

Illinois v. Lidster
(January 13, 2004) 540 US ____

ISSUE

Under what circumstances may officers set up a roadblock for the purpose of locating witnesses to a crime?

FACTS

One week after a 70-year old bicyclist was killed in a hit-and-run accident, police in Lombard, Illinois set up a roadblock to try to find witnesses. The roadblock was located on the same stretch of highway and in the same direction as the accident. It also took place at about the same time. The Court described the roadblock procedure as follows:

Police cars with flashing lights partially blocked the eastbound lanes of the highway. The blockage forced traffic to slow down, leading to lines of up to 15 cars in each lane. As each vehicle drew up to the checkpoint, an officer would stop it for 10 to 15 seconds, ask the occupants whether they had seen anything happen there the previous weekend, and hand each driver a flyer.

As a minivan approached the checkpoint, it swerved, nearly hitting one of the officers. It was quickly determined that the driver, Robert Lidster, was DUI. Lidster was arrested and subsequently convicted.

DISCUSSION

Lidster contended the roadblock constituted an unlawful detention and, therefore, the officers' observations and other evidence resulting from the stop should have been suppressed. Lidster's argument was based on an earlier Supreme Court case, *Indianapolis v. Edmond*,¹ in which the Court ruled that officers could not set up roadblocks in hopes of apprehending motorists who were using or transporting drugs.

But, as the Court in *Lidster* pointed out, there is a big difference between an *Edmond*'s "crime control" roadblock whose purpose is to apprehend criminals, and a *Lidster* "information-seeking" roadblock whose purpose is to locate witnesses to a crime.

The main difference is that "crime control" roadblocks are essentially investigative detentions which are unlawful unless officers are aware of facts establishing reasonable suspicion to believe the driver or other occupant is involved in criminal activity.² That is why the roadblock in *Edmond* was unlawful—it was plainly a fishing expedition.

In contrast, an "information seeking" roadblock belongs to the category of stops known as "special needs" detentions. These are detentions that are justified by some legitimate law enforcement objective other than the need to temporarily stop and question a suspect.³ And while investigative detentions require reasonable suspicion,

¹ (2000) 531 US 32.

² See *Alabama v. White* (1990) 496 US 325, 329-30; *United States v. Sokolow* (1989) 490 US 1, 7; *People v. Bell* (1996) 43 Cal.App.4th 754, 761.

³ See *Illinois v. McArthur* (2001) 531 US 326, 330 ["When faced with special law enforcement needs . . . the Court has found that certain general, or individual circumstances may render warrantless search or seizure reasonable."]; *Indianapolis v. Edmond* (2000) 531 US 32, 37 ["(W)e have upheld certain regimes of suspicionless searches where the program was designed to serve special needs, beyond the normal need for law enforcement."]; *Michigan v. Summers* (1981) 452 US 692, 700 ["limited intrusions" not supported by probable cause "may be justified by special law enforcement interests"].

special needs detentions are permitted if the need for the detention outweighs its intrusiveness.⁴

Consequently, to determine the legality of the roadblock in *Lidster*, it was necessary for the Court to balance the need for the roadblock against its intrusiveness. As for need, the court noted the following: (1) the crime was serious—it resulted in a death; (2) the need for the information was great because it appears the investigation into the hit-and-run had stalled; and (3) the roadblock was reasonably likely to turn up a witness because, as the Court observed, “The stops took place about a week after the hit-and-run accident, on the same highway near the location of the accident, and at about the same time of night.” Furthermore, officers believed that “motorists routinely leaving work after night shifts at nearby industrial complexes might have seen something relevant.”

Balanced against the strong need for the roadblock was its intrusiveness which, while not insignificant, was minimal. In the words of the Court:

Viewed objectively, each stop required only a brief wait in line—a very few minutes at most. Contact with the police lasted only a few seconds. Police contact consisted simply of a request for information and the distribution of a flyer. Viewed subjectively, the contact provided little reason for anxiety or alarm. The police stopped all vehicles systematically. And there is no allegation here that the police acted in a discriminatory or otherwise unlawful manner while questioning motorists during stops.

Consequently, the Court ruled the roadblock was lawful.

⁴ See *People v. Matelski* (2000) 82 Cal.App.4th 837, 849; *Michigan v. Summers* (1981) 452 US 692, 699; *Michigan State Police v. Sitz* (1990) 496 US 444, 449-50; *Indianapolis v. Edmond* (2000) 531 US 32, 47 [“The constitutionality of such checkpoint programs still depends on a balancing of the competing interests at stake and the effectiveness of the program.”]; *Ingersoll v. Palmer* (1987) 43 Cal.3d 1321, 1329 [“The federal test for determining whether a detention or seizure is justified balances the public interest served by the seizure, the degree to which the seizure advances the public interest and the severity of the interference with individual liberty. ¶ California constitutional principles are based on the same considerations, i.e., balancing the governmental interests served against the intrusiveness of the detention.”]; *People v. Glaser* (1995) 11 Cal.4th 354, 363-4; *People v. Samples* (1996) 48 Cal.App.4th 1197, 1206; *People v. Hannah* (1996) 51 Cal.App.4th 1335, 1342.