

FOURTH AMENDMENT — SEARCH AND SEIZURE — LAW ENFORCEMENT OFFICER MAY, IN THE EXERCISE OF ROUTINE PROCEDURE, COMMAND PASSENGER OF LAWFULLY DETAINED AUTOMOBILE TO EXIT VEHICLE — *Maryland v. Wilson*, 117 S. Ct. 882 (1997).

The Supreme Court of the United States recently held that a police officer could order a passenger to exit a lawfully stopped vehicle without abridging the rights granted by the Fourth Amendment. *Maryland v. Wilson*, 117 S. Ct. 882 (1997). In support of its holding, the Court reasoned that the significant public interest in promoting officer safety outweighed the minimal infringement on the passenger's Fourth Amendment liberties. *See id.* at 886. The Court's decision, though attempting to advance an admittedly strong public interest, sacrificed certain guaranteed rights accorded to individuals and propelled the Court down the slippery slope of dismantling the foundation of the Constitution.

Respondent, Jerry Lee Wilson (Wilson), was a passenger in an automobile driving on a highway in Baltimore County, Maryland. *See id.* at 884. The car was exceeding the posted speed limit and was subsequently stopped by a Maryland state trooper. *See id.* While conversing with the driver, the state trooper noticed that Wilson appeared extremely nervous and consequently ordered him to exit the vehicle. *See id.* When Wilson removed himself from the automobile, an undisclosed amount of crack cocaine fell from his person to the ground. *See id.* Wilson was arrested and charged with possession of cocaine with intent to distribute. *See id.*

Prior to the trial, Wilson filed a motion to suppress the evidence, arguing that the state trooper's order to exit the vehicle amounted to an unreasonable search and seizure and therefore directly violated the Fourth Amendment. *See id.* The Maryland Circuit Court agreed with respondent's argument and granted the motion to suppress. *See id.*

The Court of Special Appeals of Maryland affirmed the lower court's holding. *See id.* In doing so, the court held that an officer's right to order a driver to exit a lawfully detained vehicle did not extend to passengers. *See id.*

Petitioner's appeal to the Court of Appeals of Maryland was denied. *See id.* The Supreme Court of the United States granted *certiorari* to consider the issue of whether a law enforcement officer making a traffic stop could order a passenger to exit the vehicle. *See id.* The Court reversed the lower courts' decisions and held that an officer could order a passenger to exit a stopped automobile without undermining the Fourth Amendment. *See id.* at 886. The Court reasoned that the strong public interest in enhancing officer safety justified imposing a minimal intrusion into a passenger's rights by having the passenger exit the vehicle. *See id.*

Writing for the majority, Chief Justice Rehnquist commenced the opinion by recounting the Court's analysis in *Pennsylvania v. Mimms*, 434 U.S. 106

(1977). *See id.* at 884-85. In *Mimms*, the majority reflected, the Court was faced with the difficult, yet similar question of whether an officer could order the driver of a stopped automobile to exit the vehicle without offending the Fourth Amendment's prohibition of unreasonable seizures. *See id.* at 885 (citation omitted). Chief Justice Rehnquist articulated the framework established in *Mimms* for determining whether a governmental intrusion into a citizen's personal liberties is warranted. *See id.* at 884-85 (citation omitted). The reasonableness of a governmental invasion, the majority noted, was determined by weighing the strength of the public interest in officer safety against the importance of an individual's privilege to unfettered personal security. *See id.* at 885 (citation omitted).

After outlining the *Mimms* standard, the Court evaluated the importance of the respective interests. *See id.* at 885-86. First, the majority examined the public interest in officer safety. *See id.* at 885. The Chief Justice exhibited statistical evidence which revealed the overwhelming amount of assaults committed on officers during traffic stops in 1994. *See id.* (citation omitted). The data, the majority maintained, demonstrated the dangerous nature of the encounter. *See id.* The Chief Justice observed that the introduction of an additional occupant into the car created an even riskier situation than if the vehicle had been occupied by the driver alone. *See id.* The Court explained that passengers have the same compelling motivation as drivers to employ violent actions to evade a possible arrest. *See id.* at 886. Therefore, the Court reasoned that as the number of occupants in a vehicle increases, the more hazardous an encounter could become. *See id.* at 885. Hence, the majority concluded that under these circumstances, there was a strong public interest in officer safety. *See id.* at 886.

Chief Justice Rehnquist next turned to assess the strength of the passenger's interest in personal privacy. *See id.* The majority acknowledged that the passenger's interest was greater than that of the driver. *See id.* The Court reasoned that the passenger, distinct from the driver who had just committed a traffic infraction, had not perpetuated any violation that would establish probable cause. *See id.* However, the Court asserted that any infringement on the passenger's Fourth Amendment rights was still insignificant. *See id.* Specifically, the majority noted that the vehicle the passenger was traveling in had already been detained. *See id.* Thus, the Court insisted that an order that forces a passenger to exit a vehicle only results in the passenger standing outside of the car instead of sitting inside of the stopped automobile. *See id.* Therefore, the Chief Justice stated that it is unreasonable to believe that ordering a passenger out of a detained vehicle creates an undue burden. *See id.* The Court concluded that the passenger's privacy interest, limited to the circumstances of this situation, was not very weighty. *See id.*

The Court consequently declared that in light of the apparent inconsistency between the weight of the two interests, the passenger's privacy interest would

have to yield to the public interest in officer safety. *See id.* Granting an officer the right to order a passenger out of a car, the majority noted, effectively promotes the public interest by affording greater officer security. *See id.* Chief Justice Rehnquist explained that once the passenger is removed from the vehicle, there is no possibility of obtaining access to any weapon that might be concealed within the car's interior. *See id.* Therefore, the Court concluded that an officer has the authority to order a passenger of a detained automobile to exit the vehicle without offending the Fourth Amendment. *See id.*

Justice Stevens authored a critical dissent in which Justice Kennedy joined. *See id.* at 886 (Stevens, J., dissenting). Justice Stevens began by conceding that an officer may order passengers to exit a detained vehicle if there is a reasonable suspicion of danger. *See id.* The dissent further recognized that it could probably be determined that such a legitimate suspicion existed in this case. *See id.* However, Justice Stevens complained that the majority's decision was extremely overboard. *See id.* The dissent explained that the Court's decision encompasses situations that do not manifest even a hint of risk to the officer's well-being. *See id.* Accordingly, Justice Stevens asserted that the Fourth Amendment was designed to prohibit the very sort of governmental intrusion the majority so eagerly endorsed. *See id.*

Although Justice Stevens admitted that reducing the number of assaults committed on officers during traffic stops is a significant public interest, the Justice pointed out that the majority's conclusion was unsupported and speculative. *See id.* Further, the dissent vehemently attacked the assumptions that the Court relied on and demonstrated that there was no indication that the Court's ruling would advance the proposed public interest of increasing officer safety. *See id.* The dissent criticized the statistics proffered by the majority. *See id.* The dissent argued that the statistics failed to indicate the amount of assaults perpetrated by passengers; the amount of assaults that occurred after the passengers were outside of the car; or the number of assaults that took place when the passenger was still inside of the vehicle. *See id.* Justice Stevens portended that the Court's decision might actually increase the risk to officer safety. *See id.*

Justice Stevens next focused on the balancing test promulgated in *Mimms*. *See id.* at 887-88 (Stevens, J., dissenting). The Justice stressed that it was manifestly inappropriate to label the passenger's privacy interest as minimal in light of the enormous amount of traffic stops conducted each year. *See id.* at 887 (Stevens, J., dissenting). The dissent explained that exposing passengers to the public view causes embarrassment, ridicule and societal scrutiny. *See id.* at 888 (Stevens, J., dissenting). Accordingly, the Justice concluded that the Court had severely belittled the weight of the passenger's privacy interest. *See id.*

On the opposite side of the scale, Justice Stevens conceded that there is a high interest in officer safety. *See id.* However, the dissent charged that the

additional advantages gained by the majority's decision were marginal at best. *See id.* Justice Stevens produced statistical evidence which revealed that the Court's ruling would benefit officers on average only 25 stops per year; equivalent to .005% of the total stops. *See id.* at 888, n.45. Furthermore, the Justice reasoned that in the vast majority of cases that pose a threat of danger to the officer, there would probably be some particularized suspicion to initiate this order. *See id.* at 888. Thus, Justice Stevens concluded that the majority's assessment severely miscalculated the respective interests. *See id.*

Justice Stevens pondered and feared the future impact of the Court's decision. *See id.* at 890 (Stevens, J., dissenting). Examining the evolution of the Fourth Amendment, the dissent noted that it had become riddled with exceptions. *See id.* at 889-90 (Stevens, J., dissenting). The possible ramifications on individual liberty by the extension of this loophole-list, Justice Stevens concluded, may be more disastrous than the majority seemed to comprehend. *Id.* at 890 (Stevens, J., dissenting).

Justice Kennedy wrote a separate dissenting opinion which supplemented and expanded the arguments presented in the opinion by Justice Stevens. *See id.* at 890 (Kennedy, J., dissenting). Justice Kennedy sharply criticized the majority's opinion of the passenger's interest as one of minimal importance and emphasized the tremendous hardship created by the Court's new rule. *See id.* To justify an intrusion into a passenger's Fourth Amendment rights, the Justice believed that there had to be a clear showing of an objective and reasonable cause. *See id.* Justice Kennedy stressed that this prerequisite was not an overwhelming burden on officer safety, for even the most minute existence of a justifying circumstance would validate the officer's order. *See id.* at 890-91 (Kennedy, J., dissenting). As such, the Justice believed that the precondition could be accomplished even in the most imminently dangerous situation. *See id.* at 890 (Kennedy, J., dissenting).

Justice Kennedy opined that the Court's ruling, which excessively enlarged officers' discretion, could possibly result in arbitrary and abusive conduct by the police. *See id.* If such a result were to occur, Justice Kennedy noted, the harms could be redressed through the legislative process. *See id.* at 891 (Kennedy, J., dissenting). However, the Justice maintained that this would not be a satisfactory remedy. *See id.* The rights afforded to citizens against an unreasonable search and seizure, the Justice asserted, do not stem from the acts of the public's representatives; rather, it is a safeguard deeply embodied in the Constitution. *See id.* For the foregoing reasons, Justice Kennedy concluded that the Court's decision was not only a product of an inaccurate appraisal of the respective interests, but one that disrespected the vitality of the Constitution. *See id.*

Analysis

Although meritorious, the majority's intent to promote officer safety failed to realize that granting officers the right to arbitrarily order passengers to exit a detained automobile could lead to devastating consequences. The possibility, however remote, that officers could abuse their newfound power, will create an environment of resentment and mistrust. An officer's duties encompass the enforcement of the laws and the safeguarding of the public's welfare. However, feelings of loyalty and trust are largely diminished when an officer can force a passenger to exit a vehicle, thereby being exposed to the public's view, for doing absolutely nothing.

The majority's decision substantially weakened the Constitution as an entity. The same amendment to the Constitution should not be allowed to be interpreted under two distinctly opposite constructions. It does not mean one thing at one time and an entirely different thing at another time. If the Fourth Amendment, when adopted, was intended to proscribe unreasonable searches and seizures, it is but to state the obvious that it means the same now. Although it is important for the Constitution to yield and adapt to the changing conditions of society, it is difficult to accept the contention that an individual's Fourth Amendment rights have become any less important now than when the Constitution was first adopted. However, the majority embraced a much more flexible approach to interpretation, thus underscoring the stability and security the Constitution guarantees.

As the dissent noted, the majority failed to comprehend the potentiality of future gradual intrusions upon the sanctity of the Fourth Amendment. *See See id.* at 890 (Stevens, J., dissenting). The Court's scanty evaluation of the interests involved in this case presents a bleak future for constitutional rights. Furthermore, the majority's undervalued assessment of the passenger's interest demonstrates the ease in which the Court can circumvent the Constitution to achieve a desired end. The majority's decision essentially raises the question of under what circumstances or which interests will render the Constitution's protections ineffective. This question is disturbing not only because it is unanswerable, but because it challenges the integrity of the Constitution. After this case, the Court might again abrogate the Fourth Amendment in the interest of administrative convenience. Since the Court's valuation of an individual's Fourth Amendment rights was so low, the list of possible exceptions is infinite. Thus, the majority's decision has regrettably tacked on another exception to the Fourth Amendment's protections and may have substantially stripped the amendment's intended purpose.