

The Dog Sniff Case



Fourth Amendment United States Constitution

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and persons or things to be seized.”

The Dog Sniff Case



State of Florida v. John Steel

John Steel and a friend were driving home from work one night when they noticed a police officer following them. They did not think too much about it until the officer put on his flashing lights. John pulled over right away.

The officer told John that he had been speeding and asked to see John's license and registration. While looking at the license and registration, the officer asked John and his friend where they were going. Each one said that he was going to a different place. They were both acting nervous. Then, the officer asked for permission to search John's car. John told the officer that he did not want his car searched.

The officer went back to his car to write John's speeding ticket. Within ten minutes, a second officer arrived with a K-9 unit. The officer walked the dog around John's car and told John that the dog was sniffing for drugs.

The K-9 barked to alert the officer that drugs were present. The officer found marijuana in John's car, and John was arrested. In the circuit court, where John's case went to trial, John's attorney argued that the using the K-9 to sniff for drugs was an unreasonable search of John's car. He also argued that the marijuana found during the search should not be used as evidence against John. The State of Florida argued that using the K-9 to sniff for drugs was not a search at all.

The circuit court decided that the marijuana could be used as evidence against John. John's attorney appealed the circuit court's decision to the District Court of Appeal. The district court disagreed with the trial court and decided that the marijuana could not be used as evidence because using the K-9 to sniff for drugs was an unreasonable search. The State of Florida appealed the decision to the Florida Supreme Court. The Court is ready to hear oral argument in this case.

The Dog Sniff Case



Case Study Sheet

I. What are the Facts?

II. State the Issue to be Decided:

III. Arguments for Petitioner:

IV. Arguments for Respondent:

V. What Would You Decide?

VI. Reason/Evaluation:

VII. Mock Supreme Court Conference Decision:

VIII. Actual Decision of the Court:

The Dog Sniff Case



Constitutional Question

Was the K-9 sniff of John's car an unreasonable search under the Fourth Amendment?

The Dog Sniff Case



Petitioner Arguments

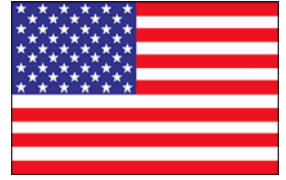
MAY IT PLEASE THE COURT. MY NAME IS _____ AND I REPRESENT THE PETITIONER, THE STATE OF FLORIDA, WHO ARGUES THAT THE K-9 SNIFF DID NOT VIOLATE THE FOURTH AMENDMENT.

State's Arguments (*for K-9 sniffs*) include:

1. A K-9 sniff is not a search. It does not show what is in the inside of a car in the same way that opening the car's trunk would.
2. Since the smell of marijuana reached outside of the car, there is no right of privacy because the smell could have been detected by any odor detector that passed by the vehicle.
3. The State has a very good reason to remove drugs from the streets where they can hurt people or be traded in order to hurt people.
4. Even if the K-9 sniff invades someone's privacy, the invasion is a very small one. The K-9 sniff doesn't last any longer than a normal traffic stop.

Try to think of other arguments in favor of K-9 sniffs. Write these arguments on the note pad at your seat.

The Dog Sniff Case



Respondent Arguments

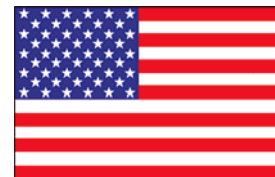
MAY IT PLEASE THE COURT. MY NAME IS _____ AND I REPRESENT THE RESPONDENT, JOHN STEEL, WHO ARGUES THAT THE K-9 SNIFF DID VIOLATE THE FOURTH AMENDMENT.

John's Arguments (*against* the K-9 sniff) include:

1. The officers did not have a good reason to start searching John's vehicle.
2. The K-9 may not always be right. If the dog barks when there are no drugs present, then the person's privacy will be illegally invaded.
3. If K-9's cannot be trusted to be right 100% of the time, then using them to sniff for drugs must be considered an unreasonable search under the Fourth Amendment.
4. Dog searches do not happen at every stop and not all officers making a traffic stop have a K-9. Some officers will have to wait for a dog to get to the traffic stop. This will make the traffic stop last much longer than normal.

**Try to think of other arguments against K-9 sniffs.
Write these arguments on the note pad at your seat.**

The Dog Sniff Case



Sample Questions for Justices

Questions to ask the Petitioner (State of Florida):

1. Doesn't ruling that a K-9 sniff is not a search under the Fourth Amendment mean that officers can use K-9s wherever they want?
2. Is there a chance that a K-9 can make a mistake and bark when there really are no drugs?
3. Why shouldn't officers have to get a warrant in order to perform a K-9 sniff for drugs?
4. Did the officer in this case have any reason to think that the suspect had drugs in his car?

Try to think of other questions for the attorneys who are in favor of K-9 sniffs. Write these questions on the note pad at your seat.

Questions to ask the Respondent (John Steel):

1. Is the Fourth Amendment supposed to protect those things that anyone can observe, such as a scent coming from a car?
2. Are drugs protected by the Fourth Amendment even though they are illegal in this country?
3. Can't dog searches be done by another officer while the first officer is writing the traffic citation, without taking more time than a normal traffic stop?
4. Why should one person's embarrassment be more important than getting drugs off the streets?

Try to think of other questions for the attorneys who are against K-9 sniffs. Write these questions on the note pad at your seat.

The Dog Sniff Case



Marshal's Script

(You must call Court to order in a very **loud** voice.)

All rise.

Hear ye! Hear ye! Hear ye!

The Supreme Court of Florida is now in session.

All who have cause to plea, draw near, give attention, and you shall be heard.

God save these United States, this great State of Florida, and this honorable Court.

Ladies and gentlemen, the Florida Supreme Court.

Please be seated.

The Dog Sniff Case



Chief Justice's Script

The Court is ready to hear the case of State of Florida v. John Steel.

Are the attorneys ready to proceed?

Attorneys for the Petitioner may begin.

[When the Marshal calls time, tell the petitioner's attorneys that their time is up. If the attorneys are in the middle of an answer when time is called then you can tell them that they may briefly finish their answer.]

Attorneys for the Respondent may begin.

[When the Marshal calls time, tell the respondent's attorneys that their time is up. If the attorneys are in the middle of an answer when time is called then you can tell them that they may briefly finish their answer.]

Attorneys for the Petitioner may present rebuttal.

[When the Marshal calls time, tell the petitioner's attorneys that their time is up. If the attorneys are in the middle of an answer when time is called then you can tell them that they may briefly finish their answer.]

Attorneys, thank you for your arguments. The Court will announce its decision shortly.

The Dog Sniff Case



Clerk (place on Clerk's desk)

After the arguments, the Justices will vote on the case. Count the votes for the Petitioner (John) and Respondent (State of Florida).

READ:

The Florida Supreme Court has reached a decision in this case. By a vote of _____ to _____ the Court rules in favor of the _____.

The Dog Sniff Case



Vote Sheet

Votes:

Chief Justice Lewis

 Petitioner/John

 Respondent/State

Justice Wells

 Petitioner/John

 Respondent/State

Justice Anstead

 Petitioner/John

 Respondent/State

Justice Pariente

 Petitioner/John

 Respondent/State

Justice Quince

 Petitioner/John

 Respondent/State

Justice Cantero

 Petitioner/John

 Respondent/State

Justice Bell

 Petitioner/John

 Respondent/State

The Dog Sniff Case



Court Decisions

Illinois v. Caballes (2005)

Available at <http://laws.findlaw.com/us/000/03-923.html>

In a similar case, an Illinois State Trooper stopped Roy Caballes for speeding on an interstate highway. When Gillette radioed the police dispatcher to report the stop, a second trooper overheard the transmission and immediately headed for the scene with his narcotics-detection dog (K-9). While Gillette was in the process of writing a warning ticket, the other officer walked his K-9 around Caballes's car. The K-9 alerted at the trunk. Based on that alert, the officers searched the trunk, found marijuana, and arrested Caballes. The entire incident lasted less than 10 minutes.

At trial, the attorneys for Caballes filed a motion to suppress the evidence based on the argument that there was no reasonable suspicion to justify a K-9 sniff search. The trial court denied the motion to suppress, and the Illinois appellate court affirmed that decision, agreeing that the K-9 sniff was reasonable. On appeal to the Supreme Court of Illinois, the Court reversed the decision and held that the dog sniff search was unreasonable.

On appeal to the United States Supreme Court, the Court reversed the Illinois Supreme Court's ruling. The Court in Caballes reasoned that a sniff by a dog trained to seek out illegal drugs during a lawful traffic stop is not a search because the sniff can only reveal evidence of illegal activity. Thus, unlike conventional searches of a dwelling or personal property, the dog sniff does not reveal any information that people have a right to keep private.