

Syllabus

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SUPREME COURT OF THE UNITED STATES

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FLORIDA *v.* HARRIS

CERTIORARI TO THE SUPREME COURT OF FLORIDA

No. 11–817. Argued October 31, 2012—Decided February 19, 2013

Officer Wheatley pulled over respondent Harris for a routine traffic stop. Observing Harris’s nervousness and an open beer can, Wheatley sought consent to search Harris’s truck. When Harris refused, Wheatley executed a sniff test with his trained narcotics dog, Aldo. The dog alerted at the driver’s-side door handle, leading Wheatley to conclude that he had probable cause for a search. That search turned up nothing Aldo was trained to detect, but did reveal pseudoephedrine and other ingredients for manufacturing methamphetamine. Harris was arrested and charged with illegal possession of those ingredients. In a subsequent stop while Harris was out on bail, Aldo again alerted on Harris’s truck but nothing of interest was found. At a suppression hearing, Wheatley testified about his and Aldo’s extensive training in drug detection. Harris’s attorney did not contest the quality of that training, focusing instead on Aldo’s certification and performance in the field, particularly in the two stops of Harris’s truck. The trial court denied the motion to suppress, but the Florida Supreme Court reversed. It held that a wide array of evidence was always necessary to establish probable cause, including field-performance records showing how many times the dog has falsely alerted. If an officer like Wheatley failed to keep such records, he could never have probable cause to think the dog a reliable indicator of drugs.

Held: Because training and testing records supported Aldo’s reliability in detecting drugs and Harris failed to undermine that evidence, Wheatley had probable cause to search Harris’s truck. Pp. 5–11.

(a) In testing whether an officer has probable cause to conduct a search, all that is required is the kind of “fair probability” on which “reasonable and prudent [people] act.” *Illinois v. Gates*, 462 U. S. 213, 235. To evaluate whether the State has met this practical and

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common-sensical standard, this Court has consistently looked to the totality of the circumstances and rejected rigid rules, bright-line tests, and mechanistic inquiries. *Ibid.*

The Florida Supreme Court flouted this established approach by creating a strict evidentiary checklist to assess a drug-detection dog's reliability. Requiring the State to introduce comprehensive documentation of the dog's prior hits and misses in the field, and holding that absent field records will preclude a finding of probable cause no matter how much other proof the State offers, is the antithesis of a totality-of-the-circumstances approach. This is made worse by the State Supreme Court's treatment of field-performance records as the evidentiary gold standard when, in fact, such data may not capture a dog's false negatives or may markedly overstate a dog's false positives. Such inaccuracies do not taint records of a dog's performance in standard training and certification settings, making that performance a better measure of a dog's reliability. Field records may sometimes be relevant, but the court should evaluate all the evidence, and should not prescribe an inflexible set of requirements.

Under the correct approach, a probable-cause hearing focusing on a dog's alert should proceed much like any other, with the court allowing the parties to make their best case and evaluating the totality of the circumstances. If the State has produced proof from controlled settings that a dog performs reliably in detecting drugs, and the defendant has not contested that showing, the court should find probable cause. But a defendant must have an opportunity to challenge such evidence of a dog's reliability, whether by cross-examining the testifying officer or by introducing his own fact or expert witnesses. The defendant may contest training or testing standards as flawed or too lax, or raise an issue regarding the particular alert. The court should then consider all the evidence and apply the usual test for probable cause—whether all the facts surrounding the alert, viewed through the lens of common sense, would make a reasonably prudent person think that a search would reveal contraband or evidence of a crime. Pp. 5–9.

(b) The record in this case amply supported the trial court's determination that Aldo's alert gave Wheatley probable cause to search the truck. The State introduced substantial evidence of Aldo's training and his proficiency in finding drugs. Harris declined to challenge any aspect of that training or testing in the trial court, and the Court does not consider such arguments when they are presented for this first time in this Court. Harris principally relied below on Wheatley's failure to find any substance that Aldo was trained to detect. That infers too much from the failure of a particular alert to lead to drugs, and did not rebut the State's evidence from recent training and test-

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ing. Pp. 9–11.
71 So. 3d 756, reversed.

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

Opinion of the Court

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SUPREME COURT OF THE UNITED STATES

No. 11–817

FLORIDA, PETITIONER *v.* CLAYTON HARRIS

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF
FLORIDA

[February 19, 2013]

JUSTICE KAGAN delivered the opinion of the Court.

In this case, we consider how a court should determine if the “alert” of a drug-detection dog during a traffic stop provides probable cause to search a vehicle. The Florida Supreme Court held that the State must in every case present an exhaustive set of records, including a log of the dog’s performance in the field, to establish the dog’s reliability. See 71 So. 3d 756, 775 (2011). We think that demand inconsistent with the “flexible, common-sense standard” of probable cause. *Illinois v. Gates*, 462 U. S. 213, 239 (1983).

I

William Wheatley is a K–9 Officer in the Liberty County, Florida Sheriff’s Office. On June 24, 2006, he was on a routine patrol with Aldo, a German shepherd trained to detect certain narcotics (methamphetamine, marijuana, cocaine, heroin, and ecstasy). Wheatley pulled over respondent Clayton Harris’s truck because it had an expired license plate. On approaching the driver’s-side door, Wheatley saw that Harris was “visibly nervous,” unable to sit still, shaking, and breathing rapidly. Wheatley also noticed an open can of beer in the truck’s cup holder. App.

Opinion of the Court

62. Wheatley asked Harris for consent to search the truck, but Harris refused. At that point, Wheatley retrieved Aldo from the patrol car and walked him around Harris's truck for a "free air sniff." *Id.*, at 63. Aldo alerted at the driver's-side door handle—signaling, through a distinctive set of behaviors, that he smelled drugs there.

Wheatley concluded, based principally on Aldo's alert, that he had probable cause to search the truck. His search did not turn up any of the drugs Aldo was trained to detect. But it did reveal 200 loose pseudoephedrine pills, 8,000 matches, a bottle of hydrochloric acid, two containers of antifreeze, and a coffee filter full of iodine crystals—all ingredients for making methamphetamine. Wheatley accordingly arrested Harris, who admitted after proper *Miranda* warnings that he routinely "cooked" methamphetamine at his house and could not go "more than a few days without using" it. *Id.*, at 68. The State charged Harris with possessing pseudoephedrine for use in manufacturing methamphetamine.

While out on bail, Harris had another run-in with Wheatley and Aldo. This time, Wheatley pulled Harris over for a broken brake light. Aldo again sniffed the truck's exterior, and again alerted at the driver's-side door handle. Wheatley once more searched the truck, but on this occasion discovered nothing of interest.

Harris moved to suppress the evidence found in his truck on the ground that Aldo's alert had not given Wheatley probable cause for a search. At the hearing on that motion, Wheatley testified about both his and Aldo's training in drug detection. See *id.*, at 52–82. In 2004, Wheatley (and a different dog) completed a 160-hour course in narcotics detection offered by the Dothan, Alabama Police Department, while Aldo (and a different handler) completed a similar, 120-hour course given by the Apopka, Florida Police Department. That same year, Aldo received a one-year certification from Drug Beat, a private company that

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