

Chatrie



United States



Laura Bondank-Harmon



ON MAY 20, 2019, A MAN ROBBED
THE CALL FEDERAL CREDIT UNION
IN MIDLOTHIAN, VIRGINIA.



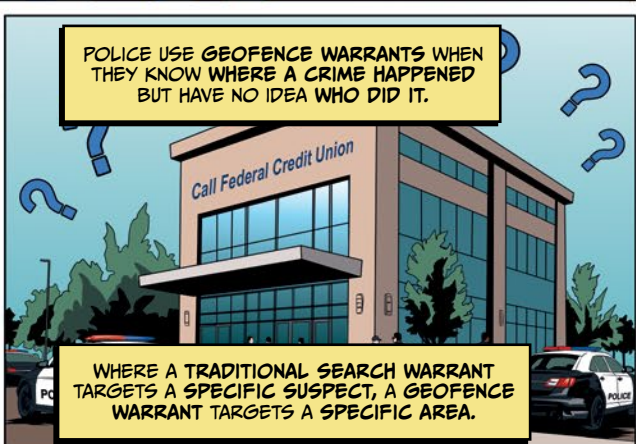
LOCAL POLICE RESPONDED TO THE
SCENE. THEY INTERVIEWED WITNESSES
AND REVIEWED SURVEILLANCE FOOTAGE
BUT CAME UP LARGELY EMPTY-HANDED.



MORE THAN A MONTH INTO THE INVESTIGATION, POLICE
HAD MADE LITTLE PROGRESS--SO THEY DECIDED TO
TAKE A LESS CONVENTIONAL APPROACH.

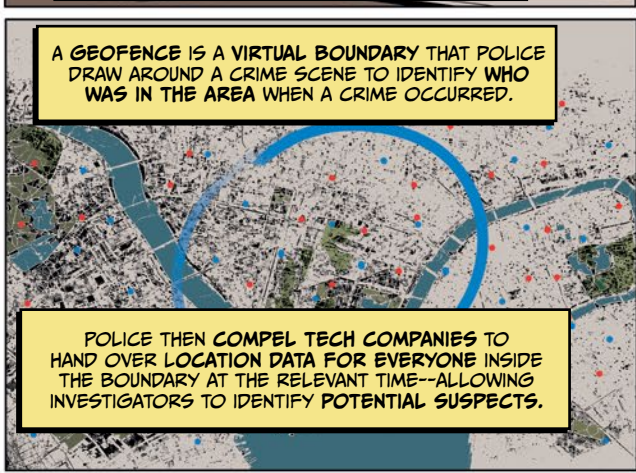
WE'VE LOOKED
THROUGH ALL THE
EVIDENCE, AND WE
STILL HAVE NO
LEADS.

I HAVE AN IDEA.
HAVE YOU HEARD
OF A GEOFENCE
WARRANT?



POLICE USE GEOFENCE WARRANTS WHEN
THEY KNOW WHERE A CRIME HAPPENED
BUT HAVE NO IDEA WHO DID IT.

WHERE A TRADITIONAL SEARCH WARRANT
TARGETS A SPECIFIC SUSPECT, A GEOFENCE
WARRANT TARGETS A SPECIFIC AREA.



A GEOFENCE IS A VIRTUAL BOUNDARY THAT POLICE
DRAW AROUND A CRIME SCENE TO IDENTIFY WHO
WAS IN THE AREA WHEN A CRIME OCCURRED.

POLICE THEN COMPEL TECH COMPANIES TO
HAND OVER LOCATION DATA FOR EVERYONE INSIDE
THE BOUNDARY AT THE RELEVANT TIME--ALLOWING
INVESTIGATORS TO IDENTIFY POTENTIAL SUSPECTS.

WHEN GOOGLE IS SERVED WITH A GEOFENCE WARRANT, IT MUST TURN OVER "GOOGLE LOCATION HISTORY" FOR ALL USERS IN A SPECIFIED AREA DURING A SET TIME WINDOW.

GOOGLE CALLS LOCATION HISTORY OPTIONAL, BUT EVERY GOOGLE APP PROMPTS USERS TO ENABLE IT--AND WARNS THEM AGAINST OPTING OUT.

GOOGLE LOCATION HISTORY TRACKS USERS' LOCATIONS EVERY TWO MINUTES, AUTOMATICALLY COLLECTING AND STORING THIS DATA WHENEVER SOMEONE USES PRODUCTS SUCH AS GOOGLE MAPS, CALENDAR, AND PHOTOS.

TODAY, MORE THAN 500 MILLION PEOPLE ARE USING GOOGLE'S LOCATION HISTORY SERVICES.

GEOFENCE WARRANTS FORCE GOOGLE TO CAST A WIDE NET, CAPTURING LOCATION HISTORY FOR ANY OF ITS 500 MILLION USERS WHO HAPPENED TO BE NEAR THE CRIME SCENE.

THE RESULT IS A DRAGNET THAT SWEEPS UP THE DATA OF COUNTLESS INNOCENT PEOPLE--NOT BECAUSE THEY ARE SUSPECTS, BUT SIMPLY BECAUSE THEY WERE IN THE WRONG PLACE AT THE WRONG TIME.

IN THIS CASE, POLICE DREW A GEOFENCE 300 METERS WIDE AROUND THE BANK AND OTHER NEARBY BUSINESSES.

YOU NEED TO HAND OVER THE RECORDS FOR EVERY GOOGLE USER WHOSE PHONE PINGED IN THIS AREA BEFORE AND AFTER THE ROBBERY OCCURRED.

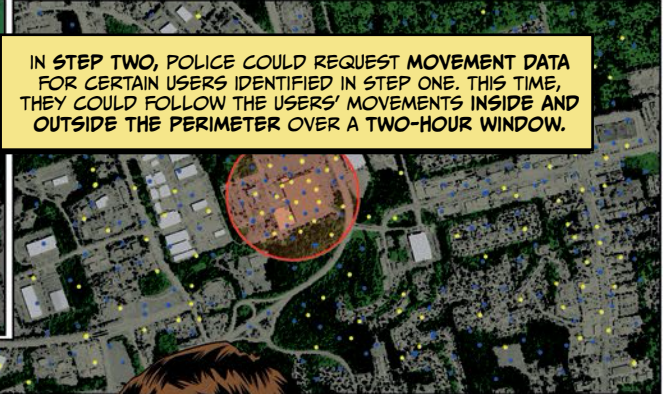
OK, FINE. BUT YOU'RE NOT GETTING EVERYTHING AT ONCE.

WE WANT TO PROTECT PEOPLE'S DIGITAL RECORDS, SO WE'RE GOING TO GO THROUGH THIS STEP-BY-STEP.

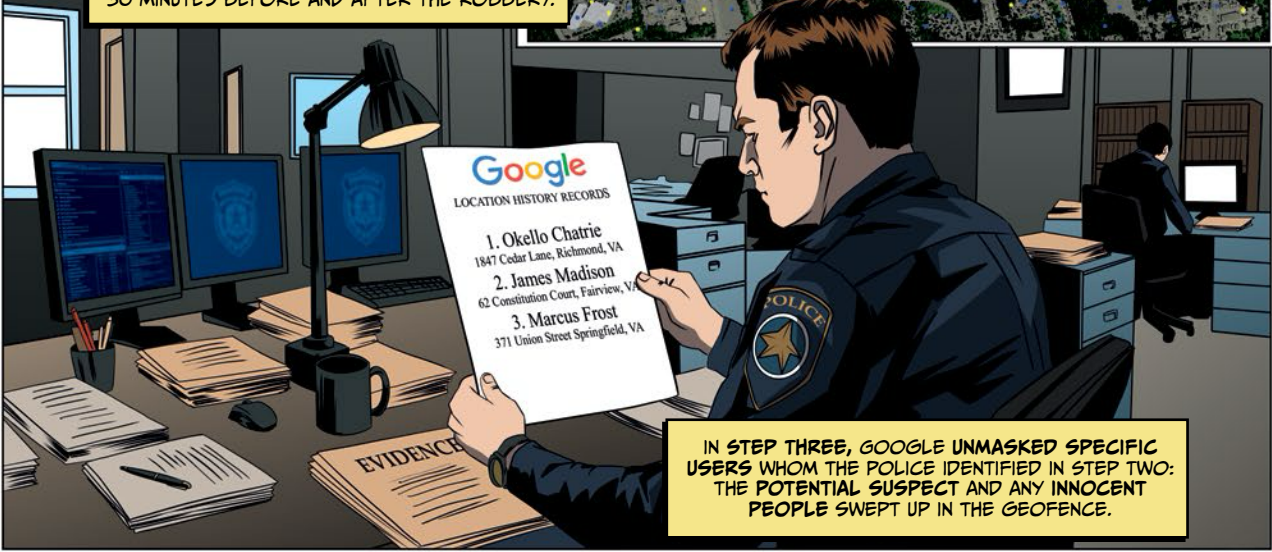


GOOGLE'S THREE-STEP PROCESS LOOKED LIKE THIS.

IN STEP ONE, GOOGLE PRODUCED ANONYMIZED INFORMATION FOR EVERY ACCOUNT INSIDE THE GEOFENCE DURING THE 30 MINUTES BEFORE AND AFTER THE ROBBERY.



IN STEP TWO, POLICE COULD REQUEST MOVEMENT DATA FOR CERTAIN USERS IDENTIFIED IN STEP ONE. THIS TIME, THEY COULD FOLLOW THE USERS' MOVEMENTS INSIDE AND OUTSIDE THE PERIMETER OVER A TWO-HOUR WINDOW.

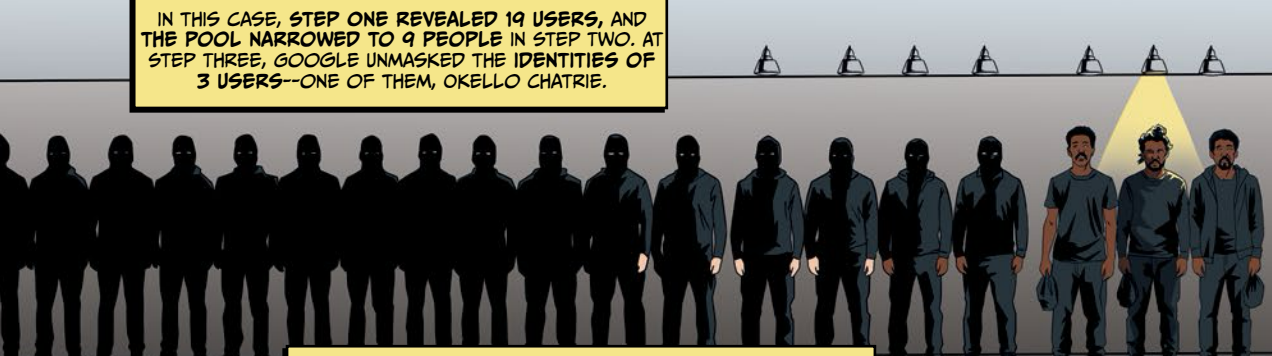


Google
LOCATION HISTORY RECORDS

1. Okello Chatrpie
1847 Cedar Lane, Richmond, VA
2. James Madison
62 Constitution Court, Fairview, VA
3. Marcus Frost
371 Union Street Springfield, VA

IN STEP THREE, GOOGLE UNMASKED SPECIFIC USERS WHOM THE POLICE IDENTIFIED IN STEP TWO: THE POTENTIAL SUSPECT AND ANY INNOCENT PEOPLE SWEEPED UP IN THE GEOFENCE.

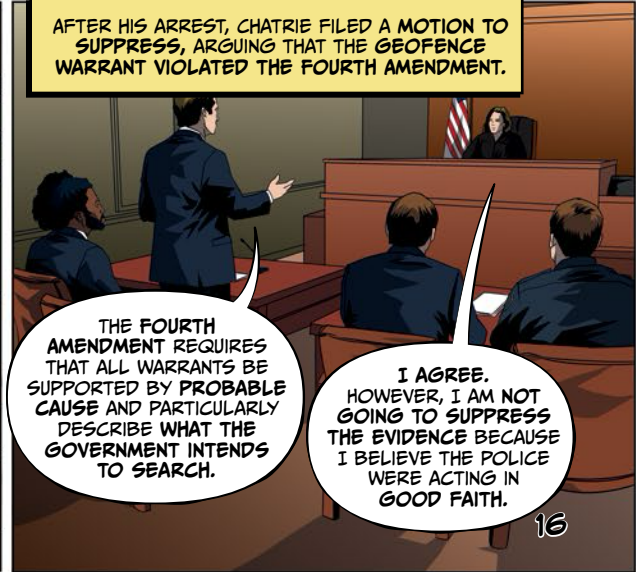
IN THIS CASE, STEP ONE REVEALED 19 USERS, AND THE POOL NARROWED TO 9 PEOPLE IN STEP TWO. AT STEP THREE, GOOGLE UNMASKED THE IDENTITIES OF 3 USERS--ONE OF THEM, OKELLO CHATRIE.



ALL OF THIS WAS DONE WITHOUT THE KNOWLEDGE OR CONSENT OF THE PEOPLE SWEEPED UP IN THE GEOFENCE.



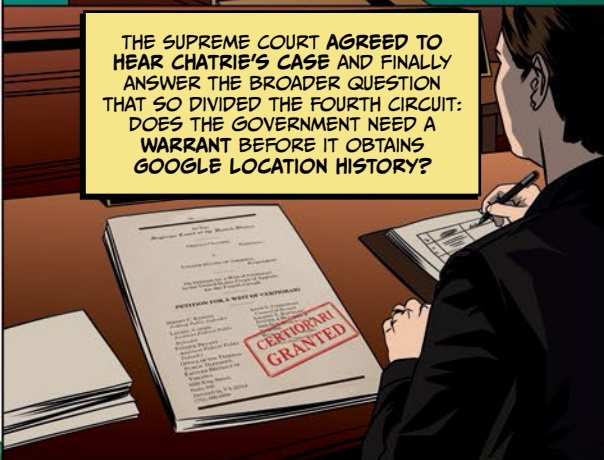
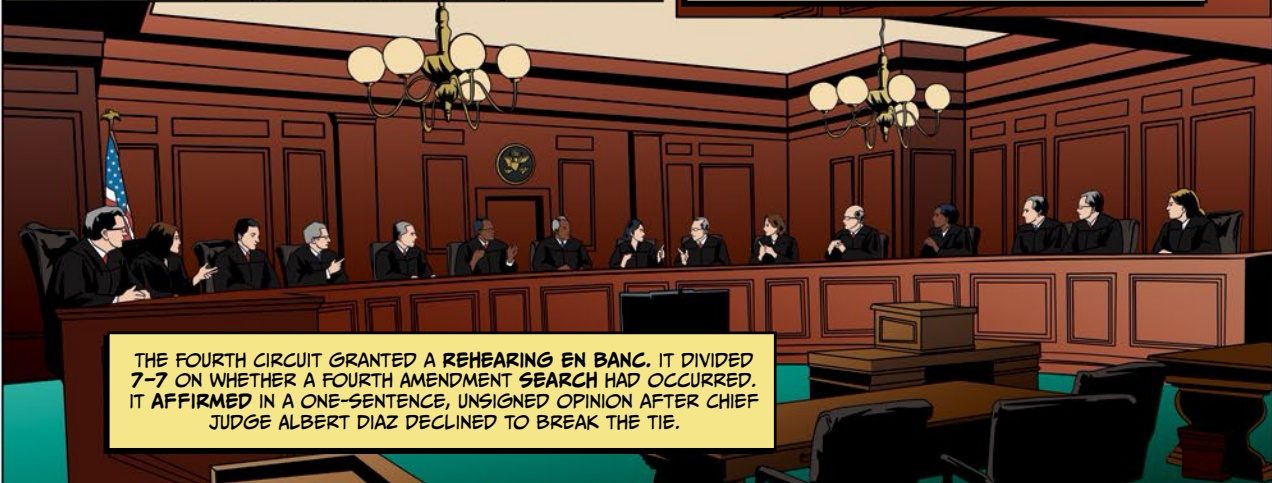
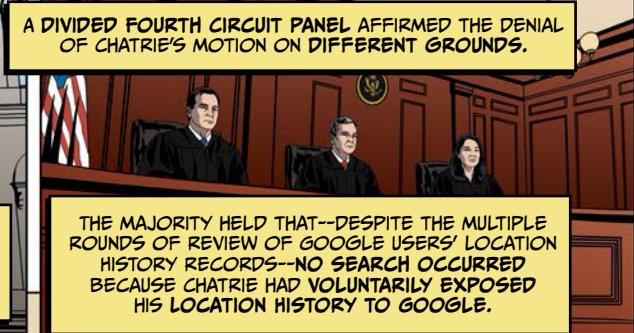
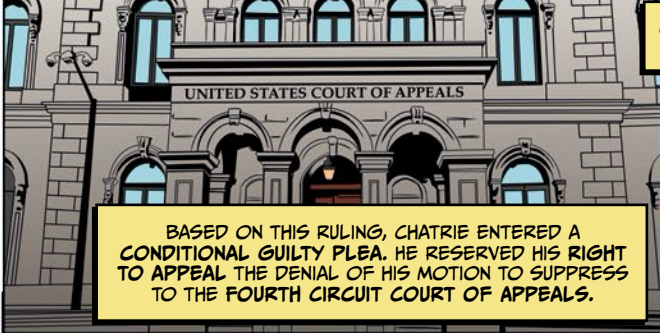
CHATRIE WAS ARRESTED AND CHARGED WITH THE BANK ROBBERY.

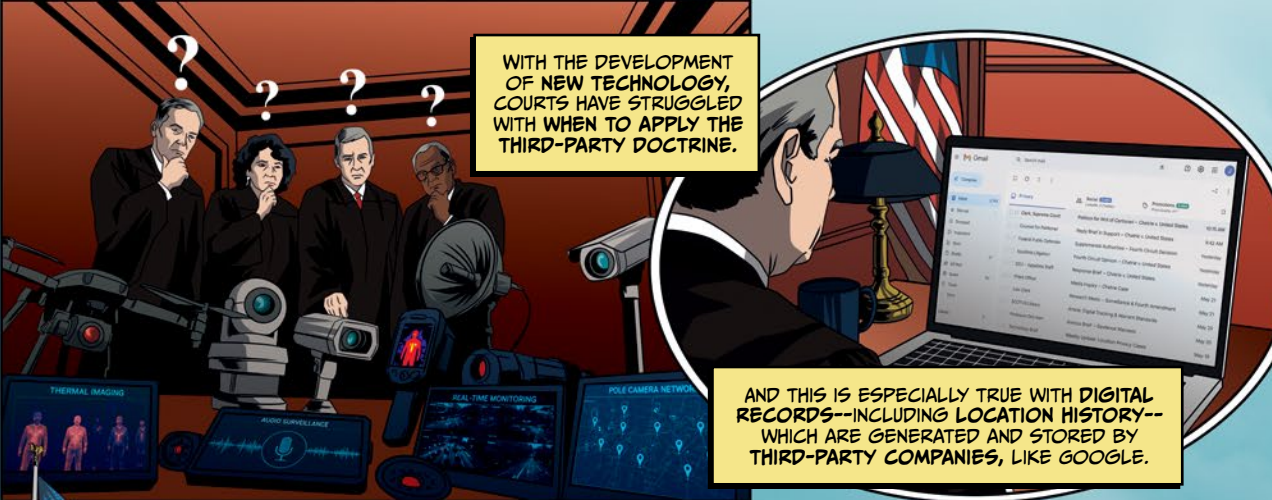


AFTER HIS ARREST, CHATRIE FILED A MOTION TO SUPPRESS, ARGUING THAT THE GEOFENCE WARRANT VIOLATED THE FOURTH AMENDMENT.

THE FOURTH AMENDMENT REQUIRES THAT ALL WARRANTS BE SUPPORTED BY PROBABLE CAUSE AND PARTICULARLY DESCRIBE WHAT THE GOVERNMENT INTENDS TO SEARCH.

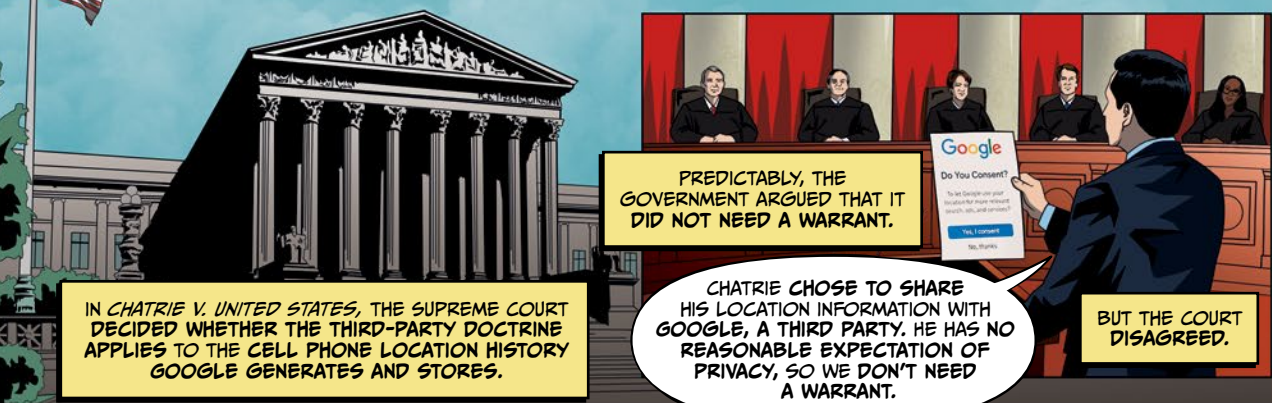
I AGREE. HOWEVER, I AM NOT GOING TO SUPPRESS THE EVIDENCE BECAUSE I BELIEVE THE POLICE WERE ACTING IN GOOD FAITH.





WITH THE DEVELOPMENT OF NEW TECHNOLOGY, COURTS HAVE STRUGGLED WITH WHEN TO APPLY THE THIRD-PARTY DOCTRINE.

AND THIS IS ESPECIALLY TRUE WITH DIGITAL RECORDS--INCLUDING LOCATION HISTORY--WHICH ARE GENERATED AND STORED BY THIRD-PARTY COMPANIES, LIKE GOOGLE.

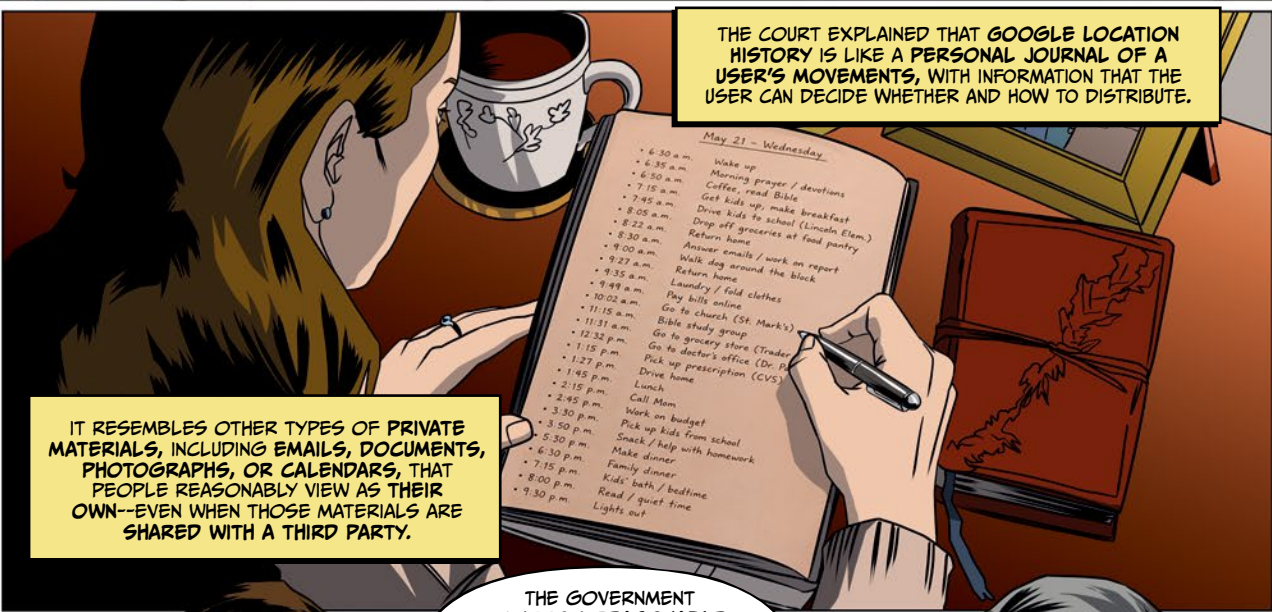


IN *CHATRIE V. UNITED STATES*, THE SUPREME COURT DECIDED WHETHER THE THIRD-PARTY DOCTRINE APPLIES TO THE CELL PHONE LOCATION HISTORY GOOGLE GENERATES AND STORES.

PREDICTABLY, THE GOVERNMENT ARGUED THAT IT DID NOT NEED A WARRANT.

CHATRIE CHOSE TO SHARE HIS LOCATION INFORMATION WITH GOOGLE, A THIRD PARTY. HE HAS NO REASONABLE EXPECTATION OF PRIVACY, SO WE DON'T NEED A WARRANT.

BUT THE COURT DISAGREED.



THE COURT EXPLAINED THAT GOOGLE LOCATION HISTORY IS LIKE A PERSONAL JOURNAL OF A USER'S MOVEMENTS, WITH INFORMATION THAT THE USER CAN DECIDE WHETHER AND HOW TO DISTRIBUTE.

IT RESEMBLES OTHER TYPES OF PRIVATE MATERIALS, INCLUDING EMAILS, DOCUMENTS, PHOTOGRAPHS, OR CALENDARS, THAT PEOPLE REASONABLY VIEW AS THEIR OWN--EVEN WHEN THOSE MATERIALS ARE SHARED WITH A THIRD PARTY.

THE GOVERNMENT INVADES A REASONABLE EXPECTATION OF PRIVACY BY ACCESSING CELL PHONE LOCATION DATA--EVEN IF THE TIME WINDOW IS LIMITED OR THE DATA CAME FROM A THIRD-PARTY TECH COMPANY.

I AGREE FOR A DIFFERENT REASON. STATUTES AND CASE LAW CONFIRM THAT LOCATION HISTORY IS A PERSON'S "PAPER OR EFFECT" UNDER THE FOURTH AMENDMENT, AND OBTAINING IT COUNTS AS A SEARCH.

