



(Slip Opinion) OCTOBER TERM, 2017 1
Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

CARPENTER v. UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 16–402. Argued November 29, 2017—Decided June 22, 2018

Cell phones perform their wide and growing variety of functions by continuously connecting to a set of radio antennas called “cell sites.” Each time a phone connects to a cell site, it generates a time-stamped record known as cell-site location information (CSLI). Wireless carriers collect and store this information for their own business purposes. Here, after the FBI identified the cell phone numbers of several robbery suspects, prosecutors were granted court orders to obtain the suspects’ cell phone records under the Stored Communications Act. Wireless carriers produced CSLI for petitioner Timothy Carpenter’s phone, and the Government was able to obtain 12,898 location points cataloging Carpenter’s movements over 127 days—an average of 101 data points per day. Carpenter moved to suppress the data, arguing that the Government’s seizure of the records without obtaining a warrant supported by probable cause violated the Fourth Amendment. The District Court denied the motion, and prosecutors used the records at trial to show that Carpenter’s phone was near four of the robbery locations at the time those robberies occurred. Carpenter was convicted. The Sixth Circuit affirmed, holding that Carpenter lacked a reasonable expectation of privacy in the location information collected by the FBI because he had shared that information with his wireless carriers.

Held:

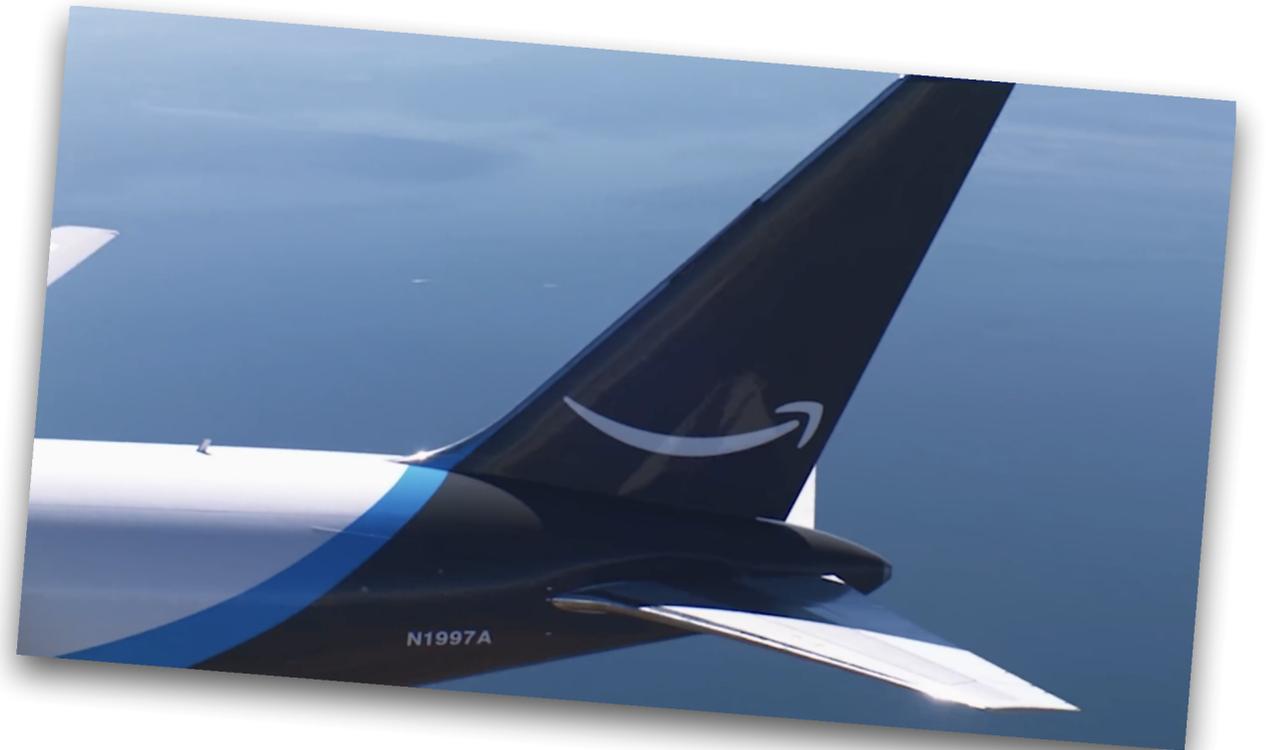
1. The Government’s acquisition of Carpenter’s cell-site records was a Fourth Amendment search. Pp. 4–18.

(a) The Fourth Amendment protects not only property interests but certain expectations of privacy as well. *Katz v. United States*, 389 U. S. 347, 351. Thus, when an individual “seeks to preserve something as private,” and his expectation of privacy is “one that society is



Cove Apple Club

June 27, 2018



Tonight's Topics

- Whoooooohoooo! Prime Day!
- ~~Finder Prefs in macOS. Finder is your friend!~~
- SCOTUS on Cell Phone Location Data

HAPPY
prime day
MORE DEALS
THAN BLACK FRIDAY



Prime Day is Coming!

- Christmas in July for Amazon Prime members!
- Last year's Prime Day was July 11 — and it was a monster
- Possible Prime Day this year: July 9
- Remember, you can join Prime and pay month-to-month for just \$12.99, and cancel any time
- Annual Prime membership is \$119/year, includes everyone in your household



Prime annual
\$119/year

BEST VALUE

- ✓ Prime Video
- ✓ FREE Two-Day shipping
- ✓ Unlimited music streaming
- ✓ Unlimited photo storage
- ✓ Unlimited reading
- ✓ FREE Same-Day Delivery



EVERYTHING INCLUDED IN PRIME

Ship

Prime Delivery

Prime Now

Amazon Key

Shop

Prime Exclusive

Whole Foods Market

Early Access to Deals

Alexa Voice Shopping

Prime Pantry

Stream

Prime Video

Prime Music

Audible Channels

Read

Prime Reading

Amazon First Reads

More

Prime Photos

Share Your Prime

Twitch Prime

Prime Rewards

Amazon Fresh

Amazon FreeTime

Unlimited

Prime Video Channels

Amazon Music Unlimited

Washington Post Free

Trial

Six-month free trial of digital access to The Washington Post with Prime annual subscription.



Get Free Access to
The Washington Post

Jeff Bezos, CEO & Founder of Amazon, owns the Washington Post.

Prime Day 2017 Was Immense

- 114,000,000 orders across 13 countries and 29 hours — about 220 orders PER SECOND; up 60% vs. 2016
- 221,000 HDTVs purchased
- New deals launching every 5 minutes
- “**Several million**” Fire Tablets and Fire TV Sticks sold
- “**Millions**” of Alexa devices sold; up 7x vs. 2016
- Six Alexa voice orders per second, a 6x increase from 2016
- Estimated \$5-billion in business in one day





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Join over 200 Cypress Cove residents and members in the Cove Apple Club, and you'll learn more and get a lot more fun and productivity out of all your Apple gear! The Cove Apple Club has been meeting every month for over a decade, and the fun just keeps getting better and better!

We meet twice a month, year-round. Check our [upcoming meeting schedule](#) and plan to join us at our next meeting!

If you're new to the world of Apple, an old Machead from years back, or even a frustrated Windows user, you will find something interesting and entertaining at each of our meetings. Our meetings are fun and informative, with topics presented covering the range from beginner to advanced.

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All Apple products are fair game at our meetings: iPad, iPhone, iPod, Apple TV, Apple Watch and Macs of all sizes, as well as the huge world of Apple software, hardware and accessories.

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Click here for meeting dates and info.

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COVE APPLE CLUB

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So be sure to click the Amazon logo below when you need to shop for Mac products online...and “give back” to the Cove Apple Club – without costing you an extra cent! Thanks!

TWO EASY WAYS TO USE THE AMAZON SHOPPING LINK

1. [Just click here](#) — you'll be sent to the Amazon.com homepage.
2. Just click the Amazon banner ad below.



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Since our last meeting

Jun 10 2018 - Jun 26 2018 / [Custom Date Range](#)

Tracking ID: [All](#)

Last Updated: Jun 26 2018 +00:00

Summary

\$96.52

Fees

\$96.52

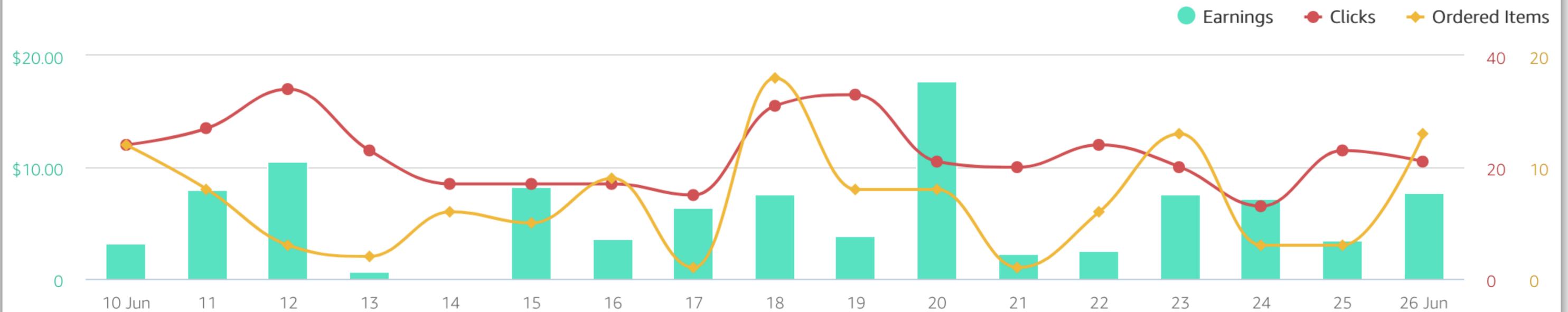
Bounties

\$0.00

Amazon CPM Ads

\$0.00 \$

[Get Started with CPM Ads](#)



Clicks	Ordered Items	Shipped Items	Returned Items	Conversion	Shipped Items Revenue	Total Earnings
380	119	96	1	31.32%	\$1,918.28	\$96.52

2018 YTD

Jan 01 2018 - Jun 26 2018 / [This Year](#) Tracking ID: All

Last Updated: Jun 26 2018 +00:00

Summary

\$1,426.36

Fees

\$1,418.36

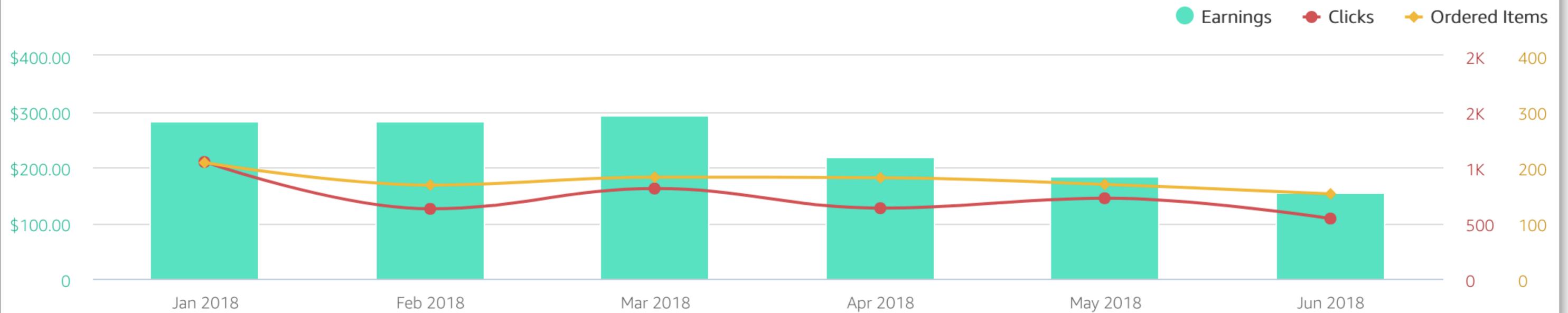
Bounties

\$8.00

Amazon CPM Ads

\$0.00

[Get Started with CPM Ads](#)



Clicks	Ordered Items	Shipped Items	Returned Items	Conversion	Shipped Items Revenue	Total Earnings
4,372	1,060	950	35	24.25%	\$26,314.38	\$1,418.36

Our Constitutional Civil Rights in The Digital Age

Syllabus

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SUPREME COURT OF THE UNITED STATES

Syllabus

RILEY v. CALIFORNIA

CERTIORARI TO THE COURT OF APPEAL OF CALIFORNIA,
FOURTH APPELLATE DISTRICT, DIVISION ONE

No. 13–132. Argued April 29, 2014—Decided June 25, 2014*

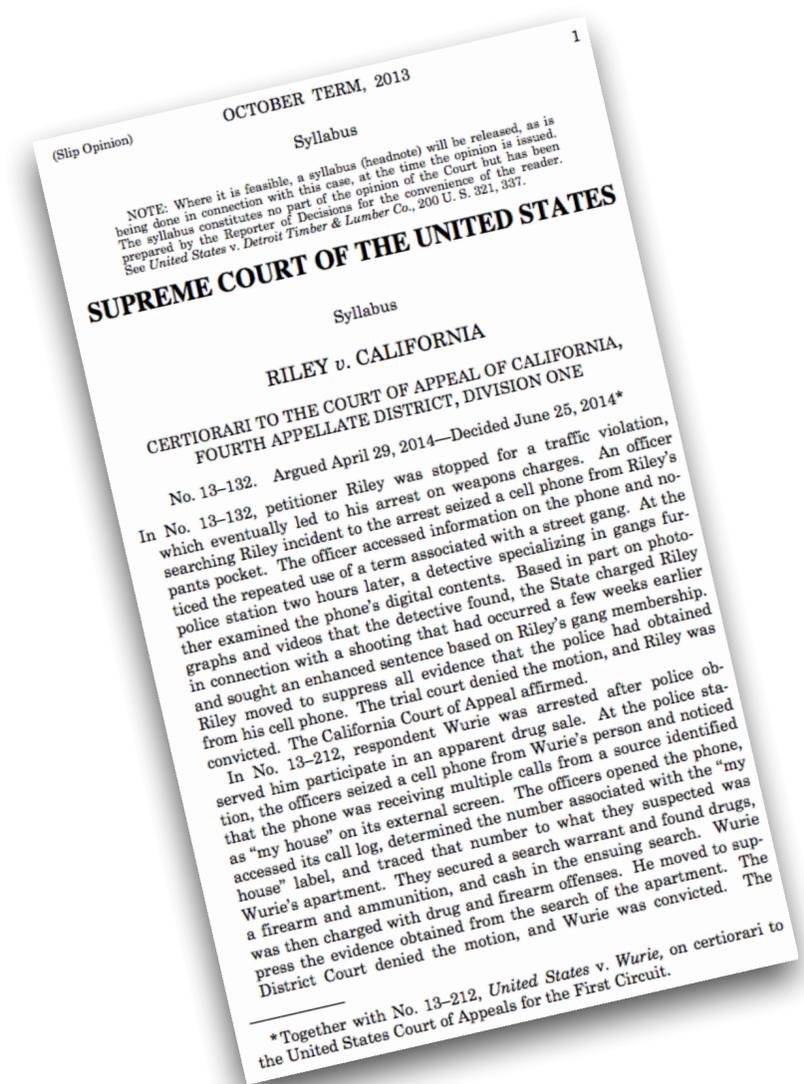
In No. 13–132, petitioner Riley was stopped for a traffic violation, which eventually led to his arrest on weapons charges. An officer searching Riley incident to the arrest seized a cell phone from Riley’s pants pocket. The officer accessed information on the phone and noticed the repeated use of a term associated with a street gang. At the police station two hours later, a detective specializing in gangs further examined the phone’s digital contents. Based in part on photographs and videos that the detective found, the State charged Riley in connection with a shooting that had occurred a few weeks earlier and sought an enhanced sentence based on Riley’s gang membership. Riley moved to suppress all evidence that the police had obtained from his cell phone. The trial court denied the motion, and Riley was convicted. The California Court of Appeal affirmed.

In No. 13–212, respondent Wurie was arrested after police observed him participate in an apparent drug sale. At the police station, officers seized a cell phone from Wurie’s person and noticed receiving multiple calls from a source identified as “my friend.” The officers opened the phone, and Riley was

June, 2014:
Riley v. California

Riley v. California

- Can police search a cell phone seized from a suspect incident to an arrest?
- Our government argued that police should be able to search any physical object in our possession incident to an arrest, including the contents of our cell phones
- Civil liberties advocates argued that the Fourth Amendment prohibits those searches under the “papers and effects” clause.



Plaintiff David Leon Riley

- Stopped by police for expired registration tags
- Officers determined Riley's license had been suspended
- Under California law, Riley's car was impounded on the spot
- Car was searched, police found two handguns
- Riley placed under arrest
- After arrest, Riley was searched & his cellphone seized
- Hours later, at the PD with Riley in custody, detectives found evidence on the phone that tied him to felonies

Riley's Objections (in part)

- Evidence obtained from cell phone data should be suppressed, as it was conducted without a warrant in violation of his rights guaranteed by the Fourth Amendment
- The warrantless search of his phone was not necessary to serve any legitimate government interest
- Specifically, the device did not threaten officer safety, and searching it after it had already been seized was not necessary to prevent the destruction of evidence
- Both of those exceptions to warrant requirements were already decided by the Court in the *Chimel* case (*Chimel v. California*, 395 U.S. 752 (1969) and *United States v. Robinson*, 414 U.S. 218 (1973))

What The Government Wanted

- ***Warrantless*** searches of cellphone contents if it's reasonable to believe it holds evidence relevant to a crime
- ...or if not that, "Search only the areas of the phone that could have information about the crime, who the suspect was, or officer safety."
- ...and if not that, then, "Use the phone's data to obtain relevant data that could also be obtained by other means."
- ...or, "at least be able to search the call logs."

Fourth Amendment

“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 the persons or things to be seized.”

How Would You Have Decided This Case?

(Slip Opinion)

OCTOBER TERM, 2013

1

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SUPREME COURT OF THE UNITED STATES

Syllabus

RILEY v. CALIFORNIA

CERTIORARI TO THE COURT OF APPEAL OF CALIFORNIA,
FOURTH APPELLATE DISTRICT, DIVISION ONE

No. 13–132. Argued April 29, 2014—Decided June 25, 2014*

In No. 13–132, petitioner Riley was stopped for a traffic violation, which eventually led to his arrest on weapons charges. An officer searching Riley incident to the arrest seized a cell phone from Riley's pants pocket. The officer accessed information on the phone and noticed the repeated use of a term associated with a street gang. At the police station two hours later, a detective specializing in gangs further examined the phone's digital contents. Based in part on photographs and videos that the detective found, the State charged Riley in connection with a shooting that had occurred a few weeks earlier and sought an enhanced sentence based on Riley's gang membership. Riley moved to suppress all evidence that the police had obtained from his cell phone. The trial court denied the motion, and Riley was convicted. The California Court of Appeal affirmed.

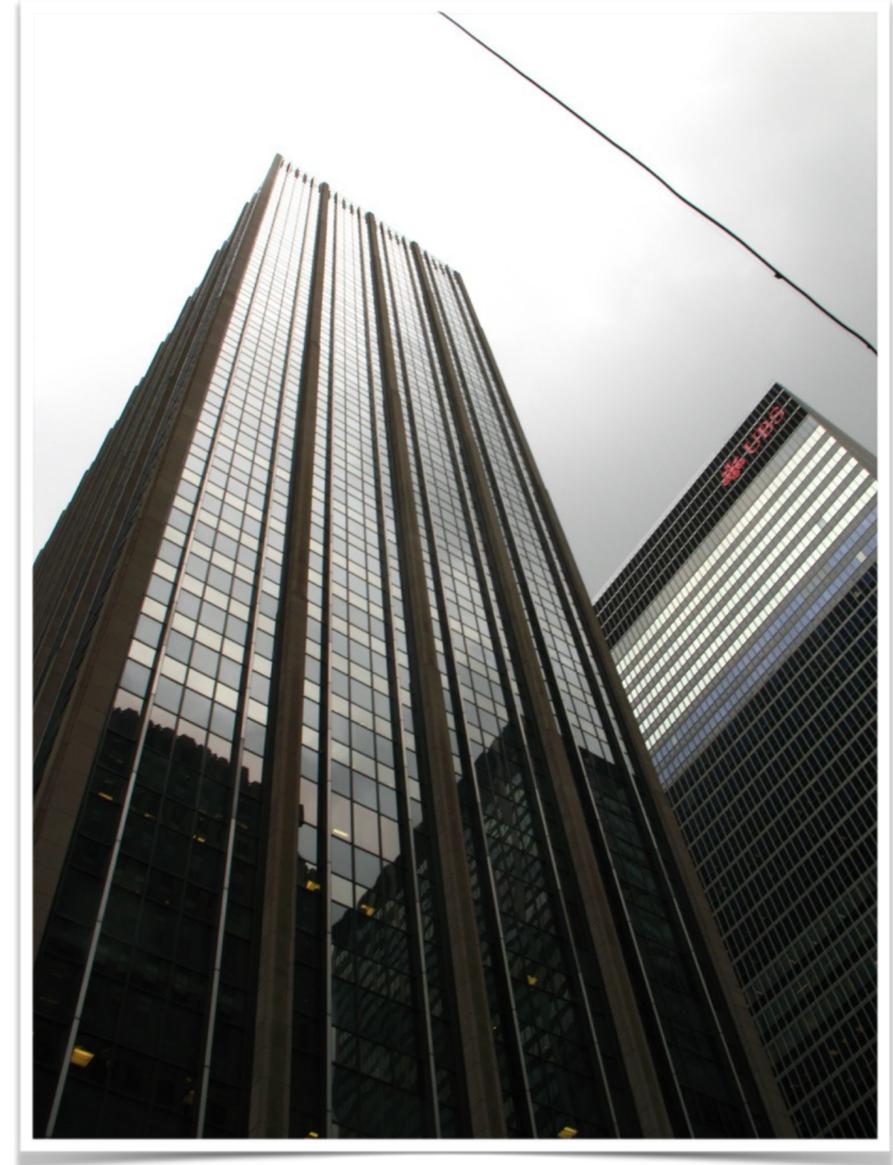
In No. 13–212, respondent Wurie was arrested after police observed him participate in an apparent drug sale. At the police station, the officers seized a cell phone from Wurie's person and noticed that the phone was receiving multiple calls from a source identified as "my house" on its external screen. The officers opened the phone, accessed its call log, determined the number associated with the "my house" label, and traced that number to what they suspected was Wurie's apartment. They secured a search warrant and found drugs, a firearm and ammunition, and cash in the ensuing search. Wurie was then charged with drug and firearm offenses. He moved to suppress the evidence obtained from the search of the apartment. The District Court denied the motion, and Wurie was convicted. The

*Together with No. 13–212, *United States v. Wurie*, on certiorari to the United States Court of Appeals for the First Circuit.

This Decision Was
Not A Slam-Dunk

That Same Court Decided That

This is a person



source: *Citizens United v. FEC*;
08-205, Decided January 21, 2010

This Same Court Decided That

This is a person



source: *Burwell vs. Hobby Lobby*,
13-354, Decided June 30, 2014

This Same Court Decided That

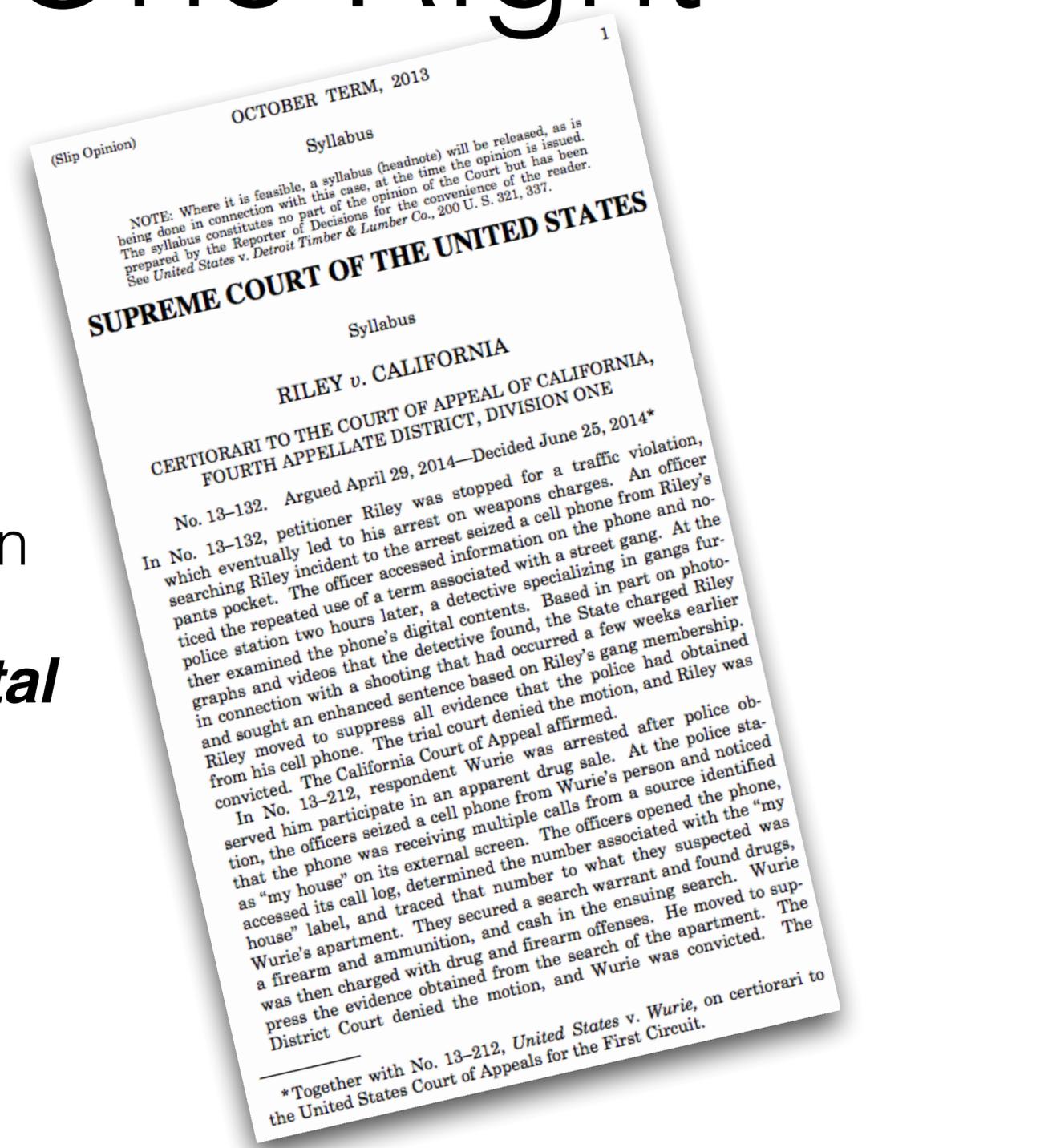
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source: *Burwell vs. Hobby Lobby*,
13-354, Decided June 30, 2014

But They Got This One Right

- **Unanimous** 9-0 decision in favor of Riley
- Reversed the California Court of Appeals decision
- Affirmed the citizens' right to privacy in their **digital** "papers, and effects"



"Modern cell phones are not just another technological convenience. With all they contain and all they may reveal, they hold for many Americans "the privacies of life." The fact that technology now allows an individual to carry such information in his hand does not make the information any less worthy of the protection for which the Founders fought."

— Opinion of the Court,
Riley v. California
(573 US 13-132 (2014))
United States Supreme Court
June 26, 2014

“Our answer to the question of what police must do before searching a cell phone seized incident to an arrest is accordingly simple—***get a warrant.***”

— Opinion of the Court,
Riley v. California
(573 US 13-132 (2014))
United States Supreme Court
June 26, 2014

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— Opinion of the Court,
California v. Riley
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United States Supreme Court
June 26, 2014

Verizon

10:41

Wednesday, July 9

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> slide to unlock





Verizon

10:41
Wednesday, July 9

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> slide to unlock



Download the exclusive
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Riley Lock Screen Image
from the Archives section
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— look in the 2014 archives



**This Week's
SCOTUS Decision**

***Carpenter vs. United
States of America, 16-402***

Carpenter vs. US

- Plaintiff Timothy Carpenter, sentenced to 116 years in prison for a series of armed robberies in Michigan and Ohio
- Government presented cell phone location evidence at trial that placed him at the scene of many of those robberies
- Carpenter argued that such evidence should not be admitted because police did not obtain a warrant for the data, violating his 4th Amendment rights against unreasonable search without a warrant



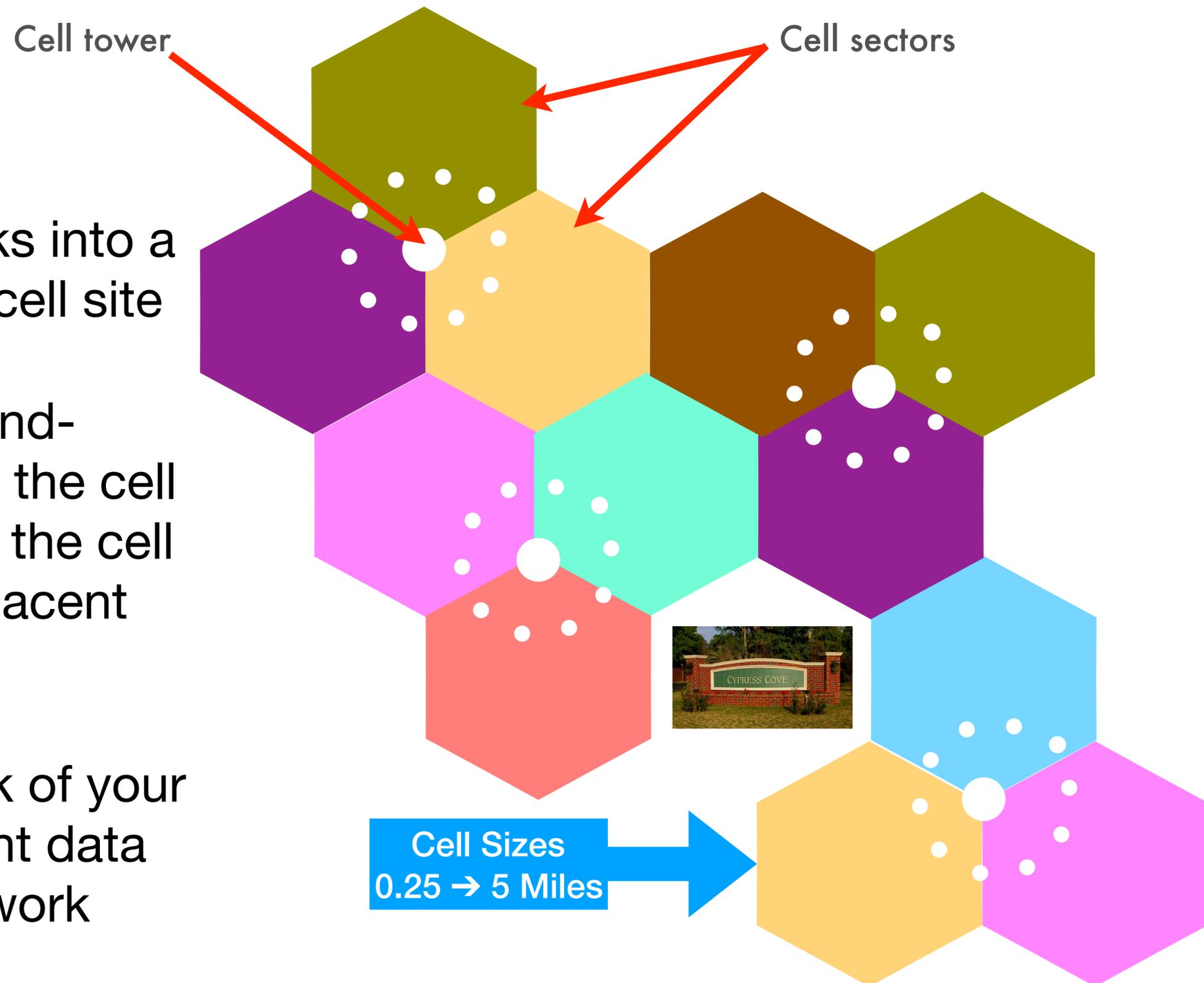
Carpenter vs. US

- Government argued that no warrant was required because the data was held by a third party (his cell carrier)
- Cited the long-established “third-party doctrine,” the idea that the Fourth Amendment does not protect records or information that someone voluntarily shares with someone or something else
- They further argued that he had no reasonable expectation of privacy of those records, since he voluntarily agreed to the data being collected by virtue of subscribing to the cell service



How Cell Phones Work

- Your phone searches for and locks into a signal from a giant antenna on a cell site
- Using triangulation and lots of mind-blowing physics, your phone and the cell site both track your location, and the cell site “hands off” your signal to adjacent sites as you move around
- Your cell carrier **has** to keep track of your location, and uses your movement data to monitor and improve their network



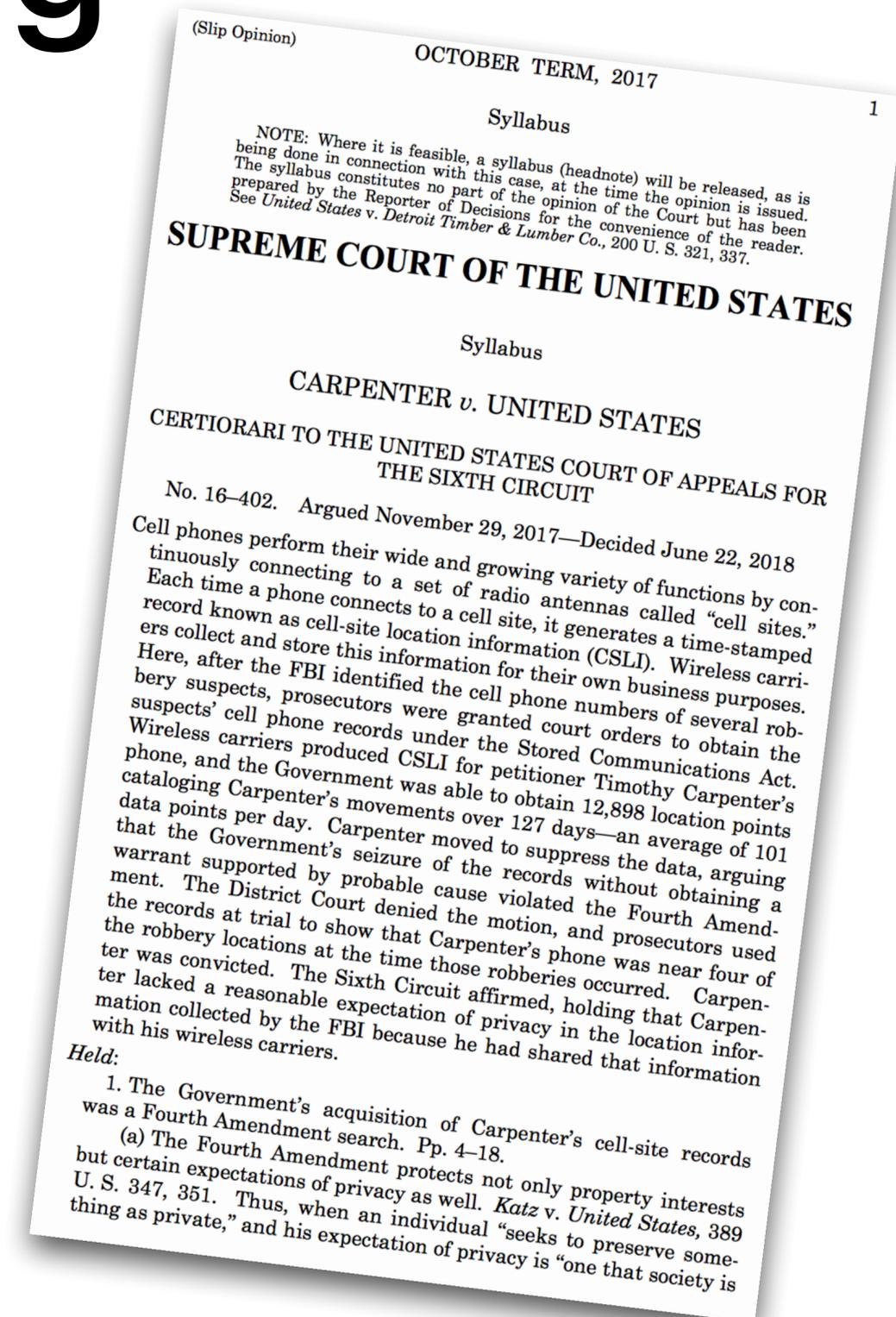
source: CTIA

Carpenter's Argument

- Tracking of cell phone location data is *not optional* for cell phone users; without it, the system would not work *at all*.
- In a free society, people would not expect the government to track their every movement over long periods of time, but that is exactly what the cell-site location records do, and was what the government used to convict him in this case.
- Because people carry their phones virtually everywhere with them, cell site location records provide the government with “near perfect surveillance, as if it had attached an ankle monitor to the phone’s user” – not only going forward but also going back up to five years.
- Doing so without a warrant is an impermissible violation of 4th Amendment protections.

SCOTUS Ruling

- **Reverses** the lower-court's decision that Carpenter had no reasonable expectation of privacy for this location data;
- **Remands** the case to lower courts for further proceedings consistent with this ruling.
- Decision was 5-4 to reverse and remand; Roberts delivered the opinion of the Court, with Ginsburg, Breyer, Sotomayor, and Kagan joining the majority.
- Opinion & the dissents are 119 pages of highly-recommended reading.
- <https://www.supremecourt.gov/opinions>



Highlights from the Opinion

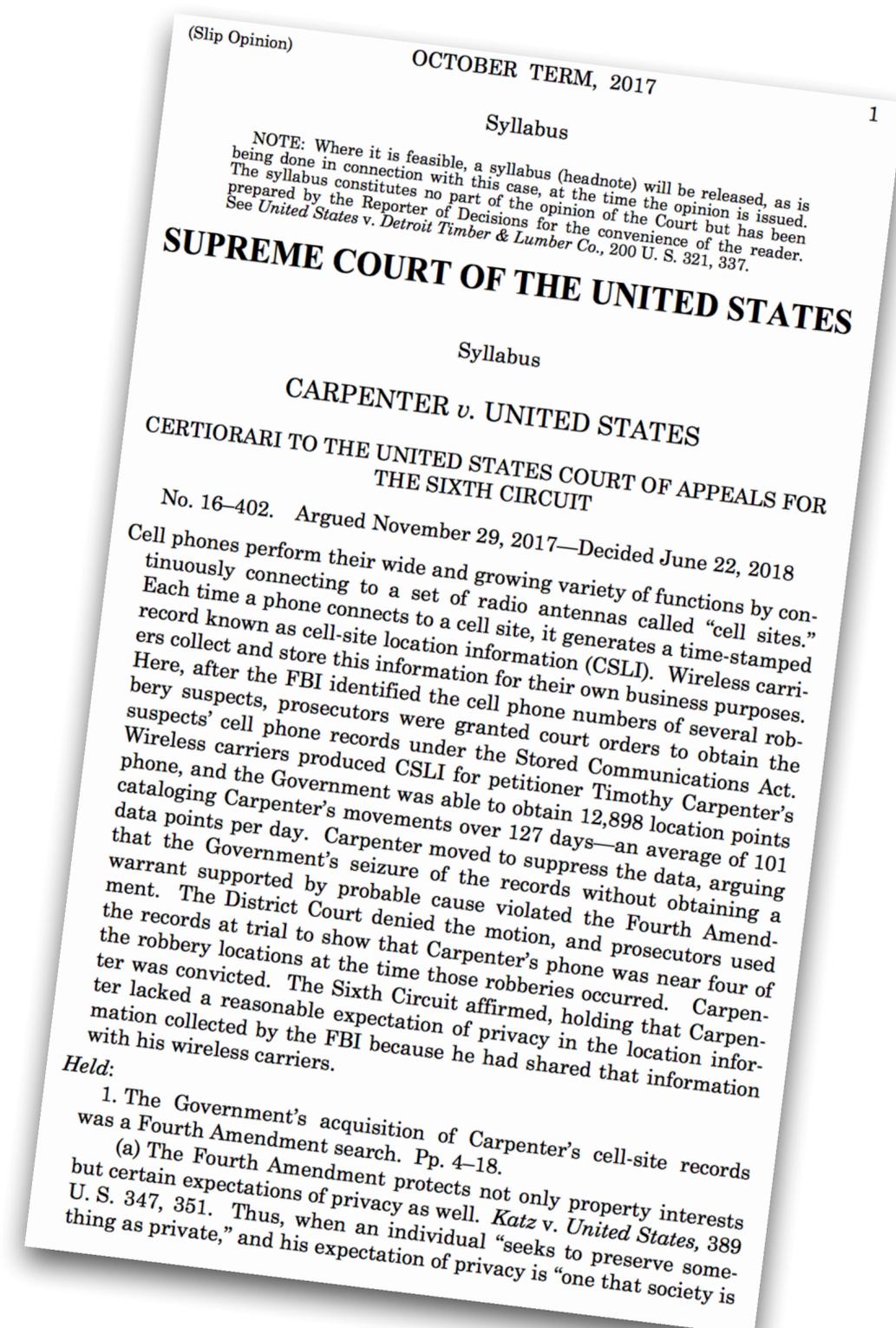
The Government's position fails to contend with the seismic shifts in digital technology that made possible the tracking of not only Carpenter's location but also everyone else's, not for a short period but for years and years. Sprint Corporation and its competitors are not your typical witnesses. Unlike the nosy neighbor who keeps an eye on comings and goings, they are ever alert, and their memory is nearly infallible.

This is certainly not to say that all orders compelling the production of documents will require a showing of probable cause. The Government will be able to use subpoenas to acquire records in the overwhelming majority of investigations. We hold only that a warrant is required in the rare case where the suspect has a legitimate privacy interest in records held by a third party.

We decline to grant the state unrestricted access to a wireless carrier's database of physical location information. In light of the deeply revealing nature of CSLI, its depth, breadth, and comprehensive reach, and the inescapable and automatic nature of its collection, the fact that such information is gathered by a third party does not make it any less deserving of Fourth Amendment protection. The Government's acquisition of the cell-site records here was a search under that Amendment.

The Upshot

- Government can still use subpoenas to acquire CSLI as evidence in almost all cases
- Government can access continuous, live CSLI in urgent situations: “bomb threats, active shootings, and child abductions.”
- Officials do **not** have “unrestricted access to a wireless carrier’s database” of CSLI.
- We have an expectation of privacy as to our whereabouts and it is **protected** by existing precedent and Fourth Amendment protections, now affirmed in *Carpenter*
- **Unlike the unanimous 9-0 decision in Riley, this was a 5-4 vote to reverse and remand.**



Long-Range Planner

July 2018 < Today >

Sun	Mon	Tue	Wed	Thu	Fri	Sat
Jul 1	2	3	4	5	6	7
8	9	10	11 Nope!	12	13	14
15	16	17	18	19	20	21
22	23	24	25 Yes!	26	27	28
29	30	31	Aug 1	2	3	4
5	6	7	8	9	10	11

- No meeting July 11

**See you at
Cheeks!**

