SUPREME COURT OF THE UNITED STATES

No. 97–581

PENNSYLVANIA BOARD OF PROBATION AND PAROLE, PETITIONER *v.* KEITH M. SCOTT

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF PENNSYLVANIA, MIDDLE DISTRICT

[June 22, 1998]

JUSTICE THOMAS delivered the opinion of the Court.

This case presents the question whether the exclusionary rule, which generally prohibits the introduction at criminal trial of evidence obtained in violation of a defendant's Fourth Amendment rights, applies in parole revocation hearings. We hold that it does not.

I

Respondent Keith M. Scott pleaded *nolo contendere* to a charge of third-degree murder and was sentenced to a prison term of 10 to 20 years, beginning on March 31, 1983. On September 1, 1993, just months after completing the minimum sentence, respondent was released on parole. One of the conditions of respondent's parole was that he would refrain from "owning or possessing any firearms or other weapons." App. 5a. The parole agreement, which respondent signed, further provided:

> "I expressly consent to the search of my person, property and residence, without a warrant by agents of the Pennsylvania Board of Probation and Parole. Any

> items, in *[sic]* the possession of which constitutes a violation of parole/reparole shall be subject to seizure, and may be used as evidence in the parole revocation process." App. 7a.

About five months later, after obtaining an arrest warrant based on evidence that respondent had violated several conditions of his parole by possessing firearms, consuming alcohol, and assaulting a co-worker, three parole officers arrested respondent at a local diner. Before being transferred to a correctional facility, respondent gave the officers the keys to his residence. The officers entered the home, which was owned by his mother, but did not perform a search for parole violations until respondent's mother arrived. The officers neither requested nor obtained consent to perform the search, but respondent's mother did direct them to his bedroom. After finding no relevant evidence there, the officers searched an adjacent sitting room in which they found five firearms, a compound bow, and three arrows.

At his parole violation hearing, respondent objected to the introduction of the evidence obtained during the search of his home on the ground that the search was unreasonable under the Fourth Amendment. The hearing examiner, however, rejected the challenge and admitted the evidence. As a result, the Pennsylvania Board of Probation and Parole found sufficient evidence in the record to support the weapons and alcohol charges and recommitted respondent to serve 36 months' backtime.

The Commonwealth Court of Pennsylvania reversed and remanded, holding, *inter alia*, that the hearing examiner had erred in admitting the evidence obtained during the search of respondent's residence.[1] The court ruled that the

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[1]The court also held that the Board of Probation and Parole erred by admitting hearsay evidence regarding alcohol consumption and a sepa-

search violated respondent's Fourth Amendment rights because it was conducted without the owner's consent and was not authorized by any state statutory or regulatory framework ensuring the reasonableness of searches by parole officers. Petn. App., at 31a. The court further held that the exclusionary rule should apply because, in the circumstances of respondent's case, the deterrence benefits of the rule outweighed its costs. *Id.*, at 37a.[2]

The Pennsylvania Supreme Court affirmed. 698 A. 2d 32, 548 Pa. 418 (1997). The court stated that respondent's Fourth Amendment right against unreasonable searches and seizures was "unaffected" by his signing of the parole agreement giving parole officers permission to conduct warrantless searches. *Id.*, at 36, 548 Pa., at 427. It then held that the search in question was unreasonable because it was supported only by "mere speculation" rather than a "reasonable suspicion" of a parole violation. *Ibid.* Carving out an exception to its *per se* bar against application of the exclusionary rule in parole revocation hearings, see *Commonwealth* v. *Kates*, 452 Pa. 102, 120, 305 A. 2d 701, 710 (Pa. 1973), the court further ruled that the federal exclusionary rule applied to this case because the officers who conducted the search were aware of respondent's parole status, 548 Pa. at 428–432, 698 A. 2d, at 37–38. The court reasoned that, in the absence of the rule, illegal searches would be undeterred when officers know that the subjects of their searches are parolees and that illegally obtained evidence can be introduced at parole hearings. *Ibid.*

We granted certiorari to determine whether the Fourth

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rate incident of weapons possession.

[2]While this case was pending in the Pennsylvania Supreme Court, the Commonwealth Court filed an en banc opinion in another case that overruled its decision in respondent's case and held that the exclusionary rule does not apply in parole revocation hearings. *Kyte* v. *Pennsylvania Bd. of Probation and Parole*, ___ Pa. ___, ___, n. 8, 680 A. 2d 14, 18, n. 8 (1996).

Amendment exclusionary rule applies to parole revocation proceedings. 523 U. S. ___ (1998).[3]

II

We have emphasized repeatedly that the State's use of evidence obtained in violation of the Fourth Amendment does not itself violate the Constitution. See, *e.g., United States* v. *Leon*, 468 U. S. 897, 906 (1984); *Stone* v. *Powell*, 428 U. S. 465, 482, 486 (1976). Rather, a Fourth Amendment violation is "fully accomplished" by the illegal search or seizure, and no exclusion of evidence from a judicial or administrative proceeding can "cure the invasion of the defendant's rights which he has already suffered." *United States* v. *Leon*, *supra*, at 906 (quoting *Stone* v. *Powell*, *supra*, at 540 (White, J., dissenting)). The exclusionary rule is instead a judicially created means of deterring illegal searches and seizures. *United States* v. *Calandra*, 414 U. S. 338, 348 (1974). As such, the rule does not "proscribe the introduction of illegally seized evidence in all proceedings or against all persons," *Stone* v. *Powell*, *supra*,

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[3]We also invited the parties to brief the question whether a search of a parolee's residence must be based on reasonable suspicion where the parolee has consented to searches as a condition of parole. Respondent argues that we lack jurisdiction to decide this question in this case because the Pennsylvania Supreme Court held, as a matter of Pennsylvania law, that respondent's consent to warrantless searches as a condition of his state parole did not constitute consent to searches that are unreasonable under the Fourth Amendment. Petitioner and its *amici* contend that the Pennsylvania Supreme Court's opinion was at least ambiguous as to whether it relied on state or federal law to determine the extent of respondent's consent, and that we therefore have jurisdiction under *Michigan* v. *Long*, 463 U. S. 1032 (1983). We need not parse the Pennsylvania Supreme Court's decision in an attempt to discern its intent, however, because it is clear that we have jurisdiction to determine whether the exclusionary rule applies to state parole revocation proceedings, and our decision on that issue is sufficient to decide the case. We therefore express no opinion regarding the constitutionality of the search.

at 486, but applies only in contexts "where its remedial objectives are thought most efficaciously served," *United States* v. *Calandra*, *supra*, at 348; see also *United States* v. *Janis*, 428 U. S. 433, 454 (1976) ("If . . . the exclusionary rule does not result in appreciable deterrence, then, clearly, its use in the instant situation is unwarranted"). Moreover, because the rule is prudential rather than constitutionally mandated, we have held it to be applicable only where its deterrence benefits outweigh its "substantial social costs." *United States* v. *Leon*, 468 U. S., at 907.

Recognizing these costs, we have repeatedly declined to extend the exclusionary rule to proceedings other than criminal trials. *Id.*, at 909; *United States* v. *Janis*, *supra*, at 447. For example, in *United States* v. *Calandra*, we held that the exclusionary rule does not apply to grand jury proceedings; in so doing, we emphasized that such proceedings play a special role in the law enforcement process and that the traditionally flexible, nonadversarial nature of those proceedings would be jeopardized by application of the rule. 414 U. S., at 343–346, 349–350. Likewise, in *United States* v. *Janis*, we held that the exclusionary rule did not bar the introduction of unconstitutionally obtained evidence in a civil tax proceeding because the costs of excluding relevant and reliable evidence would outweigh the marginal deterrence benefits, which, we noted, would be minimal because the use of the exclusionary rule in criminal trials already deterred illegal searches. 428 U. S., at 448, 454. Finally, in *INS* v. *Lopez-Mendoza*, 468 U. S. 1032 (1984), we refused to extend the exclusionary rule to civil deportation proceedings, citing the high social costs of allowing an immigrant to remain illegally in this country and noting the incompatibility of the rule with the civil, administrative nature of those proceedings. *Id.*, at 1050.

As in *Calandra*, *Janis*, and *Lopez-Mendoza*, we are asked to extend the operation of the exclusionary rule

beyond the criminal trial context. We again decline to do so. Application of the exclusionary rule would both hinder the functioning of state parole systems and alter the traditionally flexible, administrative nature of parole revocation proceedings. The rule would provide only minimal deterrence benefits in this context, because application of the rule in the criminal trial context already provides significant deterrence of unconstitutional searches. We therefore hold that the federal exclusionary rule does not bar the introduction at parole revocation hearings of evidence seized in violation of parolees' Fourth Amendment rights.

Because the exclusionary rule precludes consideration of reliable, probative evidence, it imposes significant costs: it undeniably detracts from the truthfinding process and allows many who would otherwise be incarcerated to escape the consequences of their actions. See *Stone* v. *Powell, supra*, at 490. Although we have held these costs to be worth bearing in certain circumstances,[4] our cases have repeatedly emphasized that the rule's "costly toll" upon truth-seeking and law enforcement objectives presents a high obstacle for those urging application of the rule. *United States* v. *Payner*, 447 U. S. 727, 734 (1980).

The costs of excluding reliable, probative evidence are

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[4]As discussed above, we have generally held the exclusionary rule to apply only in criminal trials. We have, moreover, significantly limited its application even in that context. For example, we have held that the rule does not apply when the officer reasonably relied on a search warrant that was later deemed invalid, *United States* v. *Leon*, 468 U. S. 897, 920–922 (1984); when the officer reasonably relied on a statute later deemed unconstitutional, *Illinois* v. *Krull*, 480 U. S. 340, 349–350 (1987); when the defendant seeks to assert another person's Fourth Amendment rights, *Alderman* v. *United States*, 394 U. S. 165, 174–175 (1969); and when the illegally obtained evidence is used to impeach a defendant's testimony, *United States* v. *Havens*, 446 U. S. 620, 627–628 (1980); *Walder* v. *United States*, 347 U. S. 62, 65 (1954).

particularly high in the context of parole revocation proceedings. Parole is a "variation on imprisonment of convicted criminals," *Morrissey* v. *Brewer*, 408 U. S. 471, 477 (1972), in which the State accords a limited degree of freedom in return for the parolee's assurance that he will comply with the often strict terms and conditions of his release. In most cases, the State is willing to extend parole only because it is able to condition it upon compliance with certain requirements. The State thus has an "overwhelming interest" in ensuring that a parolee complies with those requirements and is returned to prison if he fails to do so. *Id.*, at 483. The exclusion of evidence establishing a parole violation, however, hampers the State's ability to ensure compliance with these conditions by permitting the parolee to avoid the consequences of his noncompliance. The costs of allowing a parolee to avoid the consequences of his violation are compounded by the fact that parolees (particularly those who have already committed parole violations) are more likely to commit future criminal offenses than are average citizens. See *Griffin* v. *Wisconsin*, 483 U. S. 868, 880 (1987). Indeed, this is the very premise behind the system of close parole supervsion. *Ibid*.

The exclusionary rule, moreover, is incompatible with the traditionally flexible, administrative procedures of parole revocation. Because parole revocation deprives the parolee not "of the absolute liberty to which every citizen is entitled, but only of the conditional liberty properly dependent on observance of special parole restrictions," *Morrissey* v. *Brewer*, *supra*, at 480, States have wide latitude under the Constitution to structure parole revocation proceedings.[5] Most States, including Pennsylvania, see

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[5]We thus have held that a parolee is not entitled to "the full panoply" of due process rights to which a criminal defendant is entitled, *Morrissey* v. *Brewer*, 408 U. S. 471, 480 (1972), and that the right to counsel

Scott v. *Pennsylvania Bd. of Probation and Parole*, 548 Pa., at 427–428, 698 A. 2d, at 36; *Rivenbark* v. *Pennsylvania Bd. of Probation and Parole*, 509 Pa. 248, 501 A. 2d 1110 (Pa. 1985), have adopted informal, administrative parole revocation procedures in order to accommodate the large number of parole proceedings. These proceedings generally are not conducted by judges, but instead by parole boards, "members of which need not be judicial officers or lawyers." *Morrisey* v. *Brewer*, 408 U. S., at 489. And traditional rules of evidence generally do not apply. *Ibid.* ("[T]he process should be flexible enough to consider evidence including letters, affidavits, and other material that would not be admissible in an adversary criminal trial."). Nor are these proceedings entirely adversarial, as they are designed to be "'predictive and discretionary' as well as factfinding." *Gagnon* v. *Scarpelli*, 411 U. S. 778, 787 (1973) (quoting *Morrissey* v. *Brewer*, *supra*, at 480).

Application of the exclusionary rule would significantly alter this process. The exclusionary rule frequently requires extensive litigation to determine whether particular evidence must be excluded. Cf. *United States* v. *Calandra*, 414 U. S., at 349 (noting that application of the exclusionary rule "would delay and disrupt grand jury proceedings" because "[s]uppression hearings would halt the orderly process of an investigation and might necessitate extended litigation of issues only tangentially related to the grand jury's primary objective"); *INS* v. *Lopez-Mendoza*, 468 U. S., at 1048 (noting that "[t]he prospect of even occasional invocation of the exclusionary rule might significantly change and complicate the character of" the deportation system). Such litigation is inconsistent with the nonadversarial, administrative processes established

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generally does not attach to such proceedings because the introduction of counsel would "alter significantly the nature of the proceeding," *Gagnon* v. *Scarpelli*, 411 U. S. 778, 787 (1973).

by the States. Although States could adapt their parole revocation proceedings to accommodate such litigation, such a change would transform those proceedings from a "predictive and discretionary" effort to promote the best interests of both parolees and society into trial-like proceedings "less attuned" to the interests of the parolee. *Gagnon* v. *Scarpelli*, *supra*, at 787–788 (quoting *Morrissey* v. *Brewer*, *supra*, at 480). We are simply unwilling so to intrude into the States' correctional schemes. See *Morrisey* v. *Brewer*, *supra*, at 483 (recognizing that States have an "overwhelming interest" in maintaining informal, administrative parole revocation procedures). Such a transformation ultimately might disadvantage parolees because in an adversarial proceeding, "the hearing body may be less tolerant of marginal deviant behavior and feel more pressure to reincarcerate than to continue nonpunitive rehabilitation." *Gagnon* v. *Scarpelli*, *supra*, at 788. And the financial costs of such a system could reduce the State's incentive to extend parole in the first place, as one of the purposes of parole is to reduce the costs of criminal punishment while maintaining a degree of supervision over the parolee.

The deterrence benefits of the exclusionary rule would not outweigh these costs. As the Supreme Court of Pennsylvania recognized, application of the exclusionary rule to parole revocation proceedings would have little deterrent effect upon an officer who is unaware that the subject of his search is a parolee. 548 Pa., at 431, 698 A. 2d, at 38. In that situation, the officer will likely be searching for evidence of criminal conduct with an eye toward the introduction of the evidence at a criminal trial. The likelihood that illegally obtained evidence will be excluded from trial provides deterrence against Fourth Amendment violations, and the remote possibility that the subject is a parolee and that the evidence may be admitted at a parole revocation proceeding surely has little, if any, effect on the

officer's incentives. Cf. *United States* v. *Janis*, 428 U. S., at 448.

The Pennsylvania Supreme Court thus fashioned a special rule for those situations in which the officer performing the search knows that the subject of his search is a parolee. We decline to adopt such an approach. We have never suggested that the exclusionary rule must apply in every circumstance in which it might provide marginal deterrence. *United States* v. *Calandra, supra*, at 350; *Alderman* v. *United States*, 394 U. S. 165, 174 (1969). Furthermore, such a piecemeal approach to the exclusionary rule would add an additional layer of collateral litigation regarding the officer's knowledge of the parolee's status.

In any event, any additional deterrence from the Pennsylvania Supreme Court's rule would be minimal. Where the person conducting the search is a police officer, the officer's focus is not upon ensuring compliance with parole conditions or obtaining evidence for introduction at administrative proceedings, but upon obtaining convictions of those who commit crimes. The non-criminal parole proceeding "falls outside the offending officer's zone of primary interest." *Janis*, *supra*, at 458. Thus, even when the officer knows that the subject of his search is a parolee, the officer will be deterred from violating Fourth Amendment rights by the application of the exclusionary rule to criminal trials.

Even when the officer performing the search is a parole officer, the deterrence benefits of the exclusionary rule remain limited. Parole agents, in contrast to police officers, are not "engaged in the often competitive enterprise of ferreting out crime," *United States* v. *Leon*, 468 U. S., at 914; instead, their primary concern is whether their parolees should remain free on parole. Thus, their relationship with parolees is more supervisory than adversarial. *Griffin* v. *Wisconsin*, 483 U. S. 868, 879 (1987). It is thus "unfair to assume that the parole officer bears hostility

against the parolee that destroys his neutrality; realistically the failure of the parolee is in a sense a failure for his supervising officer." *Morrissey* v. *Brewer*, 408 U. S., at 485–486. Although this relationship does not prevent parole officers from *ever* violating the Fourth Amendment rights of their parolees, it does mean that the harsh deterrent of exclusion is unwarranted, given such other deterrents as departmental training and discipline and the threat of damages actions. Moreover, although in some instances parole officers may act like police officers and seek to uncover evidence of illegal activity, they (like police officers) are undoubtedly aware that any unconstitutionally seized evidence that could lead to an indictment could be suppressed in a criminal trial. In this case, assuming that the search violated respondent's Fourth Amendment rights, the evidence could have been inadmissible at trial if respondent had been criminally prosecuted.

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We have long been averse to imposing federal requirements upon the parole systems of the States. A federal requirement that parole boards apply the exclusionary rule, which is itself a "grudgingly taken medicant," *United States* v. *Janis*, *supra*, at 454, n. 29 (1976), would severely disrupt the traditionally informal, administrative process of parole revocation. The marginal deterrence of unreasonable searches and seizures is insufficient to justify such an intrusion. We therefore hold that parole boards are not required by federal law to exclude evidence obtained in violation of the Fourth Amendment. Accordingly, the judgment below is reversed, and the case is remanded to the Pennsylvania Supreme Court.

It is so ordered.