

Supreme Court Rules Police May Obtain DNA Sample After Arrest

In a 5-4 decision, the Supreme Court ruled Monday that police may obtain a DNA sample from anyone arrested for a "serious offense," even without a warrant. Many law enforcement officials have said DNA sampling is a reliable method of evidence gathering, especially in cold cases. "...Taking and analyzing a cheek swab of the arrestee's DNA is, like fingerprinting and photographing, a legitimate police booking procedure that is reasonable under the Fourth Amendment," Justice Anthony Kennedy wrote for the majority. Kennedy was joined by Chief Justice John Roberts and Justices Samuel Alito, Stephen Breyer, and Clarence Thomas. The case focused on Alonzo King Jr., a Maryland man who was convicted of rape in 2009 using a DNA sample taken when he was arrested years earlier on an unrelated charge. King had challenged the law. "The court's opinion barely mentions the crucial fact about this case: the search here was entirely suspicionless," Justice Antonin Scalia wrote in his dissent. "The police had no reason to believe King's DNA would link him to any crime." Scalia was joined in the minority by Justices Ruth Bader Ginsburg, Elena Kagan, and Sonia Sotomayor. Rensselaer County District Attorney Richard McNally said he supported the idea of swabbing arrestees until reading Scalia's dissent. McNally said he now opposes the practice. "It is a search and it's a suspicionless search," McNally said. "You're not searching specifically on suspicion. You're just building your database." Michael Macomber, an associate at the Albany-based law firm Tully Rinckey, said the Supreme Court ruling hinged on whether the DNA swab is intrusive. "In the Fourth Amendment, it's unreasonable search and seizures," Macomber said. "Today, the Supreme Court came down on the side that (DNA swabbing) was not unreasonable." A spokesman for Gov. Andrew Cuomo said New York's law enforcement agencies cannot begin obtaining DNA samples upon arrest without a change to state law, regardless of the Supreme Court's ruling. Under current state law, DNA samples are obtained from people convicted of a felony or Penal Law misdemeanor.