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## *Supreme Court GPS ruling called a win for privacy*

*But decision leaves questions unaddressed over other types of location tracking*

**By Jaikumar Vijayan**

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Computerworld - Calling it a significant victory for privacy rights, civil rights advocates Monday hailed a U.S. Supreme Court [ruling](#) that requires law enforcement officials to obtain a search warrant before they can attach a GPS tracking device to a vehicle.

But they expressed some disappointment over the court's decision to leave untouched the broader issue of whether police are required to obtain search warrants for all kinds of geo-location tracking technologies, such as cell phone tracking systems or RFID tags.

The ruling sends a clear message that the court will not allow "technology advances to erode the constitutional right to privacy," said Gregory Nojeim, senior counsel at the Center for Democracy and Technology (CDT).

"The elephant in the room is the standard that law enforcement must meet for tracking individuals using cell phone tower data" and other tracking mechanisms, he added.

In a 9-0 ruling Monday, the justices held that attaching a GPS device to an individual's vehicle and using it to monitor the vehicle's movement constitutes a search and seizure under the Fourth Amendment and therefore requires a search warrant.

The ruling involves [Antoine Jones](#) of Washington, who was convicted in 2008 and sentenced to life in prison for possessing and conspiring to distribute more than 50 kilograms of cocaine.

Key government evidence in the case was gathered via a GPS tracking device that was surreptitiously attached to Jones' Jeep Cherokee and used by the FBI to track his movements for about a month.

Jones had argued that the evidence used against him should be suppressed because it was gathered without a search warrant.

The government contended that the GPS tracking was akin to observing activity in a public space and therefore required no warrant.

In its 34-page ruling, the court rejected the government's argument and likened the warrantless tracking to a trespass on physical property.

Writing for the court, Justice Antonin Scalia held that "the government's installation of a GPS device on a target's vehicle, and its use of that device to monitor the vehicle's movements, constitutes a 'search'." However, the court stayed away from addressing the issue of whether warrants are needed for other kinds of digital monitoring.

"We may have to grapple with these 'vexing problems' in some future case where a classic trespassory search is not involved," Scalia wrote. "But there is no reason for rushing forward to resolve them here."

The Jones case has attracted widespread interest from organizations such as the American Civil Liberties Union, the Constitution Project, the Cato Institute, Yale Law School and others. Several interested parties, including Roger Easton, the principal inventor of GPS technology, had filed an amicus brief arguing against warrantless GPS tracking.

Marc Rotenberg, executive director of the Electronic Privacy Information Center (EPIC) called the ruling "a landmark decision for privacy.

"The Supreme Court made clear that, at a minimum, the police may not install a tracking device on a vehicle or other private property without a warrant," Rotenberg said. "And the justices sent a strong message that the routine surveillance of private conduct would remain subject to Fourth Amendment standards."

The ruling will have an impact on any pending cases where a GPS device was attached to a vehicle without a warrant, Rotenberg added. "The court has said the search is impermissible," he said. "That is now settled law."


What the Supreme Court needs to address next is whether warrants are required for all types of location tracking and not just for those specifically involving GPS devices attached to vehicles, said Sharon Bradford Franklin, senior counsel for the Constitution Project.

"We are slightly disappointed that the majority did not consider the question," Franklin said. "The concurrence by [Justice Samuel] Alito does analyze the case in that manner and concludes that pervasive tracking invades a reasonable expectation of privacy," she said.

However, the ruling itself only deals with the constitutionality of the issues raised by this one specific case, she said.

The CDT's Nojeim noted that four concurring justices in Monday's ruling make it clear that they believe search warrants are also required for other types of real-time location tracking.

He too noted Alito's comments on the need for warrants for real-time tracking of location using a GPS or cell tower data. Alito's opinion "expressly invites Congress to step in" and craft legislation mandating such warrants, Nojeim said.

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