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Davis v. Mississippi, 89 S. Ct. 1394

United States Supreme Court case, decided 1969. The case held that the taking of **fingerprints** is covered by the Fourth Amendment prohibition against unreasonable searches and seizures.

Fourteen year-old John Davis was fingerprinted during a rape investigation in Meridian, Mississippi. The victim could give no description of her assailant other that that he was a "Negro youth." The police executed a "dragnet" investigation, interrogating suspects and taking fingerprints. Davis's fingerprints, which were recorded on two occasions, matched latent finger and palm prints taken from the scene of the crime. He was convicted and sentenced to life in prison. The Mississippi Supreme Court upheld the conviction.

On appeal, the state conceded that they did not have probable cause to arrest Davis at the time they took his fingerprints. The majority opinion, written by Justice William Brennan, held that Davis's fingerprint was the fruit of an illegal search, and the evidence, therefore, must be excluded from trial. Davis's conviction was reversed. The court made clear, however, that Fourth Amendment protection applied not to fingerprints themselves, the taking of which was not overly intrusive, but to the arrest in order to take fingerprints. Moreover, the apprehension without probable cause had involved an interrogation and a redundant second request for fingerprints. The Court left open the

possibility that the police could request or demand fingerprints from citizens with something less than probable cause, using "narrowly circumscribed procedures" (1398). Some states subsequently passed statutes authorizing detention for recording physical characteristics based on standards less than probable cause.

Justice Hugo Black dissented, viewing the decision as an excessive expansion of the scope of the Fourth Amendment. Justice Potter Stewart also dissented, calling the reversal a "useless gesture" (1399). Stewart argued that fingerprints were not "evidence" in the conventional sense because, even if they were "wrongfully seized," they could be "identically reproduced and lawfully used at any subsequent trial" (1399).

Today, the primary importance of *Davis* is in the context of DNA evidence. The legality of "DNA dragnets" has been much discussed, and *Davis* is one of the key precedents in that debate. While some scholars argue that *Davis* makes DNA dragnets unconstitutional, others argue that the decision's apparent allowance of limited detentions to record fingerprints would apply to DNA as well, especially if the DNA recorded were limited to non-diagnostic identifying characteristics, as opposed to the entire genome. ADDIN EN.CITE <EndNote><Cite><Author>Imwinkelried</Author><Year>2001</Year><RecNum>1200</RecNum><record><database name="Fprint-Converted.enl" path="/Users/scole/Documents/My Documents/BIBLIOGR/Fprint-Converted.enl">Fprint-Converted.enl</database><source-app name="EndNote" version="8.0">EndNote</source-app><rec-number>1200</rec-number><ref-type name="Journal Article">17</ref-type><contributors><authors><author><style face="normal" font="default" size="100%">Imwinkelried, Edward J.</style></author><author><style face="normal" font="default" size="100%">Kaye, David H.</

style></author></authors></contributors><titles><title><style face="normal" font="default" size="100%">DNA Typing: Emerging or Neglected Issues</style></title><secondary-title><style face="normal" font="default" size="100%">Washington Law Review</style></secondary-title></titles><periodical><full-title><style face="normal" font="default" size="100%">Washington Law Review</style></full-title></periodical><pages><style face="normal" font="default" size="100%">413-474</style></pages><volume><style face="normal" font="default" size="100%">76</style></volume><dates><year><style face="normal" font="default" size="100%">2001</style></year><pub-dates><date><style face="normal" font="default" size="100%">Apr.</style></date></pub-dates></dates><urls></urls></record></Cite></EndNote>

Further Reading

ADDIN EN.REFLIST Imwinkelried, Edward J., and David H. Kaye. "DNA Typing: Emerging or Neglected Issues." *Washington Law Review* 76 (2001): 413-74.

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