



LGIT'S ROLL CALL REPORTER

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SUPREME COURT UPHOLDS USE OF DRUG-DETECTION DOG DURING A LEGITIMATE TRAFFIC STOP

QUESTION: DOES THE FOURTH AMENDMENT REQUIRE REASONABLE, ARTICULABLE SUSPICION TO JUSTIFY USING A DRUG-DETECTION DOG TO SNIFF A VEHICLE DURING A LEGITIMATE TRAFFIC STOP?

ANSWER: NO. CONDUCTING A DOG SNIFF DOES NOT CHANGE THE CHARACTER OF A TRAFFIC STOP THAT IS LAWFUL AT ITS INCEPTION AND OTHERWISE EXECUTED IN A REASONABLE MANNER.

**CASE: *Illinois v. Caballes*, United States Supreme Court
Decided January 24, 2005**

In *Illinois v. Caballes*, the Supreme Court considered 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 facts of the case established that Illinois State Trooper Daniel Gillette stopped Caballes for speeding on an interstate highway. When the trooper radioed the police dispatcher to report the stop, a second trooper, Craig Graham, a member of the Illinois State Police Drug Interdiction Team, overheard the transmission and quickly responded to the scene with his narcotics-detection dog. When they arrived, Caballes's car was on the shoulder of the road and Caballes was in Trooper Gillette's car, receiving a warning ticket. Trooper Graham walked his dog around Caballes's car, and the dog alerted at the trunk. Based on the alert, the trunk was searched and the troopers found marijuana. The entire incident lasted less than 10 minutes.

In the trial court, Caballes moved to suppress the seized evidence and to quash his arrest, alleging that the arresting officers had violated his rights under the Fourth Amendment. The trial judge denied the motion, and Caballes was subsequently convicted of narcotics trafficking and sentenced to a lengthy prison term. Although the intermediate appellate court affirmed the trial court's decision, the Illinois Supreme Court reversed, concluding that the canine sniff was performed without any "specific and articulable facts" to suggest drug activity, and that the use of the dog "unjustifiably enlarged the scope of a traffic stop into a drug investigation."

The United States Supreme Court agreed to review the case, and reversed the decision of the Illinois Supreme Court. In so doing, the Court observed that the Fourth Amendment

protects a citizen's legitimate privacy rights from government intrusion. The Court further noted that canine-sniffs by well-trained narcotics detection dogs disclose only the presence or absence of narcotics, a contraband item. From this premise, the Court reasoned that that any interest in possessing contraband cannot be deemed "legitimate" and thus, governmental conduct that only reveals the possession of contraband "compromises no legitimate privacy interest." Accordingly, the court concluded, "the use of a well-trained narcotics-detection dog—one that 'does not expose noncontraband items that otherwise would remain hidden from public view,' during a lawful traffic stop, generally does not implicate privacy interests."

NOTE: In past cases, the Supreme Court has held that a seizure, including a traffic stop, which is lawful at its inception, can violate the Fourth Amendment if its manner of execution unreasonably infringes on interests protected by the Constitution. In light of this precedent, the Court observed in *Caballes*, "[a] seizure that is justified solely by the interest in issuing a warning ticket to the driver can become unlawful if it is prolonged beyond the time reasonably required to complete that mission." In *Caballes*, the dog sniff was performed on the exterior of the defendant's car soon after he was lawfully seized for a traffic violation. The canine officer who overheard the transmission concerning the stop immediately responded to the scene. Thus, the entire episode lasted about 10 minutes. On these facts, the courts concluded that the troopers had not improperly extended the duration of the stop to enable the dog sniff to occur. Other circumstances may dictate different results. In this regard, we can take from *Caballes* that the courts, in determining constitutionality, will carefully examine the purpose and duration of the traffic stop. As a rule of thumb, for stops involving routine warnings or citations, canine officers need to conduct scans within the limited time it takes to issue such warnings or citations. Since courts will rely upon police communications to verify the purpose and duration of traffic stops, it is imperative for police officers, as well as dispatchers and communications specialists, to accurately document police activity in their communications.

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