

Warrantless Retrieval of Electronic Automobile Data Held to Be Unreasonable Search – Ruling Points to Private Nature of Digital Data Collected in Today’s World

New Media and Technology Law Blog on **October 21, 2019**

The Georgia Supreme Court ruled that the retrieval of electronic automobile data from an electronic data recording device (e.g., airbag control modules) without a warrant at the scene of a fatal collision was a search and seizure that implicates the Fourth Amendment, regardless of any reasonable expectations of privacy. ([Moblely v. State](#), No. S18G1546 (Ga. Oct. 21, 2019)). The Court went on to hold that such retrieval of data was an unreasonable search and seizure forbidden by the Fourth Amendment, and that because the State failed to identify any recognized exception to the warrant requirement applicable to the facts, the trial court should have granted the motion to suppress. As such, the judgment of the Court of Appeals affirming the conviction of the defendant for vehicular homicide was reversed.

As described in an [earlier post](#), the defendant was convicted of vehicular homicide based on evidence retrieved from his vehicle’s electronic data that showed that he was travelling at a high rate of speed prior to the accident. The defendant appealed the decision of the trial court (which was [affirmed by the appellate court](#)) that denied his motion to suppress evidence of the data that law enforcement officers retrieved without a warrant from an electronic data recording device on his vehicle (note: a search warrant was obtained for the physical device the next day).

Putting aside the state criminal procedural issues and the sufficiency of the evidence against the particular defendant in this case, the decision is an important follow-up to the Supreme Court's guidance in the area of digital privacy that it set out in recent years in the [Riley](#) and [Carpenter](#) decisions. With cars becoming more like computers and sensors on four wheels, automated automobile data may potentially be viewed as sensitive as certain types of private data collected by mobile devices. With the advent of autonomous cars, the *Mobley* court recognized how one's private sphere can extend beyond the home and, depending on the factual circumstances and the nature of the search, may include automated data collected by one's devices (both small, like a mobile phone, and large, as an automobile). With new technologies like digital personal assistants and the coming of 5G and the supposed Internet of Things (IoT) revolution of connectedness, we imagine these issues will coming up more and more in the coming years.

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