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US Supreme Court Upholds Police Auto Stop With No Traffic Violation

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Truth Out

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Ignorance of the law is no excuse – that is, unless you're a police officer. For the first time, in December, the Supreme Court upheld a traffic stop even where there was no traffic violation. The court, in Heien v. North Carolina, continued its steady erosion of the Fourth Amendment's protection against unreasonable searches and seizures.

In this case, an officer stopped a car that had only one working brake light, thinking that North Carolina law required two working brake lights. But the officer was mistaken about the law. Only one working brake light is required in North Carolina.

Although the court has upheld searches when an officer has made a mistake about the facts, the court has never before said an officer can stop someone due to a mistaken belief the person is committing a crime.

Sgt. Matt Darisse began following a Ford Escort because he thought the driver looked "very stiff and nervous." When the driver of the Escort applied the brakes, only one brake light came on. Darisse then pulled the car over.

Maynor Javier Vasquez was sitting behind the wheel and Nicholas Brady Heien was lying across the rear seat. Darisse gave Vasquez a warning ticket but became suspicious when the latter appeared nervous. Heien, the car's owner, told the officer he could search the car and Darisse found cocaine. Heien was arrested for attempted trafficking in cocaine.

Consent obtained after an unlawful traffic stop is invalid because it is a fruit of a Fourth Amendment violation. In *Heien*, however, the Supreme Court upheld the stop and thereby, Heien's consent to search.

The North Carolina Court of Appeals reversed Heien's conviction, concluding that the initial stop of his car was not valid because driving with only one working brake light was not a violation of North Carolina law. The Supreme Court reversed the state court and reinstated Heien's conviction.

Chief Justice John Roberts, writing for the majority, opined, "Darisse could have reasonably, even if mistakenly, read the vehicle code to require that both brake lights be in good working order." The court held that an officer's mistake of law will not invalidate a stop if the mistake was reasonable.

Roberts wrote, "Reasonable suspicion arises from the combination of an officer's understanding of the facts and his understanding of the relevant law. The officer may be reasonably mistakenly on either ground."

Although Roberts conceded, “Ignorance of the law is no excuse,” both for citizens and police officers, he added, “[b]ut just because mistakes of law cannot justify either the imposition or the avoidance of criminal liability, it does not follow that they cannot justify an investigatory stop.” Heien, Roberts pointed out, “is not appealing a brake-light ticket; he is appealing a cocaine-trafficking conviction as to which there is no asserted mistake of fact or law.”

Sotomayor Dissents

Only Justice Sonia Sotomayor dissented from the court’s opinion. She would hold that in the course of determining whether a search or seizure is reasonable, a court should evaluate “an officer’s understanding of the facts against the actual state of the law.”

Citing the 1996 case of *Ornelas v. United States*, Sotomayor wrote, “[w]hat matters . . . are the facts as viewed by an objectively reasonable officer, and the rule of law – not an officer’s conception of the rule of law, and not even an officer’s reasonable misunderstanding about the law, but the law.”

Distinguishing mistake of law from mistake of fact, Sotomayor observed, “The meaning of the law is not probabilistic in the same way that factual determinations are. Rather, ‘the notion that the law is definite and knowable’ sits at the foundation of our legal system.”

Noting that the court has never before “taken into account an officer’s understanding of the law, reasonable or otherwise,” Sotomayor alluded to the court’s erosion of the Fourth Amendment: “Departing from this tradition means further eroding the Fourth Amendment’s protection of civil liberties in a context where that protection has already been worn down.”

Supreme Court’s Erosion of the Fourth Amendment

Indeed, since 2000, the court has decided 13 cases that significantly weaken the Fourth Amendment’s guarantee against unreasonable searches and seizures:

– *Illinois v. Wardlow* (2000) – Flight in a high-crime neighborhood may constitute reasonable suspicion for a warrantless stop.

– *Board of Education v. Pottawatomie* (2002) – Public schools can randomly drug test students who engage in extracurricular activities.

– *Maryland v. Pringle* (2003) – When drugs are found in a car, all occupants may be arrested even without particularized evidence connecting them to the drugs.

– *Hiibel v. Sixth Judicial District Court* (2004) – A state can compel someone stopped by police to identify himself.

– *Illinois v. Caballes* (2005) – Police can use a drug dog to sniff around a car even without prior probable cause or reasonable suspicion that drugs are present.

– *Samson v. California* (2006) – Parolees can be searched without a warrant even if there is no reasonable suspicion or probable cause of criminal activity.

– *Hudson v. Michigan* (2006) – No suppression of evidence for violation of the knock and announce requirement.

– *Herring v. US* (2009) – Police can rely on information received from another law enforcement agency that there is a warrant out for the arrest of a person, even though the information is erroneous, which raises the bar for exclusion of illegally obtained evidence.

– *Kentucky v. King* (2011) – Police can search without a warrant under the exigent circumstances exception even if the police themselves created the exigency.

– *Arizona v. US* (2012) – Police can ask about immigration status if they have reasonable suspicion the person is not lawfully present in the United States, even though "reasonable suspicion" is based on racial profiling.

– *Florida v. Harris* (2013) – Alert by a drug-detection dog can constitute probable cause for search even without a showing that the dog is reliable.

– *Maryland v. King* (2013) – Arrestees can be forced to provide DNA samples even if they are not convicted of a crime.

– *Fernandez v. California* (2014) – Police can conduct warrantless searches under the consent exception even if a co-tenant objects to the search.

Looking Ahead

Alarmed about the expansion of police authority, Sotomayor predicted: "Giving officers license to effect seizures so long as they can attach to their reasonable view of the facts some reasonable legal interpretation (or misinterpretation) that suggests a law has been violated significantly expands [their] authority."

This seems like a bad time to expand police authority. The recent killings of Michael Brown, Eric Garner and others by police have raised serious questions about the way police exercise their judgment. Broadening police discretion to allow ignorance-based traffic stops will give officers another excuse to harass people of color. The *Heien* decision just exacerbates the problem.

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