

# *Moot Court Examples*

## *Sample Case Brief*

*Katz v. United States*

Statement of Facts: Petitioner Katz was convicted of transmitting wagering information over the phone, in violation of a federal statute. The evidence used to convict the petitioner included taped conversations that had the petitioner's end of the conversation. The petitioner used a public phone booth, and the FBI used an electronic listening and recording device to tape those conversations.

Procedural History: The District Court found no Fourth Amendment violation and allowed the taped evidence to be admitted. The Court of Appeals affirmed that decision and stated that it was not an unreasonable search and seizure because "there was no physical entrance into the area occupied by [the petitioner]." Supreme Court granted cert.

Issue Presented: Whether the use of the electronic listening and recording device in this situation was an unreasonable search under the Fourth Amendment.

Holding: The Supreme Court reversed the decision of both lower courts, holding that this search was an unreasonable search under the Fourth Amendment. Also, they dismissed the petitioner's conviction.

Legal Reasoning:

1. The "eavesdropping" violated the 4<sup>th</sup> Amendment
  - a. 4<sup>th</sup> Amendment extends to more than just tangible items. It extends to oral statements as well
    - i. When the petitioner stepped into the phone booth, he expected to have what he said kept in private, even though the general public could see him through the glass phone booth.
    - ii. In past holdings, the protection of the 4<sup>th</sup> Amendment has only been extended to physical penetration. However, in this case the Supreme Court ruled that the 4<sup>th</sup> "Amendment cannot turn upon the presence or absence of a physical intrusion into any given enclosure." Therefore, in this case, the lack of physical penetration does not exempt it from being an unreasonable search, under the 4<sup>th</sup> Amendment.
  - b. The 4<sup>th</sup> Amendment protects people and not places
    - i. The telephone booth was not necessarily a "constitutionally protected area." However, since the petitioner had the *expectation* of privacy and sought to keep his phone conversations private, he was protected by the 4<sup>th</sup> Amendment.
    - ii. "What a person knowingly exposes to the public, even his own home or office, is not a subject of 4<sup>th</sup> Amendment protection. But

- what he seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected.”
2. If a warrant would have been sought in advance, the surveillance might have been authorized. However, since it was not sought in advance and there was no justification not to seek it in advance, the decision of the Court of Appeals was reversed.

#### Harlan’s Concurring Opinion

1. **Two-fold requirement for protection under the 4<sup>th</sup> Amendment:**
    - a. Person must have exhibited an actual (subjective) expectation of privacy  
That expectation must be one that society is prepared to recognize as “reasonable”
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### *Sample Petitioner Case*

#### **1. Announcements**

“May it please the Court (brief pause)...”

- Name
- School
- Petitioner, Calvin Broadus and Andre Young
- Rebuttal Time: 3 minutes

#### **2. Case in a sentence**

“This case presents the Court with a unique opportunity to protect against the possible abuse of power from traffic stops and to uphold the Fourth Amendment.”

#### **3. Issues**

“There are three primary issues in this appeal. FIRST whether appearance can be used as a criterion in the decision to make a traffic stop. SECOND whether the policy of the department validates the stop, since all persons similarly situated would be stopped if sighted by an officer. THIRD whether the stop is rendered invalid by Officer Mather’s motivations in stopping the vehicle.”

#### **4. Argument**

“May it please the Court, counsel would like to begin the arguments...”

#### **FIRST ISSUE:** Appearance as a criterion

1. According to past Supreme Court cases, race can obviously not be used as a criterion
  - a. *Whren*: “We, of course, agree with the petitioners that the Constitution prohibits selective enforcement of the law based upon considerations such as race.”
  - b. *Brignoni-Ponce*: “Fourth Amendment did not allow a roving patrol to stop a vehicle . . . where the occupants apparent Mexican ancestry furnished the only ground for suspicion that the occupants were aliens.”

- c. *Carrizosa-Gaxiola*: Also dealt with passengers of another race and foreign license plates and the Court ruled that this was an “unreasonable seizure.”

**SECOND ISSUE:** Policy validates the stop

1. No, the officer must always have probable cause
  - a. *Probable Cause*: “As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe a traffic violation has occurred.” *Whren*
  - b. In this case, the officer said that the petitioner was going “slightly slower” than the normal traffic. Not slower but *slightly*. There was no reason to believe that he had violated the law when he was going barely slower than the normal traffic. There was no *probable cause*.
2. The policy of the department was not *objective* but was *subjective*
  - a. Subjective decisions to make a stop in *Brignoni-Ponce* and *Carrizosa* based upon race and appearance were ruled to be unreasonable seizures because the officers were operating as roving-patrol units and could pull over whomever they wanted to pull over. There was not an objective standard.
  - b. In this case, the officer’s manual includes a *vague* list of suspicious behaviors that do not constitute objective criteria. This is the same situation as *Brignoni-Ponce* and *Carrizosa*. Therefore, the officer’s subjective stop was not validated by the policies of the department.

**THIRD ISSUE:** Mathers’s motivations

1. Motivations are incredibly important because the officer’s motivations determine why he/she pulled the motorist over in the first place, especially when the stop was based upon a subjective standard
  - a. *Brignoni-Ponce* and *Carrizosa*: they were pulled over almost only because of race. Once again, this *subjective* standard is also important with the issue of the motivation of the officer. The officers’ subjective intent to pull these two cars over based upon race was ruled to be “unreasonable” according to the Courts.
  - b. Officer Mather’s is quoted as saying that “they are both black and they were in a Lexus SUV.” This was the main reason that he pulled the petitioners over. He also stated “When you see two black men in a Lexus SUV, driving below the speed limit in Northpark, you know that something ain’t right.” His motivations for pulling the petitioners over, as in *Brignoni-Ponce* and *Carrizosa*, should also cause this traffic stop to be “unreasonable.”

\* *Coon v. Ledbetter*: No Relevance

## 5. Conclusion

## 6. Prayer for Relief:

“For the reasons stated above, Petitioner respectfully requests that he Court reverses the trial court’s ruling”

**Thank You and Sit Down**

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## *Sample Respondent Case*

### 1. Announcements

“May it please the Court (brief pause)...”

- Name
- School
- Respondent, Oklahoma

### 2. Issues (if needed)

“There are three primary issues in this appeal. FIRST whether appearance can be used as a criterion in the decision to make a traffic stop. SECOND whether the policy of the department validates the stop, since all persons similarly situated would be stopped if sighted by an officer. THIRD whether the stop is rendered invalid by Officer Mather’s motivations in stopping the vehicle.”

### 3. Argument

“May it please the Court, counsel would like to begin the arguments...”

#### **FIRST ISSUE:** Appearance as a criterion

1. Can be used as a *part* of the decision to make a traffic stop; not the *only* criterion
  - A. *Whren*: the petitioner was African-American and was described as a “youthful occupant” by the police. However, his age/race was also taken into account with probable cause/suspicious activity for the stop: no signal, sped off.
  - B. *Carizoxa and Brignoni-Ponce*: when race was the *only* criterion for stopping the vehicle, and decision was overturned. There was no probable cause/suspicious activity.
  - C. *This case*: probable cause/suspicious activity in that the petitioner was going slower than the regular traffic

1. In *Brignoni-Ponce*, one of the guides to determining “reasonable suspicion” is the driver’s behavior as in our case with the drivers being slow. Also, they noted that certain “modes of dress and haircut” for Mexicans should be noted.

**SECOND ISSUE:** Policy validating the stop

1. Adds more objectivity to the “reasonableness” of the 4th Amendment
  - A. The policy of the Department described “suspicious behaviors” as described in *Brignoni-Ponce* and explained as criteria for stopping a car. Everyone fitting into that criteria could be stopped for *suspicious activity*
  - B. *Whren*: Petitioners raised complaints about what *may* happen with officers making subjective stops. It could lead to an abuse of power. They ruled that “a traffic stop is permissible as long as a reasonable officer in the same circumstances *could have* stopped the car for the suspected traffic violation.” In our case, he/she would have
  - C. *Fuerte*: Those “check-point” stops were not in violation with the 4th Amendment mostly because they were objective: there was a *set* policy and this helped to validate the stops in this situation.
  - D. *Brignoni-Ponce* and *Carrizosa*: Not only did they violate the idea of probable cause/reasonable suspicion but they also did not abide by *objective* standards as roving officers and therefore, they were not validated in their actions.

**THIRD ISSUE:** Mather’s motivations

1. As long as the 4th Amendment is not violated, the officers motivations DO NOT matter
  - A. *Whren* ruled “constitutional reasonableness of traffic stops does not depend on the actual motivations of the individual officers involved.” Also ruled “subjective intentions play no role in ordinary, probable-cause 4th Amendment analysis.”
  - B. *Carrizosa* and *Brignoni-Ponce*: we do not know their motivations for pulling these people over except that they were Mexican, but these motivations would not have affected the probable-cause analysis.
  - C. *Fuerte*: They are doing check-point stops, not roving stops

**\* *Coon v. Ledbetter*: No Relevance**

- b. Physical punishment
- c. “Excessive violence”
- d. Whether Ledbetter was liability for his deputies’ excessive force

**\*\**Probable Cause***: “As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe a traffic violation has occurred” *Whren*

**\*\*\**Suspicion***: “Founded suspicion requires some reasonable ground for singling out the person stopped as one who was involved or is about to be involved in criminal activity.” *Carrizosa*

**3. Conclusion**

**4. Prayer for Relief:**

“I respectfully request that the court affirm the lower court’s decision.”

**Thank You and Sit Down**