U.S. v. Jones: Signaling Change to Search and Seizure under the Fourth Amendment

By: A. Ann Ratnayake

In U.S. v. Jones, the Supreme Court addressed whether installing a Global-Positioning-System (GPS) device on an individual’s vehicle, and the use of the device to monitor the vehicle’s movements on public streets, constitutes a search or seizure under the Fourth Amendment.

Facts
In Jones, the defendant Antoine Jones, a nightclub owner in D.C., came under the suspicion of a narcotics and trafficking taskforce operated jointly by the FBI and the metropolitan police department. Based on prior surveillance, the government applied for a warrant to authorize installation of a GPS device on a Jeep Grand Cherokee registered to Jones’s wife. The D.C. District Court authorized the installation of the device within 10 days. On the eleventh day, agents installed it on the undercarriage of the vehicle. The government monitored the vehicle’s movements for 28 subsequent days.

Based on its investigation, the government filed an indictment alleging that Jones and conspirators intended to distribute cocaine. Prior to trial, Jones moved to suppress the evidence obtained through the GPS device. The trial court suppressed only the data obtained while the vehicle was parked in the garage adjoining Jones’s residence, and held the remaining data admissible quoting United States v. Knotts: “a person traveling on public thoroughfares has no reasonable expectation of privacy in his movements from one place to another.”

Jones’s first trial produced a hung jury. During the second trial, the government introduced the same evidence and the jury returned a guilty verdict. Upon appeal, the United States Court of Appeals for the District of Columbia reversed the conviction, stating the warrantless use of the GPS device violated the Fourth Amendment. The Supreme Court granted writ of certiorari to address the more limited question whether the installation of a GPS device on a target’s vehicle and use of the device to monitor movements constitutes a Fourth Amendment search or seizure.

Analysis
The Fourth Amendment guarantees, “[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.” The government, citing Katz v. United States and a number of post-Katz decisions, argued that no search had occurred because a Fourth Amendment search only occurs when the government violates a subjective expectation of privacy that society recognizes as reasonable. It contended that no reasonable expectation of privacy existed in the area of the Jeep accessed by its agents (the Jeep’s underbody) and in the locations of the Jeep on the public roads, which were visible to all.

Justice Scalia writing for the majority opinion stated “we do not need to address the government’s contentions because Jones’s Fourth Amendment rights do not rise and fall with the
The Court also distinguishes its conclusion in United States v. Jones, 466 U.S. 170 (1984), that the government's intrusion onto an unprotected area has no Fourth Amendment significance. The limited holding for U.S. v. Jones is that the Katz reasonable-expectation-of-privacy test has been added to, not substituted for, the common-law trespassory test. The common-law trespassory test states that when the government physically occupies a protected area for the purpose of obtaining information, such a physical intrusion constitutes a search.

Minority Opinion and Implications

The decision in Jones carries heavy future implications. While the judgment to overturn the conviction was unanimous, the holding was decided by a five-to-four margin. Justice Scalia delivered the majority opinion for the Court in which Justices Roberts, Kennedy, Thomas, and Sotomayor joined. Justice Sotomayor filed a concurring opinion reaffirming that the common-law trespassory test suffices to decide this case.

The minority opinion written by Justice Alito in which Justices Ginsberg, Breyer, and Kagan joined disagrees with applying the common-law trespassory test and states “the best we can do is apply existing Fourth Amendment doctrine and to ask whether the use of GPS tracking in a particular case involved a degree of intrusion that a reasonable person would not have anticipated.” Justice Alito further elaborates “the use of longer term GPS monitoring in investigations of most offenses impinges on expectations of privacy.”

In Justice Sotomayor’s concurrence, she speculates that in cases where the government’s methods merely involve the transmission of electronic signals without physical trespass, the Katz analysis applies. She also agrees with the minority opinion’s analysis of Katz that “at the very least, longer term [wireless] GPS monitoring in investigations of most offenses impinges upon expectations of privacy.” With Justices Sotomayor, Alito, Ginsburg, Breyer, and Kagan agreeing upon this point, warrantless collection of voluminous amounts of tracking data in public areas over time could also rise to the level of a reasonable expectation of privacy violation.

1 Staff Attorney for the National Center for Prosecution of Child Abuse a program of the National District Attorneys Association
3 Id.
4 Id.
5 Id. at 2.
6 Id.
7 Id.
9 Id.
11 Id.
12 Id. at 3.
13 Id.
14 U.S. Const. amend IV.
17 Id.
18 Id. at 8.
19 Id. at 4; Id at 10.
20 Id. at 9 (distinguishing New York v. Class, 447 U.S. 106 (1986)).
21 Id. at 3; Id. at 9.
22 United States v. Jones, No. 10–1259, slip op. at 3.
23 Id. at 8; Id. at 9.
24 Id.
25 Id.
26 Id. at 10.
27 Id.
28 Id.
29 United States v. Jones, No. 10–1259, slip op. at 1 (syllabus).
32 Id.
33 United States v. Jones, No. 10–1259, slip op. at 3 (Sotomayor, J., concurring).