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Hannah Dunn

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IGNORANCE OF THE LAW IS NO EXCUSE— UNLESS YOU'RE A COP

*Hannah Dunn**

I. INTRODUCTION

Most are familiar with the Roman-originated maxim *ignorantia juris non excusat*—which, roughly translated, means “ignorance of the law is no excuse.”¹ Courts generally follow this concept, codified in Section 2.02(9) of the Model Penal Code, which provides, “knowledge of the law defining the offense is not itself an element of the offense.”² Yet a recent Supreme Court case decided that a police officer’s objectively reasonable mistake of law is indeed an excuse sufficient to fulfill the reasonable suspicion needed to stop a vehicle under the Fourth Amendment.³ The Court has previously found that a “reasonable ‘ignorance of the law’ can be a defense to prosecution,”⁴ but the ruling is rarely applied.⁵

In 2014, the Supreme Court once again deviated from *ignorantia juris non excusat* in *Heien v. North Carolina*⁶ by finding a police officer’s “reasonable” mistake of law adequate to satisfy the reasonable suspicion required for a traffic stop under the Fourth Amendment.⁷

This Comment argues that because ignorance of the law is generally not an excuse for citizens, courts should hold police

* J.D. Candidate, May 2016, Loyola Law School, Los Angeles; B.A. Political Science, Loyola Marymount University, May 2013. I am eternally grateful to those who made this Comment possible: Professor Laurie Levenson, for her legal expertise and unparalleled support of her students; the editors and staff members of the *Loyola of Los Angeles Law Review* for their dedicated and detailed proofreading, especially Mark Swiech, Justin Potesta, Kami LaBerge, Yungmoon Chang, Caitlyn Kuhs, and Arthur Four; and to my parents.

1. *Ignorantia juris non excusat*, BLACK’S LAW DICTIONARY (10th ed. 2014).

2. MODEL PENAL CODE § 2.02 note (AM. LAW INST. 2014) (Subsection (9)).

3. *Heien v. North Carolina*, 135 S. Ct. 530, 532 (2014).

4. *Lambert v. California*, 355 U.S. 225, 225 (1957).

5. Rory Little, *Opinion Analysis: Reasonable Mistakes of Law by Police Do Not Violate the Fourth Amendment*, SCOTUSBLOG (Dec. 15, 2014, 7:17 PM), <http://www.scotusblog.com/2014/12/opinion-analysis-reasonable-mistakes-of-law-by-police-do-not-violate-the-fourth-amendment/>.

6. 135 S. Ct. 530 (2014).

7. *Id.* at 532.

officers to the same standards—thus the Supreme Court should not have found the police officer’s objectively reasonable mistake of law enough to support the reasonable suspicion needed to stop a vehicle under the Fourth Amendment. Part II of this Comment traces *Heien*’s journey to the Supreme Court, and Part III reviews the historical background of the Fourth Amendment and the reasonable suspicion standard. Part IV analyzes the Court’s conclusion, and Part V discusses why the Court should not have set such a loose standard. Lastly, Part VI addresses the potential ramifications of allowing police officers too much leeway regarding their knowledge of the law.

II. STATEMENT OF THE CASE

A. Facts

On April 29, 2009, North Carolina police officer Sergeant Matt Darisse began following a Ford Escort after noting the driver looked “very stiff and nervous.”⁸ After noticing the Escort only had one functioning brake light, Sergeant Darisse pulled the vehicle over.⁹ Two men were in the car: the driver—Maynor Javier Vasquez, and the owner of the vehicle—Nicholas Brady Heien.¹⁰ Sergeant Darisse explained that as “long as [Vasquez’s] license and registration checked out, he would receive only a warning ticket for the broken brake light.”¹¹ Despite no problems with the record check, Sergeant Darisse became suspicious of Vasquez, who appeared nervous.¹² Vasquez agreed to answer Sergeant Darisse’s questions, and Heien gave consent for Sergeant Darisse to search the car.¹³ During the search, Sergeant Darisse and a fellow officer discovered a sandwich bag of cocaine in the vehicle.¹⁴

B. Procedural History

North Carolina “charged Heien with attempted trafficking in cocaine.”¹⁵ Heien moved to suppress the cocaine seized from the

8. *Id.* at 534.

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.* at 535.

vehicle, arguing that the stop and subsequent search violated his Fourth Amendment rights.¹⁶ The State played a video recording of the stop, and both police officers testified at an evidentiary hearing, where the trial court denied the suppression motion and decided the search was valid.¹⁷ The North Carolina Court of Appeals reversed, noting the initial stop was not valid because “driving with only one working brake light was not actually a violation of North Carolina law,” therefore there was no justification for the stop.¹⁸ The State appealed, and the North Carolina Supreme Court reversed on the ground that Sergeant Darisse’s mistake of law was reasonable.¹⁹ The United States Supreme Court then granted certiorari.²⁰

III. THE FOURTH AMENDMENT AND THE REASONABLE SUSPICION STANDARD

The Fourth Amendment of the United States Constitution provides, “the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.”²¹ As the decision in *Heien* notes, “a traffic stop for a suspected violation of law is a ‘seizure’ . . . and therefore must be conducted in accordance with the Fourth Amendment.”²² In order to justify a traffic stop “seizure,” officers need “‘reasonable suspicion’—that is, ‘a particularized and objective basis for suspecting the particular person stopped’” has broken the law.²³

Even so, as the Court has long emphasized, and does so again in *Heien*, “the ultimate touchstone of the Fourth Amendment is ‘reasonableness.’”²⁴ Reasonable individuals make mistakes of law; thus, reasonable mistakes of law should not trigger Fourth Amendment violations.²⁵ The Supreme Court has excused reasonable mistakes of fact to render warrantless searches compatible with the Fourth Amendment, and *Heien* argues that there is no reason the

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.* at 536.

20. *Id.*

21. U.S. CONST. amend. IV.

22. *Heien*, 135 S. Ct. at 536.

23. *Id.* (quoting *Navarette v. California*, 134 S. Ct. 1683, 1687–88 (2014)).

24. *Id.* (quoting *Riley v. California*, 134 S. Ct. 2473, 2482 (2014)).

25. *Id.* at 537.

outcome should differ when stemming from a reasonable mistake of law.²⁶

IV. REASONING OF THE COURT

Chief Justice Roberts wrote the majority opinion for *Heien*, which affirmed the North Carolina Supreme Court's judgment in an 8-1 decision.²⁷ Justice Kagan, joined by Justice Ginsberg, filed a concurrence, and Justice Sotomayor wrote a dissent.²⁸ *Heien*'s majority opinion focused on applying the same reasonableness standard used for mistake of fact to similarly situated "reasonable" mistakes of law.²⁹ Both the majority and the dissent emphasized that the Court had not yet established a precedent for the "reasonable mistake of law question," but dating back to 1809, the Supreme Court held "a reasonable mistake of law about probable cause permitted a customs seizure under a federal statute."³⁰

Although customs cases are not "directly on point" for this particular constitutional question, *Heien* instead highlighted that no Court decision has "undermined that understanding that reasonable mistakes of law can excuse governmental action."³¹ In more recent cases, such as *Michigan v. DeFillippo*,³² the Supreme Court found no Fourth Amendment violation even when the governmental search in question was based on a state statute later found unconstitutional.³³

The Court rejected the proposition to "limit the Court's ruling solely [to] the exclusionary rule," which likely was an attempt by *Heien*'s attorney to "preserve . . . relief for *Heien* on remand" as North Carolina does not read a good faith exception into the exclusionary rule.³⁴ The Supreme Court found *DeFillippo* to be an explicit decision regarding the meaning of probable cause; therefore,

26. See, e.g., *Illinois v. Rodriguez*, 497 U.S. 177, 183–86 (1990) (holding that the warrantless search of a home remains lawful when undertaken with the consent of someone who reasonably appears to be, but is not, a resident); *Hill v. California*, 401 U.S. 797, 802–05 (1971) (holding that a mistaken arrest of an individual matching a suspect's description is lawful); *Brinegar v. United States*, 338 U.S. 160, 176 (1949) (allowing government officials to make mistakes by giving them "fair leeway for enforcing the law in the community's protection").

27. *Heien*, 135 S. Ct. at 532.

28. *Id.*

29. *Id.* at 532–33.

30. Little, *supra* note 5 (quoting another source).

31. *Id.* (internal quotation marks omitted).

32. 443 U.S. 31 (1979).

33. *Id.* at 40.

34. Little, *supra* note 5 (alteration in original) (quoting another source).

its holding about reasonable mistakes of law cannot be converted to apply as an exclusionary rule decision.³⁵

V. ANALYSIS

A. Sergeant Darisse's Mistake of Law Was Not Adequate to Satisfy Reasonable Suspicion

As Justice Kagan's concurrence points out, any reasonable mistake of law must involve a statute that poses "a 'really difficult' or 'very hard question of statutory interpretation.'"³⁶ The North Carolina statute in question provides, in its relevant part, that each car must be:

[E]quipped with a stop lamp on the rear of the vehicle. The stop lamp shall display a red or amber light visible from a distance of not less than 100 feet to the rear in normal sunlight, and shall be actuated upon application of the service (foot) brake. The stop lamp may be incorporated into a unit with one or more rear lamps.³⁷

The majority opinion focuses on the language of the statute, concluding that because the "stop lamp" can be used with "one or more other rear lamps" and another subsection "of the same provision requires that vehicles 'have all originally equipped rear lamps or the equivalent in good working order,'" all stop lamps on a vehicle must work.³⁸ Because of this alleged ambiguity, the Supreme Court found the mistake of law to be reasonable.³⁹ Justice Kagan came to the same conclusion, stating, "the Court's analysis of Sergeant Darisse's interpretation of the North Carolina law at issue here appropriately reflects these principles," namely that the law poses a complex question of statutory interpretation.⁴⁰

The above analysis is not supported by the simplicity of the North Carolina statute. In order to comply, a vehicle must be equipped with "*a* stop lamp"—not stop *lamps*, but a singular, functional stop lamp.⁴¹ The language of the statute makes it explicitly clear—one stop lamp must be working. The Supreme

35. *Id.*

36. *Heien v. North Carolina*, 135 S. Ct. 530, 541 (2014) (Kagan, J., concurring).

37. *Id.* at 535 (majority opinion) (citing N.C. GEN. STAT. § 20-129(g) (2007)).

38. *Id.* at 540.

39. *Id.*

40. *Id.* at 541 (Kagan J., concurring).

41. *Id.* at 532 (majority opinion) (emphasis added) (citations omitted).

Court has faced exceedingly complex and challenging questions of statutory interpretation since its inception. The opinion admits outright that the “North Carolina statute at issue refers to ‘a stop lamp,’ suggesting the need for only a single working brake light.”⁴² The interpretation that the statute also could mean all brake lights must work does not reconcile with the wording of “a” brake light. Even if the law were difficult to interpret, the burden lies on the government and law enforcement to interpret correctly—if not, no laws governing their actions would exist.

B. Ignorance of the Law Is No Excuse

Ignorantia juris non excusat is “commonly rendered” in English as “ignorance of the law is no excuse.”⁴³ Glanville Williams asserts this maxim as “almost the only knowledge of law possessed by many people.”⁴⁴ *Heien* recognizes this widely recognized maxim and gives some weight to the defense’s argument that it is “fundamentally unfair to let police officers get away with mistakes of law when the citizenry is accorded no such leeway.”⁴⁵ The Court finds this maxim to be misunderstood: what it really means is that because an individual cannot get away with criminal activity based on lack of or misunderstanding of the law, the government “cannot impose criminal liability based on a mistaken understanding of the law.”⁴⁶ Aside from the thin nature of this line of reasoning, it is not applicable to the circumstances in *Heien*. The primary issue is not the government imposing criminal liability based on a mistaken understanding of the law, it is the acceptance of a police officer’s mistake of law to fulfill a standard necessary to take governmental action in the first place.

C. Ignorance of the Law Is an Excuse, Sometimes

While ignorance of the law is widely known to not be an excuse, the Supreme Court has previously allowed ignorance as an excuse.⁴⁷ Post-*Heien*, Twitter users were quick to post tweets “claiming that [*Heien*’s] ruling means the maxim applies to everyone except the

42. *Id.* at 540 (emphasis added).

43. BLACK’S LAW DICTIONARY, *supra* note 1.

44. *Id.* (quoting GLANVILLE WILLIAMS, TEXTBOOK OF CRIMINAL LAW 405 (1978)).

45. *Heien*, 135 S. Ct. at 540.

46. *Id.*

47. Little, *supra* note 5.

police.”⁴⁸ Rory Little points out that this is inaccurate, and begs to put the “trending, but erroneous, sound bite to rest.”⁴⁹ Little references *Lambert v. California*,⁵⁰ in which the defendant was convicted under a Los Angeles city ordinance requiring all previously convicted felons to register if they remained in the city for more than five days.⁵¹ The Supreme Court found that because Lambert could not reasonably have known the law in question, her ignorance excused the violation.⁵²

The *Lambert* ruling bears no influence on *Heien*. Although in *Lambert*’s dissent Justice Frankfurter called the ruling “a derelict on the waters of the law,” the decision has never been read broadly and has rarely been applied.⁵³ Furthermore, *Lambert* involves the Supreme Court’s misunderstanding of the law—not a private citizen’s, or a police officer’s.⁵⁴ The reasonable mistake of law exception exists for situations such as *Lambert*—not for simple statutory interpretation as in *Heien*.

D. Giving Law Enforcement More Leeway: A Slippery Slope

It may seem as if Sergeant Darisse’s mistake of law was reasonable and arguably even harmless. The facts of the case cannot be denied: Vasquez and Heien consented to Sergeant Darisse’s search of the vehicle, and Heien has no legal or constitutional right to possess a controlled substance such as cocaine. Thus, it could be easy to conclude that while the search may not have been obtained through constitutional means, no real privacy rights were invaded. But this is a dangerous argument that sets a precarious precedent.

Law enforcement officials serve a vital role in protection and maintenance of the community. Nevertheless, limits on their power exist as safeguards of constitutional rights. Left unchecked, police officers have a tremendous amount of power and control at their fingertips. Recent events have only reinforced this point.

In 2009, San Diego police officers pulled over David Leon Riley and, following policy, towed and impounded his vehicle due to

48. *Id.*

49. *Id.*

50. 355 U.S. 225 (1957).

51. *Id.* at 226–37.

52. *Id.* at 229.

53. Little, *supra* note 5.

54. *Id.*

Riley's suspended license.⁵⁵ The police officers performed an inventory search, which produced two handguns.⁵⁶ After arresting Riley, the officer searched Riley's cell phone without a warrant.⁵⁷ Riley challenged the search of his cell phone as a violation of his Fourth Amendment rights.⁵⁸ Modern cell phones are capable of holding an immense amount of information, much like a computer. Although the decision in *Riley* ruled that a warrantless search and seizure of the contents of a cell phone is unconstitutional,⁵⁹ the police officers believed they had the authority to conduct the search in the first place. Giving law enforcement more wiggle room to perform warrantless searches and seizures will only lead to more constitutional violations, as seen in *Riley*.

Police brutality also looms on the horizon as a rapidly growing problem. In 2014, police officer Darren Wilson fatally shot 18-year-old unarmed Michael Brown in Ferguson, Missouri,⁶⁰ sparking community tension and leading to protests and civil unrest.⁶¹ About one month earlier, Eric Garner died in New York City after a police officer held Garner in a chokehold during an arrest.⁶² And on September 9th, 2015, retired professional tennis player James Blake was tackled and violently handcuffed by an undercover police officer that mistakenly believed Blake to be a suspect in a fraud investigation.⁶³ All of the cases involved African American individuals and white police officers—race plays an enormous role in police brutality instances and is a subject far beyond the scope of this Comment. Yet giving the police more leeway and protection from constitutional violation accusations provides the power to continue violating constitutional freedoms.

55. *Riley v. California*, 134 S. Ct. 2473, 2480 (2014).

56. *Id.*

57. *Id.*

58. *Id.* at 2495.

59. *Id.* at 2485.

60. DEP'T OF JUSTICE, REPORT REGARDING THE CRIMINAL INVESTIGATION INTO THE SHOOTING OF MICHAEL BROWN BY FERGUSON, MISSOURI POLICE OFFICER DARREN WILSON 4 (2015), http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/doj_report_on_shooting_of_michael_brown_1.pdf.

61. Jack Healy, *Ferguson, Still Tense, Grows Calmer*, N.Y. TIMES (Nov. 26, 2014), <http://www.nytimes.com/2014/11/27/us/michael-brown-darren-wilson-ferguson-protests.html>.

62. Joseph Goldstein & Nate Schweber, *Man's Death After Chokehold Raises Old Issue for the Police*, N.Y. TIMES (July 18, 2014), <http://www.nytimes.com/2014/07/19/nyregion/staten-island-man-dies-after-he-is-put-in-chokehold-during-arrest.html>.

63. Liz Robbins & Al Baker, *James Blake, Retired Tennis Pro, Says Police Pushed Him Down; Inquiry Is Opened*, N.Y. TIMES (Sept. 9, 2015), <http://www.nytimes.com/2015/09/10/nyregion/episode-involving-retired-tennis-pro-is-being-investigated-police-say.html>.

VI. CONCLUSION

The Supreme Court should not have found Sergeant Darisse's "reasonable" mistake of law sufficient to fulfill the reasonable suspicion necessary to justify the stop of Heien's vehicle. The reasonable mistake of law exception exists to answer difficult and convoluted questions of statutory interpretation, not to ponder how many brake lights must work to comply with a statute that requires one working brake light. Additionally, ignorance of the law is not an excuse for citizenry, and therefore should not be an excuse for law enforcement. Giving this much leeway chips away at citizens' faith in the law enforcement system, and leads to an imbalance in power between citizens and police officers. The exception was improperly applied, and the decision gives too much flexibility to police officers; such a precedent could prove fatal to the foundation of the constitutional rights awarded by the Fourth Amendment.

