133 S.Ct. 1552
Supreme Court of the United States

MISSOURI, Petitioner
v.
Tyler G. McNEELY.

No. 11–1425.
|
Argued Jan. 9, 2013.
|
Decided April 17, 2013.

Synopsis
Background: Defendant in prosecution for driving while intoxicated (DWI) moved to suppress results of warrantless blood test. The Missouri Circuit Court, Cape Girardeau County, Benjamin F. Lewis, J., granted the motion. State brought interlocutory appeal. On transfer from the Missouri Court of Appeals, the Missouri Supreme Court, 358 S.W.3d 65, affirmed. Certiorari was granted.

[Holding:] The Supreme Court, Justice Sotomayor, held that natural metabolization of alcohol in the bloodstream does not present a per se exigency that justifies an exception to the Fourth Amendment's search warrant requirement for nonconsensual blood testing in all drunk-driving cases, and instead, exigency in this context must be determined case by case based on the totality of the circumstances, abrogating *State v. Shriner*, 751 N.W.2d 538, *State v. Bohling*, 173 Wis.2d 529, 494 N.W.2d 399, and *State v. Woolery*, 116 Idaho 368, 775 P.2d 1210.

Opinion

In *Schmerber v. California*, 384 U.S. 757, 86 S.Ct. 1826, 16 L.Ed.2d 908 (1966), this Court upheld a warrantless blood test of an individual arrested for driving under the influence of alcohol because the officer "might reasonably have believed that he was confronted with an emergency, in which the delay necessary to obtain a warrant, under the circumstances, threatened the destruction of evidence." *Id.*, at 770, 86 S.Ct. 1826 (internal quotation marks omitted). The question presented here is whether the natural metabolization of alcohol in the bloodstream presents a *per se* exigency that justifies an exception to the Fourth Amendment's warrant requirement for nonconsensual blood testing in all drunk-driving cases. We conclude that it does not, and we hold, consistent with general Fourth Amendment principles, that exigency in this context must be determined case by case based on the totality of the circumstances.

[Edited Facts: McNeely was pulled over for speeding and repeatedly cross the centerline. The officer noticed several signs that McNeely was intoxicated, including McNeely's bloodshot eyes, his slurred speech, and the smell of alcohol on his breath. After McNeely performed poorly on a battery of field-sobriety tests and declined to use a portable breath-test device to measure his blood alcohol concentration (BAC), the officer placed him under arrest. After refusing a breath test again, the officer took McNeely to the hospital for blood testing. There NcNeely again refused to have his blood drawn. The officer then directed the a hospital lab technician to take a blood sample, and the sample was secured against McNeely's will.]

The Fourth Amendment provides in relevant part that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause." Our cases have held that a warrantless search of the person is reasonable only if it falls within a recognized exception. See, *e.g.*, *United States v. Robinson*, 414 U.S. 218, 224, 94 S.Ct. 467, 38 L.Ed.2d 427 (1973). That principle applies to the type of search at issue in this case, which involved a compelled physical intrusion beneath McNeely's skin and into his veins to obtain a sample of his blood for use as evidence in a criminal investigation….

We first considered the Fourth Amendment restrictions on such searches in *Schmerber*, where, as in this case, a blood sample was drawn from a defendant suspected of driving while under the influence of alcohol. 384 U.S., at 758, 86 S.Ct. 1826. Noting that "[s]earch warrants are ordinarily required for searches of dwellings," we reasoned that "absent an emergency, no less could be required where intrusions into the human body are concerned," even when the search was conducted following a lawful arrest. *Id.*, at 770, 86 S.Ct. 1826. We explained that the importance of requiring authorization by a " 'neutral and detached magistrate' " before allowing a law enforcement officer to "invade another's body in search of evidence of guilt is indisputable and great." *Ibid.* (quoting *Johnson v. United States*, 333 U.S. 10, 13–14, 68 S.Ct. 367, 92 L.Ed. 436 (1948)).
As noted, the warrant requirement is subject to exceptions. "One well-recognized exception," and the one at issue in this case, "applies when the exigencies of the situation make the needs of law enforcement so compelling that a warrantless search is objectively reasonable under the Fourth Amendment." *Kentucky v.*

King, 563 U.S. ——, ——, 131 S.Ct. 1849, 1856, 179 L.Ed.2d 865 (2011) (internal quotation marks and brackets omitted). A variety of circumstances may give rise to an exigency sufficient to justify a warrantless search, including law enforcement's need to provide emergency assistance to an occupant of a home, *Michigan v. Fisher*, 558 U.S. 45, 47–48, 130 S.Ct. 546, 175 L.Ed.2d 410 (2009) (*per curiam*), engage in "hot pursuit" of a fleeing suspect, *United States v. Santana*, 427 U.S. 38, 42–43, 96 S.Ct. 2406, 49 L.Ed.2d 300 (1976), or ****1559** enter a burning building to put out a fire and investigate its cause, *Michigan v. Tyler*, 436 U.S. 499, 509–510, 98 S.Ct. 1942, 56 L.Ed.2d 486 (1978). As is relevant here, we have also recognized that in some circumstances law enforcement officers may conduct a search without a warrant to prevent the imminent destruction of evidence. See *Cupp v. Murphy*, 412 U.S. 291, 296, 93 S.Ct. 2000, 36 L.Ed.2d 900 (1973); *Ker v. California*, 374 U.S. 23, 40–41, 83 S.Ct. 1623, 10 L.Ed.2d 726 (1963) (plurality opinion). While these contexts do not necessarily involve equivalent dangers, in each a warrantless search is potentially reasonable because "there is compelling need for official action and no time to secure a warrant." *Tyler*, 436 U.S., at 509, 98 S.Ct. 1942.

To determine whether a law enforcement officer faced an emergency that justified acting without a warrant, this Court looks to the totality of circumstances. See *Brigham City v. Stuart*, 547 U.S. 398, 406, 126 S.Ct. 1943, 164 L.Ed.2d 650 (2006) (finding officers' entry into a home to provide emergency assistance "plainly reasonable under the circumstances"); *Illinois v. McArthur*, 531 U.S. 326, 331, 121 S.Ct. 946, 148 L.Ed.2d 838 (2001) (concluding that a warrantless seizure of a person to prevent him from returning to his trailer to destroy hidden contraband was reasonable "[i]n the circumstances of the case before us" due to exigency); *Cupp*, 412 U.S., at 296, 93 S.Ct. 2000 (holding that a limited warrantless search of a suspect's fingernails to preserve evidence that the suspect was trying to rub off was justified "[o]n the facts of this case"); see also *Richards v. Wisconsin*, 520 U.S. 385, 391–396, 117 S.Ct. 1416, 137 L.Ed.2d 615 (1997) (rejecting a *per se* exception to the knock-and-announce requirement for felony drug investigations based ***150** on presumed exigency, and requiring instead evaluation of police conduct "in a particular case"). We apply this "finely tuned approach" to Fourth Amendment reasonableness in this context because the police action at issue lacks "the traditional justification that ... a warrant ... provides." *Atwater v. Lago Vista*, 532 U.S. 318, 347, n. 16, 121 S.Ct. 1536, 149 L.Ed.2d 549 (2001). Absent that established justification, "the fact-specific nature of the reasonableness inquiry," *Ohio v. Robinette*, 519 U.S. 33, 39, 117 S.Ct. 417, 136 L.Ed.2d 347 (1996), demands that we evaluate each case of alleged exigency based "on its own facts and circumstances." *Go–Bart Importing Co. v. United States*, 282 U.S. 344, 357, 51 S.Ct. 153, 75 L.Ed. 374 (1931)…

The State properly recognizes that the reasonableness of a warrantless search under the exigency exception to the warrant requirement must be evaluated based on the totality of the circumstances. Brief for Petitioner 28–29. But the State nevertheless seeks a *per se* rule for blood testing in drunk-driving cases. The State contends that whenever an officer has probable cause to believe an individual has been driving under the influence of alcohol, exigent circumstances will necessarily exist because BAC evidence is inherently evanescent. As a result, the State claims that so long as the ***152** officer has probable cause and the blood test is conducted in a reasonable manner, it is categorically reasonable for law enforcement to obtain the blood sample without a warrant.

It is true that as a result of the human body's natural metabolic processes, the alcohol level in a person's blood begins to dissipate once the alcohol is fully absorbed and continues to decline until the alcohol is eliminated….

But it does not follow that we should depart from careful case-by-case assessment of exigency and adopt the categorical rule proposed by the State…. In those drunk-driving investigations where police officers can reasonably obtain a warrant before a blood sample can be drawn without significantly undermining the efficacy of the search, the Fourth Amendment mandates that they do so. See *McDonald v. United States*, 335 U.S. 451, 456, 69 S.Ct. 191, 93 L.Ed. 153 (1948)…. We do not doubt that some circumstances will make obtaining a warrant impractical such that the dissipation of alcohol from the bloodstream will support an exigency justifying a properly conducted warrantless blood test. That, however, is a reason to decide each case on its facts, as we did in *Schmerber*, not to accept the "considerable overgeneralization" that a *per se* rule would reflect. *Richards*, 520 U.S., at 393, 117 S.Ct. 1416….

In short, while the natural dissipation of alcohol in the blood may support a finding of exigency in a specific case, as it did in *Schmerber*, it does not do so categorically. Whether a warrantless blood test of a drunk-driving suspect is reasonable must be determined case by case based on the totality of the circumstances.

The remaining arguments advanced in support of a *per se* exigency rule are unpersuasive….

While the desire for a bright-line rule is understandable, the Fourth Amendment will not tolerate adoption of an overly broad categorical approach that would dilute the warrant requirement in a context where significant privacy interests are at stake. Moreover, a case-by-case approach is hardly unique within our Fourth Amendment jurisprudence. Numerous police actions are judged based on fact-intensive, totality of the circumstances analyses rather than according to categorical rules, including in situations that are more likely to require police officers to make difficult split-second judgments. See, *e.g.*, *Illinois v. Wardlow*, 528 U.S. 119, 123–125, 120 S.Ct. 673, 145 L.Ed.2d 570 (2000) (whether an officer has reasonable suspicion to make an investigative stop and to pat down a suspect for weapons under *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968)); *Robinette*, 519 U.S., at 39–40, 117 S.Ct. 417 (whether valid consent has been given to search); *Tennessee v. Garner*, 471 U.S. 1, 8–9, 20, 105 S.Ct. 1694, 85 L.Ed.2d 1 (1985) (whether force used to effectuate a seizure, including deadly force, is reasonable). As in those contexts, we see no valid substitute for careful case-by-case evaluation of reasonableness here…

Because this case was argued on the broad proposition that drunk-driving cases present a *per se* exigency, the arguments and the record do not provide the Court with an adequate analytic framework for a detailed discussion of all the relevant factors that can be taken into account in determining the reasonableness of acting without a warrant. It suffices to say that the metabolization of alcohol in the bloodstream and the ensuing loss of evidence are among the factors that must be considered in deciding whether a warrant is required. No doubt, given the large number of arrests for this offense in different jurisdictions nationwide, cases will arise when anticipated delays in obtaining a warrant will justify a blood test without judicial authorization, for in every case the law must be concerned that evidence is being destroyed. But that inquiry ought not to be pursued here where the question is not properly before this Court. Having rejected the sole argument presented to us challenging the Missouri Supreme Court's decision, we affirm its judgment.

We hold that in drunk-driving investigations, the natural dissipation of alcohol in the bloodstream does not constitute an exigency in every case sufficient to justify conducting a blood test without a warrant.

The judgment of the Missouri Supreme Court is affirmed.

It is so ordered.

