

KIDS, COPS, CARS AND THE CONSTITUTION

Each of the following 4th Amendment cases has been before the U.S. Supreme Court either this Term or during a recent Term. Analyze each case carefully. Identify the most convincing arguments for each side. Then decide how each should be decided and give your reasons.

1. Gail Atwater was driving her car home from a soccer match when she was stopped by Lago Vista (TX) police officer Bart Turek. Officer Turek observed that Atwater and her two children (ages 4 and 6) were not wearing seat belts. This was a violation of the Texas Transportation Code. Violation of this section of the Code provided for a fine of between \$25 and \$50 upon conviction. Turek had stopped Atwater several weeks earlier for another traffic law violation. This time he told her she was going to jail.

Atwater was arrested for the seatbelt violations as well as for driving without a license and failing to provide proof of insurance. (Staff from a social service agency were called to the scene and took temporary custody of the two young children.) Atwater was handcuffed and taken to the police station where she was kept in a cell for an hour before being released after posting bond before a magistrate. At trial she pleaded guilty to the seat belt offenses and paid a \$50 fine. The other two charges were dismissed when it was clear that she in fact had a license and proof of insurance (but happened not to be carrying them with her when she was stopped). Was Officer Turek's arrest (seizure) of Atwater legal?

2. The City of Indianapolis (Indiana) began operating roadway checkpoint programs through its police department in August of 1998 in order to interrupt the flow of illegal narcotics in the area. During the first four months of the program drug interdiction roadblocks were set up six times at various points in the city. Police stopped 1,161 vehicles at the roadblocks and arrested 104 motorists. About half of the arrests were for narcotics offenses while the other half were for other offenses. The police department selected the locations, told the public when (but not where) the roadblocks would be set up, and followed the following protocol at the roadblocks: a predetermined number of vehicles are stopped and processed while other traffic continues unimpeded. After all the stopped cars are processed, they are allowed to leave, unless there is a specific reason found to hold a particular vehicle. Once those vehicles leave, the same predetermined number are stopped again and the process repeats.

As part of the stop officers ask for license and registration and tell drivers they have been stopped at a drug checkpoint. Police look for signs of impairment and do a visual inspection of the vehicle from the outside. A drug detection dog walks around the car. If the dog alerts, police are authorized to do a warrantless search of the car. Two people who have been stopped bring a class action suit on behalf of themselves

and others asking that this practice be stopped. Are these roadway checkpoint stops legal?

3. A Maryland state trooper stopped a speeding car. Approaching the car at the side of the road, the trooper noticed that Wilson, a passenger, was particularly nervous. The trooper ordered Wilson out of the car. As Wilson exited the car a quantity of cocaine fell to the ground. Wilson was arrested and charged with possession and intent to distribute. The trial court granted Wilson's motion to suppress the evidence, ruling that the trooper's order was an unreasonable seizure under the Fourth Amendment. Should the trial court's decision be reversed on appeal?
4. An Iowa police officer stopped Knowles for speeding and gave him a traffic ticket (citation) rather than arresting him. The officer then conducted a full search of the car, without either the consent of the driver or probable cause. The trooper found drugs and arrested Knowles. Knowles asked the trial court to suppress the evidence on the theory that since he had not been arrested there could be no warrantless search incident to a lawful arrest. Because an Iowa law allows officers to conduct a full-blown search of an auto and driver after issuing a citation instead of making a custodial arrest, the evidence was allowed and he was convicted. Should the conviction be overturned on appeal?
5. During a routine traffic stop a Wyoming Highway Patrol officer noticed a hypodermic needle in the driver's shirt pocket. The driver admitted using the needle to take illegal drugs. The officer then searched the passenger compartment for contraband, removing and searching the purse of a passenger. The officer found drugs in her purse and arrested her, too. The passenger asked the trial court to suppress all evidence found in her purse, arguing that it was illegal to search the purse of a passenger for whom the police had no independent probable cause. The Wyoming courts agreed with her. Should the state supreme court's decision be overturned on appeal?