

## Arrest, Search and Investigation

[\*Rodriguez v. United States\*](#), 575 U.S. \_\_ (April 21, 2015). A dog sniff that prolongs the time reasonably required for a traffic stop violates the Fourth Amendment. After an officer completed a traffic stop, including issuing the driver a warning ticket and returning all documents, the officer asked for permission to walk his police dog around the vehicle. The driver said no. Nevertheless, the officer instructed the driver to turn off his car, exit the vehicle and wait for a second officer. When the second officer arrived, the first officer retrieved his dog and led it around the car, during which time the dog alerted to the presence of drugs. A search of the vehicle revealed a large bag of methamphetamine. All told, 7-8 minutes elapsed from the time the officer issued the written warning until the dog's alert. The defendant was charged with a drug crime and unsuccessfully moved to suppress the evidence seized from his car, arguing that the officer prolonged the traffic stop without reasonable suspicion to conduct the dog sniff. The defendant was convicted and appealed. The Eighth Circuit held that the de minimus extension of the stop was permissible. The Supreme Court granted certiorari "to resolve a division among lower courts on the question whether police routinely may extend an otherwise-completed traffic stop, absent reasonable suspicion, in order to conduct a dog sniff."

The Court reasoned that an officer may conduct certain unrelated checks during an otherwise lawful traffic stop, but "he may not do so in a way that prolongs the stop, absent the reasonable suspicion ordinarily demanded to justify detaining an individual." The Court noted that during a traffic stop, beyond determining whether to issue a traffic ticket, an officer's mission includes "ordinary inquiries incident to [the traffic] stop" such as checking the driver's license, determining whether the driver has outstanding warrants, and inspecting the automobile's registration and proof of insurance. It explained: "These checks serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated safely and responsibly." A dog sniff by contrast "is a measure aimed at detect[ing] evidence of ordinary criminal wrongdoing." (quotation omitted). It continued: "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."

Noting that the Eighth Circuit's de minimus rule relied heavily on *Pennsylvania v. Mimms*, 434 U.S. 106 (1977) (per curiam) (reasoning that the government's "legitimate and weighty" interest in officer safety outweighs the "de minimis" additional intrusion of requiring a driver, already lawfully stopped, to exit the vehicle), the Court distinguished *Mimms*:

Unlike a general interest in criminal enforcement, however, the government's officer safety interest stems from the mission of the stop itself. Traffic stops are "especially fraught with danger to police officers," so an officer may need to take certain negligibly burdensome precautions in order to complete his mission safely. On-scene investigation into other crimes, however, detours from that mission. So too do safety precautions taken in order to facilitate such detours. Thus, even assuming that the imposition here was no more intrusive than the exit order in *Mimms*, the dog sniff could not be justified on the same basis. Highway and officer safety are interests different in kind from the Government's endeavor to detect crime in general or drug trafficking in particular. (citations omitted)

The Court went on to reject the Government's argument that an officer may "incremental[ly]" prolong a stop to conduct a dog sniff so long as the officer is reasonably diligent in pursuing the traffic-related purpose of the stop, and the overall duration of the stop remains reasonable in relation to the duration of other traffic stops involving similar circumstances. The Court dismissed the notion that "by completing all traffic-related tasks expeditiously, an officer can earn bonus time to pursue an unrelated criminal investigation." It continued:

If an officer can complete traffic-based inquiries expeditiously, then that is the amount of "time reasonably required to complete [the stop's] mission." As we said in *Caballes* and reiterate today, a traffic stop "prolonged beyond" that point is "unlawful." The critical question, then, is not whether the dog sniff occurs before or after the officer issues a ticket . . . but whether conducting the sniff "prolongs"—i.e., adds time to—"the stop". (citations omitted).

In this case, the trial court ruled that the defendant's detention for the dog sniff was not independently supported by individualized suspicion. Because the Court of Appeals did not review that determination the Court remanded for a determination by that court as to whether reasonable suspicion of criminal activity justified detaining the defendant beyond completion of the traffic infraction investigation.