SUPREME COURT OF THE UNITED STATES

No. 01–631

UNITED STATES, PETITIONER *v.* CHRISTOPHER DRAYTON AND CLIFTON BROWN, JR.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

[June 17, 2002]

JUSTICE KENNEDY delivered the opinion of the Court.

The Fourth Amendment permits police officers to approach bus passengers at random to ask questions and to request their consent to searches, provided a reasonable person would understand that he or she is free to refuse. *Florida* v. *Bostick,* 501 U. S. 429 (1991). This case requires us to determine whether officers must advise bus passengers during these encounters of their right not to cooperate.

I

On February 4, 1999, respondents Christopher Drayton and Clifton Brown, Jr., were traveling on a Greyhound bus en route from Ft. Lauderdale, Florida, to Detroit, Michigan. The bus made a scheduled stop in Tallahassee, Florida. The passengers were required to disembark so the bus could be refueled and cleaned. As the passengers reboarded, the driver checked their tickets and then left to complete paperwork inside the terminal. As he left, the driver allowed three members of the Tallahassee Police Department to board the bus as part of a routine drug and weapons interdiction effort. The officers were dressed in

plain clothes and carried concealed weapons and visible badges.

Once onboard Officer Hoover knelt on the driver's seat and faced the rear of the bus. He could observe the passengers and ensure the safety of the two other officers without blocking the aisle or otherwise obstructing the bus exit. Officers Lang and Blackburn went to the rear of the bus. Blackburn remained stationed there, facing forward. Lang worked his way toward the front of the bus, speaking with individual passengers as he went. He asked the passengers about their travel plans and sought to match passengers with luggage in the overhead racks. To avoid blocking the aisle, Lang stood next to or just behind each passenger with whom he spoke.

According to Lang's testimony, passengers who declined to cooperate with him or who chose to exit the bus at any time would have been allowed to do so without argument. In Lang's experience, however, most people are willing to cooperate. Some passengers go so far as to commend the police for their efforts to ensure the safety of their travel. Lang could recall five to six instances in the previous year in which passengers had declined to have their luggage searched. It also was common for passengers to leave the bus for a cigarette or a snack while the officers were on board. Lang sometimes informed passengers of their right to refuse to cooperate. On the day in question, however, he did not.

Respondents were seated next to each other on the bus. Drayton was in the aisle seat, Brown in the seat next to the window. Lang approached respondents from the rear and leaned over Drayton's shoulder. He held up his badge long enough for respondents to identify him as a police officer. With his face 12-to-18 inches away from Drayton's, Lang spoke in a voice just loud enough for respondents to hear:

> "I'm Investigator Lang with the Tallahassee Police Department. We're conducting bus interdiction [sic], attempting to deter drugs and illegal weapons being transported on the bus. Do you have any bags on the bus?" App. 55.

Both respondents pointed to a single green bag in the overhead luggage rack. Lang asked, "Do you mind if I check it?," and Brown responded, "Go ahead." *Id.,* at 56. Lang handed the bag to Officer Blackburn to check. The bag contained no contraband.

Officer Lang noticed that both respondents were wearing heavy jackets and baggy pants despite the warm weather. In Lang's experience drug traffickers often use baggy clothing to conceal weapons or narcotics. The officer thus asked Brown if he had any weapons or drugs in his possession. And he asked Brown: "Do you mind if I check your person?" Brown answered, "Sure," and cooperated by leaning up in his seat, pulling a cell phone out of his pocket, and opening up his jacket. *Id.,* at 61. Lang reached across Drayton and patted down Brown's jacket and pockets, including his waist area, sides, and upper thighs. In both thigh areas, Lang detected hard objects similar to drug packages detected on other occasions. Lang arrested and handcuffed Brown. Officer Hoover escorted Brown from the bus.

Lang then asked Drayton, "Mind if I check you?" *Id.,* at 65. Drayton responded by lifting his hands about eight inches from his legs. Lang conducted a pat-down of Drayton's thighs and detected hard objects similar to those found on Brown. He arrested Drayton and escorted him from the bus. A further search revealed that respondents had duct-taped plastic bundles of powder cocaine between several pairs of their boxer shorts. Brown possessed three bundles containing 483 grams of cocaine. Drayton possessed two bundles containing 295 grams of cocaine.

Respondents were charged with conspiring to distribute cocaine, in violation of 21 U. S. C. §§841(a)(1) and 846, and with possessing cocaine with intent to distribute it, in violation of §841(a)(1). They moved to suppress the cocaine, arguing that the consent to the pat-down search was invalid. Following a hearing at which only Officer Lang testified, the United States District Court for the Northern District of Florida denied their motions to suppress. The District Court determined that the police conduct was not coercive and respondents' consent to the search was voluntary. The District Court pointed to the fact that the officers were dressed in plain clothes, did not brandish their badges in an authoritative manner, did not make a general announcement to the entire bus, and did not address anyone in a menacing tone of voice. It noted that the officers did not block the aisle or the exit, and stated that it was "obvious that [respondents] can get up and leave, as can the people ahead of them." App. 132. The District Court concluded: "[E]verything that took place between Officer Lang and Mr. Drayton and Mr. Brown suggests that it was cooperative. There was nothing coercive, there was nothing confrontational about it." *Ibid.*

The Court of Appeals for the Eleventh Circuit reversed and remanded with instructions to grant respondents' motions to suppress. 231 F. 3d 787 (2000). The court held that this disposition was compelled by its previous decisions in *United States* v. *Washington*, 151 F. 3d 1354 (1998), and *United States* v. *Guapi*, 144 F. 3d 1393 (1998). Those cases had held that bus passengers do not feel free to disregard police officers' requests to search absent "some positive indication that consent could have been refused." *Washington*, *supra,* at 1357.

We granted certiorari. 534 U. S. 1074 (2002). The respondents, we conclude, were not seized and their consent to the search was voluntary; and we reverse.

II

Law enforcement officers do not violate the Fourth Amendment's prohibition of unreasonable seizures merely by approaching individuals on the street or in other public places and putting questions to them if they are willing to listen. See, *e.g., Florida* v. *Royer,* 460 U. S. 491, 497 (1983) (plurality opinion); see *id.,* at 523, n. 3 (REHNQUIST, J., dissenting); *Florida* v. *Rodriguez,* 469 U. S. 1, 5–6 (1984) *(per curiam)* (holding that such interactions in airports are "the sort of consensual encounter[s] that implicat[e] no Fourth Amendment interest"). Even when law enforcement officers have no basis for suspecting a particular individual, they may pose questions, ask for identification, and request consent to search luggage—provided they do not induce cooperation by coercive means. See *Florida* v. *Bostick,* 501 U. S., at 434–435 (citations omitted). If a reasonable person would feel free to terminate the encounter, then he or she has not been seized.

The Court has addressed on a previous occasion the specific question of drug interdiction efforts on buses. In *Bostick,* two police officers requested a bus passenger's consent to a search of his luggage. The passenger agreed, and the resulting search revealed cocaine in his suitcase. The Florida Supreme Court suppressed the cocaine. In doing so it adopted a *per se* rule that due to the cramped confines onboard a bus the act of questioning would deprive a person of his or her freedom of movement and so constitute a seizure under the Fourth Amendment.

This Court reversed. *Bostick* first made it clear that for the most part *per se* rules are inappropriate in the Fourth Amendment context. The proper inquiry necessitates a consideration of "all the circumstances surrounding the encounter." *Id.,* at 439. The Court noted next that the traditional rule, which states that a seizure does not occur so long as a reasonable person would feel free "to disre-

gard the police and go about his business," *California* v. *Hodari D.,* 499 U. S. 621, 628 (1991), is not an accurate measure of the coercive effect of a bus encounter. A passenger may not want to get off a bus if there is a risk it will depart before the opportunity to reboard. *Bostick*, 501 U. S., at 434–436. A bus rider's movements are confined in this sense, but this is the natural result of choosing to take the bus; it says nothing about whether the police conduct is coercive. *Id.,* at 436. The proper inquiry "is whether a reasonable person would feel free to decline the officers' requests or otherwise terminate the encounter." *Ibid.* Finally, the Court rejected Bostick's argument that he must have been seized because no reasonable person would consent to a search of luggage containing drugs. The reasonable person test, the Court explained, is objective and "presupposes an *innocent* person." *Id.,* at 437–438.

In light of the limited record, *Bostick* refrained from deciding whether a seizure occurred. *Id.,* at 437. The Court, however, identified two factors "particularly worth noting" on remand. *Id.,* at 432. First, although it was obvious that an officer was armed, he did not remove the gun from its pouch or use it in a threatening way. Second, the officer advised the passenger that he could refuse consent to the search. *Ibid.*

Relying upon this latter factor, the Eleventh Circuit has adopted what is in effect a *per se* rule that evidence obtained during suspicionless drug interdiction efforts aboard buses must be suppressed unless the officers have advised passengers of their right not to cooperate and to refuse consent to a search. In *United States* v. *Guapi*, *supra,* the Court of Appeals described "[t]he most glaring difference" between the encounters in *Guapi* and in *Bostick* as "the complete lack of any notification to the passengers that they were in fact free to decline the search request. . . . Providing [this] simple notification . . . is

perhaps the most efficient and effective method to ensure compliance with the Constitution." 144 F. 3d, at 1395. The Court of Appeals then listed other factors that contributed to the coerciveness of the encounter: (1) the officer conducted the interdiction before the passengers disembarked from the bus at a scheduled stop; (2) the officer explained his presence in the form of a general announcement to the entire bus; (3) the officer wore a police uniform; and (4) the officer questioned passengers as he moved from the front to the rear of the bus, thus obstructing the path to the exit. *Id.,* at 1396.

After its decision in *Guapi* the Court of Appeals decided *United States* v. *Washington* and the instant case. The court suppressed evidence obtained during similar drug interdiction efforts despite the following facts: (1) the officers in both cases conducted the interdiction after the passengers had re-boarded the bus; (2) the officer in the present case did not make a general announcement to the entire bus but instead spoke with individual passengers; (3) the officers in both cases were not in uniform; and (4) the officers in both cases questioned passengers as they moved from the rear to the front of the bus and were careful not to obstruct passengers' means of egress from the bus.

Although the Court of Appeals has disavowed a *per se* requirement, the lack of an explicit warning to passengers is the only element common to all its cases. See *Washington*, 151 F. 3d, at 1357 ("It seems obvious to us that if police officers genuinely want to ensure that their encounters with bus passengers remain absolutely voluntary, they can simply say so. Without such notice in this case, we do not feel a reasonable person would have felt able to decline the agents' requests"); 231 F. 3d, at 790 (noting that "[t]his case is controlled by" *Guapi* and *Washington*, and dismissing any factual differences between the three cases as irrelevant). Under these cases, it appears that

the Court of Appeals would suppress any evidence obtained during suspicionless drug interdiction efforts aboard buses in the absence of a warning that passengers may refuse to cooperate. The Court of Appeals erred in adopting this approach.

Applying the *Bostick* framework to the facts of this particular case, we conclude that the police did not seize respondents when they boarded the bus and began questioning passengers. The officers gave the passengers no reason to believe that they were required to answer the officers' questions. When Officer Lang approached respondents, he did not brandish a weapon or make any intimidating movements. He left the aisle free so that respondents could exit. He spoke to passengers one by one and in a polite, quiet voice. Nothing he said would suggest to a reasonable person that he or she was barred from leaving the bus or otherwise terminating the encounter.

There were ample grounds for the District Court to conclude that "everything that took place between Officer Lang and [respondents] suggests that it was cooperative" and that there "was nothing coercive [or] confrontational" about the encounter. App. 132. There was no application of force, no intimidating movement, no overwhelming show of force, no brandishing of weapons, no blocking of exits, no threat, no command, not even an authoritative tone of voice. It is beyond question that had this encounter occurred on the street, it would be constitutional. The fact that an encounter takes place on a bus does not on its own transform standard police questioning of citizens into an illegal seizure. See *Bostick*, *supra,* at 439–440. Indeed, because many fellow passengers are present to witness officers' conduct, a reasonable person may feel even more secure in his or her decision not to cooperate with police on a bus than in other circumstances.

Respondents make much of the fact that Officer Lang displayed his badge. In *Florida* v. *Rodriguez,* 469 U. S., at

5–6, however, the Court rejected the claim that the defendant was seized when an officer approached him in an airport, showed him his badge, and asked him to answer some questions. Likewise, in *INS* v. *Delgado*, 466 U. S. 210, 212–213 (1984), the Court held that INS agents' wearing badges and questioning workers in a factory did not constitute a seizure. And while neither Lang nor his colleagues were in uniform or visibly armed, those factors should have little weight in the analysis. Officers are often required to wear uniforms and in many circumstances this is cause for assurance, not discomfort. Much the same can be said for wearing sidearms. That most law enforcement officers are armed is a fact well known to the public. The presence of a holstered firearm thus is unlikely to contribute to the coerciveness of the encounter absent active brandishing of the weapon.

Officer Hoover's position at the front of the bus also does not tip the scale in respondents' favor. Hoover did nothing to intimidate passengers, and he said nothing to suggest that people could not exit and indeed he left the aisle clear. In *Delgado*, the Court determined there was no seizure even though several uniformed INS officers were stationed near the exits of the factory. *Id.,* at 219. The Court noted: "The presence of agents by the exits posed no reasonable threat of detention to these workers, . . . the mere possibility that they would be questioned if they sought to leave the buildings should not have resulted in any reasonable apprehension by any of them that they would be seized or detained in any meaningful way." *Ibid.*

Finally, the fact that in Officer Lang's experience only a few passengers have refused to cooperate does not suggest that a reasonable person would not feel free to terminate the bus encounter. In Lang's experience it was common for passengers to leave the bus for a cigarette or a snack while the officers were questioning passengers. App. 70, 81. And of more importance, bus passengers answer

officers' questions and otherwise cooperate not because of coercion but because the passengers know that their participation enhances their own safety and the safety of those around them. "While most citizens will respond to a police request, the fact that people do so, and do so without being told they are free not to respond, hardly eliminates the consensual nature of the response." *Delgado*, *supra,* at 216.

Drayton contends that even if Brown's cooperation with the officers was consensual, Drayton was seized because no reasonable person would feel free to terminate the encounter with the officers after Brown had been arrested. The Court of Appeals did not address this claim; and in any event the argument fails. The arrest of one person does not mean that everyone around him has been seized by police. If anything, Brown's arrest should have put Drayton on notice of the consequences of continuing the encounter by answering the officers' questions. Even after arresting Brown, Lang addressed Drayton in a polite manner and provided him with no indication that he was required to answer Lang's questions.

We turn now from the question whether respondents were seized to whether they were subjected to an unreasonable search, *i.e.,* whether their consent to the suspicionless search was involuntary. In circumstances such as these, where the question of voluntariness pervades both the search and seizure inquiries, the respective analyses turn on very similar facts. And, as the facts above suggest, respondents' consent to the search of their luggage and their persons was voluntary. Nothing Officer Lang said indicated a command to consent to the search. Rather, when respondents informed Lang that they had a bag on the bus, he asked for their permission to check it. And when Lang requested to search Brown and Drayton's persons, he asked first if they objected, thus indicating to a reasonable person that he or she was free to refuse.

Even after arresting Brown, Lang provided Drayton with no indication that he was required to consent to a search. To the contrary, Lang asked for Drayton's permission to search him ("Mind if I check you?"), and Drayton agreed.

The Court has rejected in specific terms the suggestion that police officers must always inform citizens of their right to refuse when seeking permission to conduct a warrantless consent search. See, *e.g., Ohio* v. *Robinette,* 519 U. S. 33, 39–40 (1996); *Schneckloth* v. *Bustamonte,* 412 U. S. 218, 227 (1973). "While knowledge of the right to refuse consent is one factor to be taken into account, the government need not establish such knowledge as the *sine qua non* of an effective consent." *Ibid.* Nor do this Court's decisions suggest that even though there are no *per se* rules, a presumption of invalidity attaches if a citizen consented without explicit notification that he or she was free to refuse to cooperate. Instead, the Court has repeated that the totality of the circumstances must control, without giving extra weight to the absence of this type of warning. See, *e.g., Schneckloth, supra; Robinette, supra,* at 39–40. Although Officer Lang did not inform respondents of their right to refuse the search, he did request permission to search, and the totality of the circumstances indicates that their consent was voluntary, so the searches were reasonable.

In a society based on law, the concept of agreement and consent should be given a weight and dignity of its own. Police officers act in full accord with the law when they ask citizens for consent. It reinforces the rule of law for the citizen to advise the police of his or her wishes and for the police to act in reliance on that understanding. When this exchange takes place, it dispels inferences of coercion.

We need not ask the alternative question whether, after the arrest of Brown, there were grounds for a *Terry* stop and frisk of Drayton, though this may have been the case. It was evident that Drayton and Brown were traveling

together—Officer Lang observed the pair reboarding the bus together; they were each dressed in heavy, baggy clothes that were ill-suited for the day's warm temperatures; they were seated together on the bus; and they each claimed responsibility for the single piece of green carry-on luggage. Once Lang had identified Brown as carrying what he believed to be narcotics, he may have had reasonable suspicion to conduct a *Terry* stop and frisk on Drayton as well. That question, however, has not been presented to us. The fact the officers may have had reasonable suspicion does not prevent them from relying on a citizen's consent to the search. It would be a paradox, and one most puzzling to law enforcement officials and courts alike, were we to say, after holding that Brown's consent was voluntary, that Drayton's consent was ineffectual simply because the police at that point had more compelling grounds to detain him. After taking Brown into custody, the officers were entitled to continue to proceed on the basis of consent and to ask for Drayton's cooperation.

The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.