Arguments Show Justices Vacillating On Geofence Warrants

By **Gregory Rosen and Timothy Wieroniey** (May 7, 2026)

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With every generation, a new form of technology tests the bounds of the law. The introduction of the automobile paved the way for exceptions to the Fourth Amendment. The use of telephone wires revolutionized the nature of federal investigations. And the advent of the internet — and the data companies captured — transformed the communications landscape.

But in Okello T. Chatrie v. U.S., the U.S. Supreme Court granted certiorari to determine whether the volume of data obtained after an exhaustive search by private entities requires an updated view of Fourth Amendment strictures, or whether the petitioner should simply go back to basics in understanding the scope of protections afforded by one of our most precious rights.

In doing so, the court further sought to synthesize and address an ongoing circuit split created by the U.S. Court of Appeals for the Fifth Circuit in 2024 in U.S. v. Jarmar Smith.

Chatrie and Smith: The Constitutionality of Geofences

The issue in Chatrie derived from a 2019 armed robbery investigation in Virginia, where law enforcement obtained a search warrant for location history data stored at Google, within a defined area during a defined period of time, but where investigators did not know which device belonged to a perpetrator, a witness or someone else.[1]

Per the briefing, the issue at play was whether police use of a geofence warrant to obtain the location data of nearby cellular devices violated the Fourth Amendment's bar on unreasonable searches.

Google initially identified 19 cellphone users as potential suspects or persons of interest, but did not identify them by name. Eventually, after a multistep process, Google agreed to unmask three individuals, including Chatrie, the petitioner, who was subsequently arrested after further investigation. The other two identified users were, as far as is known, innocent bystanders.

Chatrie conditionally pled guilty in 2022 to robbing the Midlothian, Virginia, credit union, while reserving the right to challenge the evidence.

Chatrie's path to the Supreme Court was unique. The U.S. District Court for the Eastern District of Virginia found that the warrant constituted a search but that it was constitutional, then in April 2025, the U.S. Court of Appeals for the Fourth Circuit, sitting en banc, affirmed the judgment 14-1, generating a litany of concurring opinions.

Across the country that same year, in U.S. v. Smith, the U.S. Court of Appeals for the Fifth Circuit decided that the use of geofence warrants was categorically unconstitutional, finding that they represented the type of general warrant disallowed at the founding.[2]

With this fractured landscape and a multitude of differing opinions, it was finally time for the Supreme Court to weigh in.

In the background, by the time of this argument, Google had already announced a change to disallow such data capture, thereby rendering future geofences largely moot.

Oral Arguments

The Supreme Court heard oral arguments on April 27. Chatrie's lawyer, Adam Unikowsky, took to the lectern first, arguing that while the technology and data capture may be novel, the constitutional problem was anything but, contending that the warrant submitted by police was in direct conflict with the founders' "revulsion for general warrants and writs of assistance."[3]

Counsel led with two distinct theories: first, that location data in a password-protected Google account is like a virtual safe deposit box, and the government needs a particularized warrant to open it, just as with the mail; and second, that in light of the Supreme Court's 2018 decision in Carpenter v. U.S., the Fourth Amendment protections afforded to digital devices required far more than a warrant searching every account in a company's holdings simply because someone may have been physically near a crime.[4]

Meanwhile, the U.S. Department of Justice, through Deputy Solicitor General Eric Feigin, insisted that police did exactly what one would expect under the Fourth Amendment: obtain a warrant specifying a place, time, location and crime. Even if some of the cellular users were innocent, probable cause does not require the complete elimination of bystanders or perfection across the board. Moreover, in this case, Chatrie "affirmatively consented to allow Google to create, maintain and use" his location records — in other words, voluntariness destroys any Fourth Amendment claim.[5]

In any event, from the government's perspective, the warrant was valid, and temporally and geospatially circumscribed.

Based on questions from the justices during the oral argument, it appears likely that they will conclude that, at minimum and contrary to the government's primary argument, a search did in fact take place, meaning that a warrant was required. The court also seemed skeptical of the petitioner's broadest arguments.

In other words, while the court appeared to question the government's insistence that no warrant was needed to exploit GPS data generated by cell phones simply because cellular users authorized the data capture to a third party, it nonetheless did not appear willing to find that the warrant in this case was unconstitutional, let alone obtained in bad faith.

While predicting outcomes is like reading tea leaves, the takeaway is that the court might narrow the scope of geofence use, but Chatrie's conviction will likely stand.

Notable Quotables

The Fourth Amendment can always be an interesting bedfellow for a court to contextually define through a political lens. This case is no different.

The liberal wing, led by Justice Sonia Sotomayor, zeroed in on the sensitivity of the data at stake: GPS history that can reveal your location at a brothel or a cannabis store.[6] That level of exposure, she suggested, demands more than a warrant that sweeps up everyone

in the vicinity.[7]

Justice Elena Kagan shared that concern about private associations — those who might attend a political event or visit an abortion clinic — but did not appear convinced that this particular warrant crossed a constitutional line.[8]

On the other side, Justice Brett Kavanaugh — even accepting that a warrant was required — asked Chatrie's counsel pointedly: "I'm trying to figure out why this is bad police work."[9] He noted that at least 31 states considered geofences an important tool in solving otherwise unsolvable cases, including homicides.[10]

Chief Justice John Roberts initially echoed that instinct — "If you don't want the government to have your location history, you just flip that off"[11] — though he pulled back when the government argued there was simply no constitutional protection against cataloging everyone who attends a church service.[12]

Justice Samuel Alito delivered the argument's most memorable moment: "I'm struggling to understand why we are hearing this case other than the fact that at least four of us voted to take it."[13]

He invoked the good faith exception under the Supreme Court's 1984 decision in U.S. v. Leon and questioned how this warrant failed constitutional muster at all[14] — going so far as to ask Feigin which of Chatrie's arguments was the worst, to which Feigin replied, "Is all of the above an option?"[15]

But beneath his obvious skepticism, Alito raised a genuinely probing question: If a grand jury subpoena, which requires far less evidence to issue, has always required a private actor to search its own holdings and narrow the field, how is a geofence warrant, with all of its bells and whistles, meaningfully different?[16] It is a fair point and one that the petitioner never fully answered.

Justice Ketanji Brown Jackson, meanwhile, pushed for the narrowest possible path: Forget the general warrant argument and simply ask whether the multistep process had particularized probable cause at each stage. Her concern — that the detective, not the magistrate, was effectively driving the unmasking — may be the most actionable theory in the case.

Justice Neil Gorsuch similarly seemed skeptical of the government's broadest contention but suggested the court could sidestep the search question and rule narrowly on the warrant protocol itself.[17]

Justice Amy Coney Barrett, suspicious of both sides' maximalist framing, acknowledged that the data opt-in question was "very complicated" and did not appear to land firmly in either camp.[18]

Justice Clarence Thomas raised a threshold question about whether a search of anonymized data could give rise to a Fourth Amendment violation at all — and later pressed on mootness given Google's policy changes.[19]

Taken together, the argument revealed a court that is skeptical of the government's most sweeping claims, uncomfortable with the petitioner's broadest theories and quietly searching for a narrow off-ramp.

Where the Court Is Heading

As with all predictions, take this one with a grain of salt. But it appears that enough justices are prepared to reject the government's contention that a warrant is altogether unnecessary. The oral argument strongly suggests that a majority will find that a search occurred, or assume one did, and require a warrant.

That alone would be a meaningful doctrinal development, a signal that the court is unwilling to let the third-party doctrine swallow the Fourth Amendment whole simply because the data ecosystem has grown more complex.

There is also good reason to believe that the Fifth Circuit's categorical rule will almost certainly be rejected. No justice seemed to embrace the position that geofence warrants are categorically improper; rather, they can be constitutional if properly limited in time and geography and sufficiently specific for lower courts to apply. It follows logically that a per se rule in either direction would be ill-suited to a technology landscape that changes faster than litigation can keep pace.

The two remaining wild cards are closer calls.

First, it is not entirely clear whether enough justices will find that the warrant here was defective. While Justices Jackson, Sotomayor, Gorsuch and potentially Barrett identified step-by-step discretionary problems with this particular warrant, that may be the ceiling, not the floor — the majority of the court appeared, on balance, more comfortable with the procedure employed in this case.

That comfort is understandable. The warrant was geospatially bounded, multistepped and obtained in good faith by a detective trying to solve an armed robbery. But comfortable is not the same as correct. If the magistrate's role in the narrowing process is effectively outsourced to the investigating detective — as Justice Jackson pointedly suggested — then the procedural safeguards the Fourth Amendment envisions are doing less work than they should be.

Whether they reach the merits at all is another question, because the second wild card is good faith. Justice Alito explicitly signaled that he may affirm solely on that ground, even though cert was denied on that question. Coupled with Justice Thomas' mootness concerns, it is possible that the court could affirm without resolving the constitutional questions at all.

That result would be a significant loss for privacy advocates, simply because these technological questions are continually batted around the courts for years on end. And frankly, it would be a missed opportunity.

The court took this case against the backdrop of a genuine circuit split and a technology that, however obsolete at Google, will almost certainly resurface in other forms with other data brokers. Punting on the merits would leave lower courts without meaningful guidance precisely when they need it most.

To that end, it remains possible that the court simply rules that, regardless of whether the warrant could have been better drafted, the police acted in good faith throughout the process. That outcome would resolve Chatrie's case without resolving the law.

Given the trajectory of the oral argument, the more intellectually honest path — and the one several justices seemed to be groping toward — is a narrow ruling that validates

geofence warrants in principle while imposing clearer particularity requirements at each step. That would give law enforcement a workable framework, give privacy advocates a foothold and give the lower courts something to actually apply.

A decision is expected by the end of June.

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[1] https://www.law360.com/articles/2462178/justices-geofence-ruling-may-test-4th-amendment-s-future.

[2] United States v. Smith, 110 F.4th 817 (5th Cir. 2024).

[3] Brief of Petitioner-Appellant at 19-20, Chatrie v. United States, No. 25-122 (cleaned up).

[4] See generally id.

[5]Transcript of Oral Argument at 76, Chatrie v. United States, No. 25-112.

[6] Transcript of Oral Argument at 42, Chatrie v. United States, No. 25-112.

[7] Transcript of Oral Argument at 43, Chatrie v. United States, No. 25-112.

[8] Transcript of Oral Argument at 93-44, Chartie v. United States, No. 25-112.

[9] Transcript of Oral Argument at 56-57, Chatrie v. United States, No. 25-112.

[10] Transcript of Oral Argument at 62, Chatrie v. United States, No. 25-112.

[11] Transcript of Oral Argument at 6, Chatrie v. United States, No. 25-112.

[12] Transcript of Oral Argument at 81, Chatrie v. United States, No. 25-112.

[13] Transcript of Oral Argument at 15, Chatrie v. United States, No. 25-112.

[14] Transcript of Oral Argument at 15-16, Chatrie v. United States, No. 25-112.

[15] Transcript of Oral Argument at 116, Chatrie v. United States, No. 25-112.

[16] Transcript of Oral Argument at 37-38, Chatrie v. United States, No. 25-112.

[17] Transcript of Oral Argument at 52-53, Chatrie v. United States, No. 25-112.

[18] Transcript of Oral Argument at 28, Chatrie v. United States, No. 25-112.

[19] Transcript of Oral Argument at 4-6, 79, Chatrie v. United States, No. 25-112.