and dangerous.

***Brown v. Texas*, 443 U.S. 47 (1979)** - Two police officers, while cruising around mid-day in a patrol vehicle, observed appellant and another man walking away from one another in an alley in an area with a high incidence of drug traffic. They stopped and asked appellant to identify himself and explain what he was doing. One officer testified that he stopped appellant because the situation "looked suspicious and we had never seen that subject in that area before." The officers did not claim to suspect appellant of any specific misconduct, nor did they have any reason to believe that he was armed. When appellant refused to identify himself, he was arrested for violation of a Texas statute which makes it a criminal act for a person to refuse to give his name and address to an officer "who has lawfully stopped him and requested the information." He was searched three times with nothing found. Appellant's motion to set aside an information charging him with violation of the statute on the ground that the statute violated the First, Fourth, Fifth, and Fourteenth Amendments was denied, and he was convicted and fined.

HOLDING*:* The application of the Texas statute to detain appellant and require him to identify himself violated the Fourth Amendment because the officers lacked any reasonable suspicion to believe that appellant was engaged or had engaged in criminal conduct. Detaining appellant to require him to identify himself constituted a seizure of his person subject to the requirement of the *Fourth Amendment* that the seizure must be "reasonable." *Terry* v. *Ohio*, 392 U.S. 1; *United States* v. *Brignoni-Ponce*, 422 U.S. 873. The *Fourth Amendment* requires that such a seizure be based on specific, objective facts indicating that society's legitimate interests require such action, or that the seizure be carried out pursuant to a plan embodying explicit, neutral limitations on the conduct of individual officers. *Delaware* v. *Prouse*, 440 U.S. 648. Here, the State did not contend that appellant was stopped

pursuant to a practice embodying neutral criteria, and the officers' actions were not justified on the ground that they had a reasonable suspicion, based on objective facts, that he was involved in criminal activity. Absent any basis for suspecting appellant of misconduct, the balance between the public interest in crime prevention and appellant's right to personal security and privacy tilts in favor of freedom from police interference.

Lange v. California, 141 S. Ct. 2011 (2021) - This case arises from a police officer's warrantless entry into petitioner Arthur Lange's garage. Lange drove by a California highway patrol officer while playing loud music and honking his horn. The officer began to follow Lange and soon after turned on his overhead lights to signal that Lange should pull over. Rather than stopping, Lange drove a short distance to his driveway and entered his attached garage. The officer followed Lange into the garage. He questioned Lange and, after observing signs of intoxication, put him through field sobriety tests. A later blood test showed that Lange's blood-alcohol content was three times the legal limit. The State charged Lange with the misdemeanor of driving under the influence. Lange moved to suppress the evidence obtained after the officer entered his garage, arguing that the warrantless entry violated the *Fourth Amendment.*

HOLDING: The Court's *Fourth Amendment* precedents lean in favor of a case-by-case assessment of exigency when deciding whether a suspected misdemeanant's flight justifies a warrantless home entry. The *Fourth Amendment* ordinarily requires that a law enforcement officer obtain a judicial warrant before entering a home without permission. Riley v. California, 573 U. S. 373. An officer may however, make a warrantless entry when "the exigencies of the situation," considered in a case-specific way, create "a compelling need for official action and no time to secure a warrant." *Kentucky* v. *King*, 563 U. S. 452; *Missouri* v. *McNeely*, 569 U. S. 141. The Court has found that such exigencies may exist when an officer must act to prevent imminent injury, the destruction of evidence, or a suspect's escape. Here, the Court determined that no such exception existed.

***Navarette v. California*, 572 U.S. 393 (2014)** - On August 23, 2008, a Mendocino County 911 dispatch team for the California Highway Patrol (CHP) received a call from another CHP dispatcher in neighboring Humboldt County. The Humboldt County dispatcher relayed a tip from a 911 caller, which the Mendocino County team recorded as follows: "'Showing southbound Highway 1 at mile marker 88, Silver Ford 150 pickup. Plate of 8-David-94925. Ran the reporting party off the roadway and was last seen approximately five [minutes] ago.'" The Mendocino County team then broadcast that information to CHP officers at 3:47 p.m.

A CHP officer heading northbound toward the reported vehicle responded to the broadcast. At 4:00 p.m., the officer passed the truck near mile marker 69. At about 4:05 p.m., after making a U-turn, he pulled the truck over. A second officer, who had separately responded to the broadcast, also arrived on the scene. As the two officers approached the truck, they smelled marijuana. A search of the truck bed revealed 30 pounds of marijuana. The officers arrested the driver, petitioner Lorenzo Prado Navarette, and the passenger, petitioner José Prado Navarette.

HOLDING: The principles that apply to investigative stops apply with full force to investigative stops based on information from anonymous tips. The United States Supreme Court has firmly rejected the argument that reasonable cause for an investigative stop can only be based on an officer's personal observation, rather than on information supplied by another person. Of course, an anonymous tip alone seldom demonstrates the informant's basis of knowledge or veracity. That is because ordinary citizens generally do not provide extensive recitations of the basis of their everyday observations, and an anonymous tipster's veracity is by hypothesis largely unknown, and unknowable. But under appropriate

circumstances, an anonymous tip can demonstrate sufficient indicia of reliability to provide reasonable suspicion to make an investigatory stop.

A 911 call has some features that allow for identifying and tracing callers, and thus provide some safeguards against making false reports with immunity. A 911 call can be recorded, which provides victims with an opportunity to identify the false tipster's voice and subject him to prosecution. The 911 system also permits law enforcement to verify important information about the caller. None of this is to suggest that tips in 911 calls are per se reliable. Given technological and regulatory developments, however, a reasonable officer could conclude that a false tipster would think twice before using such a system.

***Berkemer v. McCarty*, 468 U.S. 420 (1984)** - Officer stopped respondent's vehicle and asked if respondent had been using intoxicants. Respondent replied in the affirmative. Respondent was arrested, asked again about the use of intoxicants, and again answered in the affirmative. Respondent was never advised of his constitutional rights. Respondent was convicted of operating a motor vehicle while under the influence of intoxicants. He appealed, asserting that the incriminating statements were not admissible as he had not been informed of his constitutional rights prior to interrogation. The appellate court reversed respondent's conviction and held such rights must be given to all individuals prior to the custodial interrogation.

HOLDING: The Supreme Court held that, because the initial stop of respondent's car, by itself, did not render respondent in custody, respondent was not entitled to a recitation of constitutional rights. However, after respondent was arrested, any statements made were inadmissible against him without a reading of his constitutional rights. Because it could not be determined which statements were relied upon in convicting respondent, vacation of respondent's conviction was affirmed.

***Michigan Dept. of State Police v. Sitz*, 496 U.S. 444 (1990)** - The Michigan Department of State Police established a sobriety checkpoint pilot program under guidelines drafted by an advisory committee, which guidelines governed checkpoint operation, site selection, and publicity, and provided in part that (1) checkpoints would be set up along state roads at sites selected in accordance with the guidelines; (2) all vehicles passing through a checkpoint would be stopped and their drivers briefly examined for signs of intoxication; (3) if such signs were detected, the driver would be directed to a location out of the traffic flow where his or her license and registration would be checked, further sobriety tests would be conducted if warranted, and, if the field tests and the police officer's observations suggested that the driver was intoxicated, an arrest would be made; and (4) all other drivers would be permitted to resume their journeys immediately.

One checkpoint was conducted under the program and was in operation for 75 minutes, during which time 126 vehicles passed through, each vehicle being delayed an average of about 25 seconds; two drivers were detained for field sobriety testing, one of these drivers was arrested for driving under the influence of alcohol, and a third driver who drove through without stopping was pulled over and arrested for driving under the influence of alcohol. On the day before the operation of the checkpoint, a group of licensed Michigan drivers filed a complaint in the Circuit Court of Wayne County, Michigan and sought declaratory and injunctive relief from potential subjection to the checkpoints. The Circuit Court (1) ruled that the checkpoint program violated both the *Fourth Amendment* and a provision of the state constitution, as the court found that (a)although the state had a legitimate interest in curbing drunk driving, sobriety checkpoints are not an effective means of achieving that goal, given the statistically low arrest rate, and (b) although the objective intrusion caused by the checkpoints, measured by the duration of the seizure and the intensity of the investigation, was minimal, the subjective intrusion on liberty interests, in terms of potential to generate fear and surprise to motorists, was substantial; and

accordingly (2) entered an order permanently enjoining the implementation of the program. The Court of Appeals of Michigan affirmed, as it (1) found that the Circuit Court's findings were not clearly erroneous, (2) concluded that the checkpoint program violated the *Fourth Amendment*, and (3) ruled that since the state constitution offered at least the same protection as the *Fourth Amendment*, the checkpoints also violated the state constitution. The Supreme Court of Michigan denied the state police department's application for leave to appeal.

HOLDING: On certiorari, the United States Supreme Court reversed and remanded. It was held, with regard to the Michigan sobriety checkpoint program, that the initial stop of each motorist passing through a checkpoint and the associated preliminary questioning and observation by checkpoint officers were reasonable seizures which did not violate the Federal Constitution's Fourth Amendment, as the balance among the state's interest in preventing drunk driving, the extent to which the checkpoint program could reasonably be said to advance that interest, and the degree of intrusion upon individual motorists, weighed in favor of that program, given that (1) the magnitude of the drunken driving problem and the states' interest in eradicating it were indisputable; (2) the "objective" intrusion resulting from the checkpoint, measured by the duration of the seizure and the intensity of the investigation, was minimal; (3) the "subjective" intrusion resulting from the checkpoint program--which was to be evaluated in terms of the fear and surprise engendered in law-abiding motorists by the nature of the stop, not the natural fear of one who has been drinking over the prospect of being stopped at a sobriety checkpoint--was indistinguishable for constitutional purposes from that resulting from border checkpoints which had been held proper in *United States v Martinez-Fuerte* 428 US 543 (1976); and (4) the advancement of the state's interest in preventing drunken driving was sufficiently shown by (a) the fact that, in the one checkpoint conducted under the program, approximately 1.5 percent of all the drivers stopped were arrested for drunk driving, and (b) expert testimony that experience in other states demonstrated that checkpoints resulted in the arrest of about 1 percent of all drivers stopped.

AS ALWAYS, PLEASE CONSULT WITH YOUR LOCAL STATE'S ATTORNEYS' OFFICE WITH ANY SPECIFIC QUESTIONS REGARDING THE SUBJECT MATTER LOCATED HEREIN…AND HAVE A SAFE AND HAPPY HOLIDAY SEASON.