Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

BRENDLIN *v.* CALIFORNIA

CERTIORARI TO THE SUPREME COURT OF CALIFORNIA

No. 06–8120. Argued April 23, 2007—Decided June 18, 2007

After officers stopped a car to check its registration without reason to believe it was being operated unlawfully, one of them recognized petitioner Brendlin, a passenger in the car. Upon verifying that Brendlin was a parole violator, the officers formally arrested him and searched him, the driver, and the car, finding, among other things, methamphetamine paraphernalia. Charged with possession and manufacture of that substance, Brendlin moved to suppress the evidence obtained in searching his person and the car, arguing that the officers lacked probable cause or reasonable suspicion to make the traffic stop, which was an unconstitutional seizure of his person. The trial court denied the motion, but the California Court of Appeal reversed, holding that Brendlin was seized by the traffic stop, which was unlawful. Reversing, the State Supreme Court held that suppression was unwarranted because a passenger is not seized as a constitutional matter absent additional circumstances that would indicate to a reasonable person that he was the subject of the officer's investigation or show of authority.

Held: When police make a traffic stop, a passenger in the car, like the driver, is seized for Fourth Amendment purposes and so may challenge the stop's constitutionality. Pp. 4–13.

(a) A person is seized and thus entitled to challenge the government's action when officers, by physical force or a show of authority, terminate or restrain the person's freedom of movement through means intentionally applied. *Florida* v. *Bostick*, 501 U. S. 429, 434; *Brower* v. *County of Inyo*, 489 U. S. 593, 597. There is no seizure without that person's actual submission. See, *e.g., California* v. *Hodari D.*, 499 U. S. 621, 626, n. 2. When police actions do not show an unambiguous intent to restrain or when an individual's submission takes the form of passive acquiescence, the test for telling when a

seizure occurs is whether, in light of all the surrounding circumstances, a reasonable person would have believed he was not free to leave. *E.g., United States* v. *Mendenhall*, 446 U. S. 544, 554 (principal opinion). But when a person "has no desire to leave" for reasons unrelated to the police presence, the "coercive effect of the encounter" can be measured better by asking whether "a reasonable person would feel free to decline the officers' requests or otherwise terminate the encounter." *Bostick*, *supra*, at 435–436. Pp. 4–6.

(b) Brendlin was seized because no reasonable person in his position when the car was stopped would have believed himself free to "terminate the encounter" between the police and himself. *Bostick*, *supra*, at 436. Any reasonable passenger would have understood the officers to be exercising control to the point that no one in the car was free to depart without police permission. A traffic stop necessarily curtails a passenger's travel just as much as it halts the driver, diverting both from the stream of traffic to the side of the road, and the police activity that normally amounts to intrusion on "privacy and personal security" does not normally (and did not here) distinguish between passenger and driver. *United States* v. *Martinez-Fuerte*, 428 U. S. 543, 554. An officer who orders a particular car to pull over acts with an implicit claim of right based on fault of some sort, and a sensible person would not expect the officer to allow people to come and go freely from the physical focal point of an investigation into faulty behavior or wrongdoing. If the likely wrongdoing is not the driving, the passenger will reasonably feel subject to suspicion owing to close association; but even when the wrongdoing is only bad driving, the passenger will expect to be subject to some scrutiny, and his attempt to leave would be so obviously likely to prompt an objection from the officer that no passenger would feel free to leave in the first place. It is also reasonable for passengers to expect that an officer at the scene of a crime, arrest, or investigation will not let people move around in ways that could jeopardize his safety. See, *e.g., Maryland* v. *Wilson*, 519 U. S. 408, 414–415. The Court's conclusion comports with the views of all nine Federal Courts of Appeals, and nearly every state court, to have ruled on the question. Pp. 6–9.

(c) The State Supreme Court's contrary conclusion reflects three premises with which this Court respectfully disagrees. First, the view that the police only intended to investigate the car's driver and did not direct a show of authority toward Brendlin impermissibly shifts the issue from the intent of the police as objectively manifested to the motive of the police for taking the intentional action to stop the car. Applying the objective *Mendenhall* test resolves any ambiguity by showing that a reasonable passenger would understand that he was subject to the police display of authority. Second, the state

Syllabus

court's assumption that Brendlin, as the passenger, had no ability to submit to the police show of authority because only the driver was in control of the moving car is unavailing. Brendlin had no effective way to signal submission while the car was moving, but once it came to a stop he could, and apparently did, submit by staying inside. Third, there is no basis for the state court's fear that adopting the rule this Court applies would encompass even those motorists whose movement has been impeded due to the traffic stop of another car. An occupant of a car who knows he is stuck in traffic because another car has been pulled over by police would not perceive the show of authority as directed at him or his car. Pp. 9–13.

(d) The state courts are left to consider in the first instance whether suppression turns on any other issue. P. 13.

38 Cal. 4th 1107, 136 P. 3d 845, vacated and remanded.

SOUTER, J., delivered the opinion for a unanimous Court.