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Riley v. California; 134 S. Ct. 2473 (2014)

Riley v. California
134 S. Ct. 2473 (2014)

Opinion by Roberts, C. J.

Overarching Issue

Whether police officers may execute a warrantless search of digital information contained in a cell phone seized from an individual who has been lawfully arrested.[1]

Statement of Facts

Case 1

Initially stopped for driving with expired registration tags, David Riley was arrested for possession of concealed and loaded firearms.[2] A search incident to arrest led the officer to find items in Riley's car associated with the "Bloods" street gang and a smart phone from Riley's pants pocket.[3] The officer accessed information on Riley's smart phone, which revealed texts referring to the Bloods gang.[4]

At the police station, a detective specializing in gangs further examined the contents of Riley's smart phone, which revealed both videos of men sparring while someone yelled, "Blood" and a photograph of Riley standing in front of a car that officers suspected had been involved in a shooting a few weeks earlier.[5]

The state court ultimately convicted Riley of three charges in connection with that shooting and rejected the argument to suppress all evidence obtained from Riley's smart phone.[6] The California Court of Appeal relied on *People v. Diaz*[7] and affirmed the state court's decision.[8] The California Supreme Court denied Riley's petition for review.[9]

Case 2

Brima Wurie was arrested for making an apparent drug sale and was taken to the police station where officers seized two cell phones from Wurie's person.[10] Minutes later, the phone at issue—a flip phone—rang repeatedly from a source

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1. Riley v. California, 134 S. Ct. 2473, 2480 (2014).
2. *Id.*
3. *Id.*
4. *Id.*
5. *Id.* at 2481.
6. *Id.* (finding Riley guilty of firing at an occupied vehicle, assault with a semiautomatic firearm, and attempted murder).
7. People v. Diaz, 51 Cal. 4th 84 (2011) (holding that the Fourth Amendment permits a warrantless search of cell phone data incident to arrest, as long as the cell phone was immediately associated with the arrestee's person).
8. *Riley*, 134 S. Ct. at 2481.
9. *Id.*
10. *Id.*

identified as "my house" on the phone's external screen.[11] Officers flipped open the phone and obtained the phone number associated with the "my house" label.[12] Using an online directory, officers traced the phone number to an address, obtained a warrant, and found 215 grams of crack cocaine, marijuana, drug paraphernalia, a firearm and ammunition, and cash.[13]

Wurie was found guilty of all charges after the District Court denied his motion to suppress evidence as the product of an unconstitutional search of his cell phone.[14] The First Circuit reversed the denial, reasoning that cell phones have large amounts of personal data and pose a negligible threat to law enforcement interests.[15]

ANALYSIS

Granting certiorari in both cases, the Supreme Court of the United States began by emphasizing that "the ultimate touchstone of the Fourth Amendment[16] is 'reasonableness,'" which requires law enforcement to obtain a judicial warrant prior to conducting searches.[17] The Court noted, however, that a search incident to a lawful arrest has been accepted as an exception to the warrant requirement.[18] Illustrating the progression of the search incident to arrest doctrine by reviewing *Chimel v. California*,[19] *United States v. Robinson*,[20] and *Arizona v. Gant*,[21] the Court sought to modernize the search incident to arrest doctrine to apply to America's growing use of cell phones.[22]

After analyzing the first concern in *Chimel*, to protect officer safety, the Court dismissed the idea that digital data on a cell phone by itself may be used as a weapon or means to effectuate escape.[23] The court then analyzed the second concern in *Chimel*, to preserve evidence, and identified the possibilities of remote wiping and data

11. *Id.*
12. *Id.*
13. *Id.*
14. *Riley*, 134 S. Ct. at 2482 (finding Wurie guilty of distributing crack cocaine, possessing crack cocaine with intent to distribute, and being a felon in possession of a firearm and ammunition).
15. *Id.*
16. U.S. CONST. AMEND. IV.
17. *Riley*, 134 S. Ct. at 2481.
18. *Id.* (pointing out that warrantless searches incident to arrest occur more often than searches conducted pursuant to a warrant).
19. Chimel v. California, 395 U.S. 752 (1969) (holding that pursuant to a lawful arrest, officers may conduct a search for the purpose of removing any weapons or to prevent concealment or destruction of evidence).
20. United States v. Robinson, 414 U.S. 218 (1973) (broadening the holding in *Chimel v. California* to justify inspection of personal property on the arrestee's person during all custodial arrests, without any concern for officer safety or the loss of evidence).
21. Arizona v. Gant, 556 U.S. 332 (2009) (authorizing searches of vehicles when officers reasonably believe that evidence relevant to the crime of arrest might be found in the vehicle).
22. *Riley*, 134 S. Ct. at 2483-84.
23. *Id.* at 2485 (stating that officers remain free to examine physical aspects of the phone to ensure it will not be used as a weapon).

encryption.[24] Nevertheless, the Court again dismissed those cases as extremely rare and the actions of third parties not the arrestee.[25]

Next, the Court revisited the rationale in *Robinson*, explaining that its scope was limited to the context of searching physical objects; the *Robinson* court did not contemplate searching digital content on cell phones.[26] Nonetheless, the Court used the *Robinson* balancing test and compared the degree to which a search of a cell phone intrudes upon an arrestee's privacy to the degree to which such a search promotes legitimate governmental interests.[27]

The Court recognized the immense storage capacity of today's cell phones, creating "several interrelated consequences for privacy."[28] The type and quantity of data within a cell phone risk an element of pervasiveness that physical records do not have.[29] The Court also analogized a phone to a container, in which content is stored, even further complicating the scope of privacy interests.[30]

Finally, the Court concluded its analysis by dismissing the application of the Gant standard from the vehicle context to cell phones under the reasonable belief that they may contain evidence of the crime of arrest.[31]

The Court held that information on a cell phone is not immune from searches, but law enforcement must first obtain a warrant, even when a cell phone is seized incident to a lawful arrest.[32]

Justice Alito wrote a separate opinion, concurring in part and concurring in the judgment.[33] First, Justice Alito stated that the rule regarding searches incident to arrest was not exclusively based on the need to promote officer safety and to prevent destruction of evidence.[34] Rather, the basis of the rule was to obtain probative evidence.[35]

Justice Alito criticized the application of the reasoning in *Chimel*, clarifying that *Chimel* involved a search of the scene of arrest, not the person of an arrestee.[36] Moreover Justice Alito opined that the Court's decision would favor privacy interests with respect to all cell phones and all information found in them, ultimately producing inconsistent results.[37] Nonetheless, Justice Alito conceded that there was no workable

24. *Id* at 2486.
25. *Id.*
26. *Id* at 2484-85.
27. *Id.* at 2484.
28. *Riley*, 134 S. Ct. at 2489 (stating that cell phones also function as cameras, video players, rolodexes, calendars, tape recorders, libraries, diaries, albums, televisions, maps, and newspapers).
29. *Id.* at 2489-90.
30. *Id.* at 2491.
31. *Id.* at 2492.
32. *Id.* at 2493.
33. *Id.* at 2495.
34. *Riley*, 134 S. Ct. at 2495 (stating that the rule on searches incident to arrest predates the Fourth Amendment by at least a century).
35. *Id.*
36. *Id.* at 2496.
37. *Id.* at 2497.

alternative, and that law enforcement officers needs clear rules to follow.[38] Justice Alito completed his concurrence by urging legislatures to respond to these privacy issues raised by the advancements in technology.[39]

LEGAL SIGNIFICANCE

While the legal consequences of *Riley* seem uncertain, what is clear is that the Court has recognizes that the privacy interest one has in his or her cell phone is such that it requires special protection. Though Chief Justice Robert's opinion remains consistent with the principles of the Fourth Amendment precedent, Justice Alito appropriately predicts that it may lead to inconsistent results. For example, private information stored in notes, wallets, photographs, and a receipts is not protected incident to arrest. However the same private information stored electronically is not subject to a search prior to a warrant being obtained upon a showing of probable cause that the phone contains evidence of the crime the person is suspected of committing.

The dichotomy of these situations creates a policy that favors arrestees with personal information stored electronically. The same private information is protected upon arrest unless the arresting officer has reason to believe the cell phone contains evidence of the underlying crime. Storing private information by "cloud computing," further bolsters the reasonableness of a person expecting this information to remain private. Accordingly law enforcement, will be unable to use the search of the cell phone as a gateway to search information stored on in the "cloud."[40]

The majority in *Riley* view a cell phone as a movable container, and therefore a warrant founded upon probable cause is required before a reasonable search my effected.[41]

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38. *Id.*
39. *Id.* at 2497-98 (stating that Legislatures are in a better position than courts to assess and respond to advancements in technology that affect the law).
40. *Riley*, 134 S. Ct. at 2491 (stating that the government cannot stretch a search incident to arrest to cover files stored remotely, as in the cloud).
41. The author of this summary, Daniel Seu, is a Juris Doctor candidate, May 2015, at Western State College of Law.