



LAW OFFICES OF
CHRISTOPHER W. MILLER
ATTORNEY AT LAW

PROTECTING THOSE WHO PROTECT AND SERVE

LABOR LAW • DISCIPLINE DEFENSE • EMPLOYMENT LITIGATION • CONTRACT NEGOTIATIONS • TRAINING

CLIENT BULLETIN

June 21, 2016

U.S. SUPREME COURT RULES LAW ENFORCEMENT MAY USE EVIDENCE FOUND AFTER ILLEGAL STOP

In a 5-3 decision marked by a ferocious dissent from Justice Sonia Sotomayor, the U.S. Supreme Court ruled Monday that officers may use evidence obtained from a search incident to arrest even when the evidence is found after an unconstitutional stop. The case, *Utah v. Strieff*, gives peace officers the ability to use evidence found in a search when there is an arrest warrant independent of the illegal investigatory stop.

The South Salt Lake City police officer who stopped Edward Strieff in 2006 lacked reasonable suspicion to believe he was engaged in crime. He had followed Strieff from a drug house, detained him for questioning in a parking lot, and arrested him after police dispatch told the officer Strieff had an outstanding traffic warrant. During a search incident to the arrest, however, the officer found methamphetamine and drug paraphernalia. Strieff moved to suppress that evidence; the State of Utah appealed to the U.S. Supreme Court after Utah's highest court ruled in Strieff's favor.

Relying on its own "attenuation doctrine", the Court held the officer's search was lawful because the traffic warrant – a separate basis for arrest – so "attenuated the connection between the unlawful stop and the evidence seized from Strieff incident to arrest" that the evidence was admissible. The Court emphasized the officer's actions had not been "flagrant", requiring suppression as a remedy for police misconduct.

The *Strieff* case teaches that an illegal investigatory stop – whether in a vehicle or on foot – need not result in the suppression of evidence that is otherwise lawfully seized pursuant to an independent arrest warrant. When there is no "purposeful or flagrant" police misconduct involved, the unconstitutional stop is likely to be deemed, in the Court's words, "at most negligent" or a "good-faith mistake[]".