

Student Analysis of Carpenter v. United States

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Carpenter v. United States, decided June 22, 2018, is perhaps the most important case to date in which the Supreme Court has considered how the Fourth Amendment search and seizure protections apply to new technology. Ultimately, the Court decided that in order for law enforcement to obtain certain cell phone data that reveals the locations of an individual, they are required to first acquire a warrant backed by probable cause. For the reasons discussed below, I agree with the opinion of the Court.

The Arrest of Mr. Carpenter

Mr. Carpenter was arrested regarding a string of bank robberies as a result of the FBI acquiring CSLI from Carpenter's wireless cell phone carrier. CSLI, or, cell site location information, is a time-stamped record generated by wireless cell phone carriers every time the cell phone connects to a cell site that is collected and stored for business purposes. The FBI were able to use this extensive record of information regarding Carpenter's location spanning over 100 days in order to provide evidence that he was at the crime scene when it occurred and arrest him. Carpenter argued that the evidence should not be used against him in court and that the Government had violated his Fourth Amendment protections against unreasonable search and seizure without a warrant backed by probable cause. The District Court denied Carpenter's motion and Carpenter was convicted as a result of the prosecution using the CSLI records against him in court. The Sixth Circuit Court of Appeals affirmed the decision made by the District Court, holding that Carpenter had no reasonable expectation of privacy regarding the information he shared with his third-party cell phone carrier company.

Privacy and the Fourth Amendment

Carpenter v. United States (2018) featured the Third-Party Doctrine and the Fourth Amendment as major issues in the case. The key difference between the Third-Party Doctrine and the Fourth Amendment is that the Third-Party Doctrine contends that individuals who voluntarily give information to third-parties such as banks, cell phone companies, internet service providers, etc. have no reasonable expectation of privacy, whereas the Fourth Amendment protects individuals against unreasonable search and seizure by the government when there is a reasonable expectation of privacy.

Relevant Supreme Court Decisions

In *Katz v. United States (1967)*, the Court asserted that “the Fourth Amendment protects people, not places,” and that the Amendment protects “what a person seeks to preserve as private may be constitutionally protected.” If the government wishes to intrude into an individual’s private sphere that can reasonably be expected to be private, then they must first acquire a search warrant backed by probable cause. *Katz* is particularly relevant in the case of *Carpenter*, as it establishes that an individual’s right to privacy may be protected even when in public places, or, in the case of *Carpenter*, the individual’s expectation of privacy is reasonably held with a third party. This is particularly important regarding the expectation of privacy in this increasingly digital age in which individual’s store private information not only locally within their own homes and personal devices, but also with remote third-party service providers.

In *United States v. Miller* (1976), the Court held that bank records are not subject to protection under the Fourth Amendment. In *Smith v. Maryland* (1979), the Court held that the installation and use of a pen register did not constitute a search under the Fourth Amendment, thus not requiring a search warrant. *Smith and Miller* set the precedent that businesses are not subject to individual privacy protection under the Fourth Amendment and that the acquisition of information that is freely conveyed to a third party does not constitute a search by the government.

In *Riley v. California* (2014), the Court recognized the “immense storage capacity” of modern cell phones and decided that police officers must generally obtain a warrant before searching the contents of a cell phone. This sets the precedent that changes in technology regarding the immense amount of information that can be stored about an individual can call for exceptions to what officers can search without a search warrant backed by probable cause.

Lawful Acquisition of Private Location Information

In accordance with the decision of the majority in this case, law enforcement now need to acquire a search warrant backed by probable cause in order to acquire the location information of an individual under similar circumstances. This is a requirement as the Court held that such detailed and extensive location information regarding an individual’s whereabouts does constitute a search and seizure under the Fourth Amendment. The privacy concerns in these circumstances regarding CSLI are particularly unique when compared to other forms of location information as the majority of people carry cell phones with them at nearly all times, even in places where they would maintain a reasonable expectation of privacy.

Writer's Opinion

Cell phones have become an integral part of modern society and nearly everyone carries on with them throughout their days almost at all times. I believe that customers have a reasonable expectation of privacy regarding the extensive history of their whereabouts provided by CSLI data that is stored with their cell service providers. While the dissent argues that the CSLI data are business records similar to that of bank statements and do not belong to the customer, I agree with the majority that the continuous nature of CSLI data provides much more detailed information about the customer for an extensive amount of time and that acquiring such extensive and detailed information about an individual's whereabouts would constitute a search. For these reasons stated above, I agree with the majority opinion that police did conduct a warrantless search and seizure of Carpenter's CSLI data from cell service providers. I believe that *Carpenter* sets a very interesting precedent regarding how much personal information that government agencies are able to freely collect from individuals in modern society where so much information about our lives is digitally stored with third parties such as ISPs, major tech corporations, and online banking services while individuals maintain a reasonable expectation of privacy in the information they choose to share with these third party companies.

References

Carpenter v. United States (2018) [16-402 Carpenter v. United States \(06/22/2018\)](#)
[\(supremecourt.gov\)](#)