

**Summary of SC90971, *State of Missouri v. Matthew T. Grayson***

Appeal from the Phelps County circuit court, Judge Mary W. Sheffield  
Argued and submitted Dec. 7, 2010; opinion issued March 29, 2011

**Attorneys:** Grayson was represented by Alexa I. Pearson of the public defender's office in Columbia, (573) 882-9855, and the state was represented by Terrence M. Messonnier of the attorney general's office in Jefferson City, (573) 751-3321.

*This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.*

**Overview:** A man convicted of possession of a controlled substance appeals his conviction on grounds that the trial court erred in overruling his motion to suppress a bag of methamphetamine that was entered into evidence at his trial. In a unanimous decision written by Judge Laura Denvir Stith, the Supreme Court of Missouri reverses the man's conviction. The Court holds that the man was seized unreasonably in violation of his Fourth Amendment rights and that the trial court erred in admitting the bag of methamphetamine because it was derived from that illegal seizure.

**Facts:** A Phelps County sheriff's department officer was patrolling the Newburg area in Phelps County when he received a dispatch that a possible drunken driver had left a nearby address on West Fifth Street in a red Ford pickup truck. The dispatcher also gave the name of the suspect, Terry Reed, whom the officer knew, and stated that Reed had an outstanding parole warrant. The information for the dispatch came from an anonymous tip. The officer did not see a red Ford truck at and near the location mentioned, but one-half mile away he saw a red Mazda pickup truck being driven by someone who resembled Reed. He pulled over the truck although its driver committed no traffic violations and there was no sign that the driver was intoxicated. He immediately realized the driver, Matthew Grayson, was not the subject of the tip but decided he would hold Grayson anyway to see if he happened to have a current warrant. Learning of a municipal warrant, he arrested Grayson and transported him to jail. The officer later found a small bag of methamphetamine under the patrol car's back seat, and Grayson was charged with possession of a controlled substance. At trial, the bag of methamphetamine was admitted into evidence over Grayson's objections, and he was convicted. Grayson appeals.

**REVERSED.**

**Court en banc holds:** (1) The officer unreasonably seized Grayson when he stopped Grayson without reasonable suspicion and prolonged the stop thereafter to run Grayson's name for warrants. The Fourth Amendment to the United States Constitution guarantees the right of the people to be secure against unreasonable searches and seizures. The officer detained Grayson by compelling him to pull his vehicle over to the side of the road for questioning. This constitutes a seizure that implicates the Fourth Amendment. Under the principles set out in *Terry v. Ohio*, 392 U.S. 1 (1968), where a police officer observes unusual conduct that leads him reasonably to conclude in light of his experience that criminal activity may be afoot, the officer may stop the suspicious person briefly and make reasonable inquiries aimed at confirming or dispelling his

suspicious. Here, the initial stop was made without reasonable suspicion. The evidence showed that the police had received an anonymous tip that a person named Terry Reed was possibly drunk and had just left a specific address driving a red Ford pickup on West Fifth Street. A few minutes later, the officer saw a red Mazda truck on Main Street, being driven by a person who he thought resembled Reed, who was known to the officer. The officer followed the red Mazda truck, which did not weave or otherwise show indications that it was being driven by an intoxicated driver. Neither did the red Mazda violate any traffic law, nor did the driver otherwise act in a criminal manner. The mere fact that Grayson was driving a red truck, without more, did not provide a basis for reasonable suspicion to stop his vehicle. The stop was unjustified. Moreover, the officer's continued detention of Grayson to check for warrants also was an unreasonable seizure because at the point the officer saw the truck's driver was Grayson and not Terry Reed, all plausible suspicion on which to premise continuing the traffic stop was dispelled completely.

(2) The trial court erred in admitting into evidence the bag of methamphetamine. When the police seize evidence in violation of the Fourth Amendment, the general rule is that the evidence is inadmissible at trial. Once it is determined that the illegality is the "but for" cause of obtaining the evidence, the evidence nevertheless may be admissible if the connection between the illegality and acquisition of the evidence is sufficiently remote. The United States Supreme Court has held that three factors must be considered in evaluating attenuation: (1) the temporal proximity of the illegality and the acquisition of the derivative evidence; (2) the presence of intervening circumstances; and (3) the flagrancy of the official misconduct. Here, all three factors favor exclusion. The temporal proximity of the illegal seizure to the arrest and discovery of the methamphetamine was immediate, the existence of the warrant was an intervening circumstance favoring admission, and the nature of the officer's misconduct was flagrant. As such, attenuation was not applicable. In addition, the evidence was not admissible under the independent source rule as it was obtained by taking advantage of the direct chain of events arising from the illegal seizures. Similarly, the inevitable discovery rule does not apply because there is no showing that, absent the illegal stop, the officer would have obtained the bag of methamphetamine lawfully.