

US Court mulls whether DNA swabs violate privacy

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The US Supreme Court on Tuesday considered whether taking DNA swabs during an arrest violates privacy, in what one justice said was the court's "most important criminal procedure case" in decades.

The nine judges seemed split on the issue during the hearing to decide whether [civil liberties](#) trumped the interest of solving crimes.

Alonzo Jay King was arrested in April 2009 in Maryland for acts of aggression. A saliva sample was taken and sent to a lab, as allowed under Maryland law, without a warrant and even before the suspect had been indicted.

A month after the arrest, the [DNA analysis](#) came back, linking King to a sample taken from the victim of an unsolved rape.

With that [DNA evidence](#), King was convicted and received a life sentence—but he appealed, invoking the Constitution's Fourth Amendment, which protects against "unreasonable searches and seizures."

The Maryland appeals [court](#) agreed with him, saying the Fourth Amendment forbade taking the DNA sample without his permission or a warrant. Maryland, backed by the federal government, then took the case to the nation's top court.

"This is the most important criminal procedure case this Court has had in

decades," declared judge Samuel Alito.

"Why is this not fingerprinting of the 21st Century?" he asked, arguing that the procedure involves a very minimal intrusion for the suspect and that many murders and rapes could be solved using such evidence.

Michael Dreeben, a lawyer for the government, argued that "the state has a compelling interest in taking information from individuals arrested."

And [Justice](#) Anthony Kennedy seemed inclined to agree that the justice system had "an interest in knowing whether the person committed other crimes."

His conservative colleague Antonin Scalia argued that "the Fourth Amendment sometimes stands in the way."

But Chief Justice John Roberts, also a conservative, expressed concern that allowing samples to be taken during arrests could lead to a domino effect in which they would be taken from "anybody pulled over for a traffic violation."

And progressive justice Elena Kagan agreed, saying: "Just being arrested doesn't mean you lose your privacy expectations."

But fellow progressive Stephen Breyer took the opposite view, saying "we are not talking about people who drive a car," but people arrested for "felonies."

The high court is expected to give its decision before the end of June.

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