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# Supreme Court Gives Cops "Free Rein" To Stop Cars, Only Sotomayor Dissents

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In a scathing dissent, Justice Sonia Sotomayor blasted the U.S. Supreme Court for giving police officers "free rein to stop a vehicle involved in no suspicious activity...based merely on a guess or a 'hunch' about the driver's identity." The court's decision on Monday in *Kansas v. Glover*, which upheld stopping a car based on the owner having a revoked license, not only "impermissibly and unnecessarily reduces the state's burden of proof," Sotomayor warned, it also "destroys Fourth Amendment jurisprudence that requires individualized suspicion."

Back in 2016, Douglas County Deputy Mark Mehrer saw a 1995 Chevy pickup pass by and promptly ran a license plate check. Mehrer learned that the owner of the car was one Charles Glover, Jr., who had his driver's license revoked, though the record doesn't reveal why. Although Mehrer couldn't identify the driver and didn't see any traffic violations, he assumed that Glover was driving. On that basis alone, the deputy decided to stop and pull over the car. He was right, and charged Glover with driving as a habitual violator.

Glover moved to suppress the evidence, arguing that the stop was unreasonable and violated the Fourth Amendment. The Kansas Supreme Court agreed, declaring in July 2018 that Mehrer had "only a hunch" and had "no information to support the assumption that the owner was the driver."

But on appeal, the U.S. Supreme Court overturned that ruling in an 8-1 decision. In *Kansas v. Glover*, the High Court held that it was "reasonable" for law enforcement to stop a car when the owner has a revoked driver's license, based on little more than the assumption that the owner was driving. Under Supreme Court precedent, police only need "reasonable suspicion" to stop someone, which is a "less demanding standard" than probable cause, which is required for warrants.

So stops like Glover's are permissible, Justice Clarence Thomas wrote for the majority, "when the officer lacks information negating an inference that the owner is the driver of the vehicle." Thomas further argued that the deputy's inference was reasonable because "the state's license-revocation scheme covers drivers who have already demonstrated a disregard for the law or are categorically unfit to drive."

“Today’s ruling makes clear that the Fourth Amendment does not require the patrol officers who keep our streets and highways safe to suspend their common sense when they put on their uniforms,” Kansas Attorney General Derek Schmidt said in a statement.

In a separate concurrence, Justice Elena Kagan, joined by Ruth Bader Ginsburg, wrote that it was “by no means obvious” that “someone who has lost his license would continue to drive.” Citing a joint amicus brief filed by the Fines and Fees Justice Center, the Cato Institute, the Institute for Justice, R Street, and the Southern Poverty Law Center, Kagan noted that “most license suspensions do not relate to driving at all; what they most relate to is being poor.”

Kansas, along with more than 40 other states, routinely suspends driver’s licenses over unpaid court debt. In fact, out of the 215,000 suspended licenses in Kansas, more than half were suspended for failure to pay. Nationwide, according to the Free to Drive Coalition, at least 11 million drivers have had their licenses suspended, revoked, or otherwise blocked simply because they did not pay court-imposed fines and fees.

Thomas, however, claimed that the decision has a “narrow scope.” The justice noted that the court’s ruling blocks roadside stops based on revoked licenses only when an officer has “exculpatory” or “sufficient information to rebut the reasonable inference that [the owner] was driving,” which in turn “might dispel reasonable suspicion.”

But as Sotomayor declared in her dissent, “this has it backwards” and wrongly “flips the burden of proof.” Decisions to pull cars over should be based on the *presence*, not absence, of evidence. As a result, “the majority’s approach is to absolve officers from any responsibility to investigate the identity of a driver where feasible,” the exact opposite of “what officers ought to do—and are more than capable of doing.”

Moreover, “if the state need not set forth all the information its officers considered before forming suspicion,” Sotomayor asked, “how would a driver counter that evidence?”

Unfortunately, thanks to the court’s decision in *Kansas v. Glover*, millions of drivers now have fewer constitutional protections under the Fourth Amendment. As the joint amicus warned, “permitting police officers to conduct suspicionless seizures of vehicles registered to owners with suspended licenses—without knowing who is actually driving—will invade the Fourth Amendment rights of millions of Americans, with little to no corresponding benefit to public safety.”