FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE FOURTEENTH CIRCUIT

NAT COLE, Plaintiff - Appellant, v. CITY OF BLUENOTE, Defendant - Appellee.	No. 27-6790 OPINION

Appeal from United States District Court
for the Central District of Easterbrook
Paul Chambers, District Judge, Presiding
Argued and Submitted January 4, 2026**
Bluenote, Easterbrook

Before: EVANS, COLTRANE, and ADDERLEY, Circuit Judges.

Factual Background

The City of Bluenote ("the City") is a rural town, tucked away in the mountains of Easterbrook. Since 2024, the City has had difficulty restricting drug use of young students. The first incident occurred when police arrested a student for marijuana use off-campus. During interrogation, the student confessed that she had obtained marijuana from someone at Bluenote Middle School. She relayed that "several dozens" of students were using marijuana. When the police asked how they had not caught more students using drugs,

she replied that the sellers had taught their buyers how to conceal their drugs within the lining of their backpacks. Upon further investigation, detectives discovered that an extensive ring of several high school and middle school students, known as the Kind of Blue cartel ("KOB"), sold drugs.

In 2025, the City tasked Officer Davis with catching the leaders of the KOB drug ring. During his investigation, Officer Davis received an anonymous tip that Nat Cole ("Cole"), a thirteen-year-old middle school boy, was high up in the KOB. Officer Davis then devised a plan. If he could catch Cole with drugs, he would offer a simple deal: give up the names of all KOB leaders, and Cole could walk free. Officer Davis lawfully obtained information that Cole routinely took the school bus at 8:00 am. Thus, he planned to conduct a drug sweep of the bus on the morning of October 25, 2025. Because Officer Davis was aware that KOB members routinely hid their drugs in the lining of their backpacks, he requested the use of the City's police dog: Max.

The City approved Officer Davis's request and assigned the dog, Max, to conduct the drug sweep. As an American Sheperd, Max was not a traditional police dog and could be unruly at times. However, Max was well trained in narcotic detection; he gives passive alerts by pointing his nose in an area where he smells drugs. Max could differentiate between narcotic and non-narcotic smells. Further, Max's smell ability was extremely accurate; he could detect drugs with a 98% accuracy. He was also precise. He can detect even the smallest trace of contraband.

Officer Davis contacted the school to coordinate a drug sweep. The school agreed to the officer's sweep of a school bus. At 8:15 AM on October 25, 2025, Officer Davis pulled a bus over. Several students were seated on the bus, including Cole. Max went up and down the bus, coming within eight to six inches of each person. As the dog came to Cole, Max stiffened and pointed

at Cole. One student stated, "He likes you." Cole testified that the atmosphere was tense during the stop. He also testified that the experience made him "nervous and disturbed," but he acknowledged he was not afraid of the dog. Other students commented that Max was "adorable" and the "sweetest cop ever." Officer Davis took Max away and had Cole step out of the bus. There, he conducted a lawful search of Davis's backpack. During the search, Max became tense and barked at Cole. Cole made a sudden movement, spurring Max to bite Cole.[1] No drugs were found on him.

Unbeknownst to Officer Davis, Cole's mother had cancer. To offset the effects of chemotherapy, his mother used lawfully prescribed medical marijuana. Max likely had a false positive because he detected a small trace of residue that Cole picked up while living with his mother.

Cole sued the City under 42 U.S.C. § 1983, claiming that the canine sniff by Max violated his Fourth Amendment rights. The City responded by arguing this was not a search that implicated the Fourth Amendment. Both parties moved for summary judgment. The district court found that a search had not occurred. As such, it granted summary judgment in favor of the City. Cole timely appealed this decision to the Fourteenth Circuit. The decision follows below.

[1] Cole brought a separate cause of action for excessive force under 42 U.S.C. § 1983 for the dog bite. The City of Bluenote chose to fully litigate this issue at trial. *See Cole v. City of Bluenote*, 2026 WL 2797977, 2026 U.S. Dist. LEXIS 189387 (C.D. Eastbr. Jan. 3, 2026). The dog bite is not relevant to this appeal. This court solely addresses whether Max's sniff is a search.

Opinion

EVANS, Circuit Judge:

Appellant Nat Cole ("Cole") filed this timely appeal after the trial court granted summary judgment in favor of Respondent, the City of Bluenote ("the City"). Appellant raises only one issue on appeal. Appellant argues that when Officer Davis's dog, Max, sniffed him, it constituted a search within the meaning of the Fourth Amendment. We reverse and remand to the trial court. Max's sniff of the appellant, a young student, clearly offended his expectation of privacy.

Analysis

The Fourth Amendment provides the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated. . ." U.S. Const., amend. IV. A search occurs when the conduct offends a person's "reasonable expectation of privacy." *Katz v. United States*, 389 U.S. 347, 360 (1967) (Harlan, J., concurring). We hold that the canine sniff of Cole constituted a search.

THE CANINE SNIFF OF APPELLANT INTRUDED ON HIS REASONABLE EXPECTATION OF PRIVACY.

Under the *Katz* test, a search implicating the Fourth Amendment occurs when a governmental investigation violates an individual's "actual (subjective) expectation of privacy" if that expectation is "one that society is prepared to recognize as 'reasonable.'" *Katz*, 389 U.S. at 361 (Harlan, J., concurring).

When police use a tool which heightens the sense of an officer to peer into the intimate details of a person's life, it offends their right to privacy. *See id.* at 359 (finding a search occurred when police used a listening device in a phone booth); *Kyllo v. United States*, 533 U.S. 27, 40 (2001) (finding officers violated a person's reasonable expectation of privacy when they used a

thermal imager to detect a heat signature consistent with marijuana plants in a home).

The trajectory of the case law is clear: a dog sniff of a young child constitutes a search. Like the heat imager in *Kyllo* or the listening device in *Katz*, a dog sniff is an instrument that heightens the senses. Max's sense of smell exceeds that of an ordinary human. An officer's senses would otherwise be reduced. Moreover, a young student receives a heightened sense of privacy protection, given their vulnerability. Schools are filled with insecure young people and subjecting them to these smell tests infringes on their delicate sense of dignity and privacy expectations.

The dissent's argument is to no avail. It is true, in some circumstances, that the Supreme Court describes a canine sniff as *sui generis* because a dog sniff "discloses only the presence or absence of narcotics, a contraband item." *Illinois v. Caballes*, 543 U.S. 405, 409 (citations omitted). Yet, the situation here is different. Max has an extraordinary nose and can detect both measurable quantities of contraband *and legal quantities*.

The dissent also impermissibly relies on *Caballes*. While *Caballes* distinguished a dog sniff of a car from the thermal imaging in *Kyllo*, it did so on the basis that that people's expectations of privacy are much lower in *their cars* than in their homes. In contrast, this case involves the search of a person and their personal space, not cars. Thus, *Caballes* left open the possibility that a person would receive the same, if not more, protection than a home.

For the foregoing reasons, we reverse the district court's finding of summary judgment in favor of the City and remand the case for further proceedings consistent with this opinion.

COLTRANE, Circuit Judge Dissenting:

I, like the majority, sympathize with appellant. Being young entails insecurity and vulnerability. And certainly, having an officer board your bus in the early morning hours to ascertain whether you had drugs would be a frightening experience. Nevertheless, I disagree with the majority's decision that a child's discomfort provides a sufficient reason to blatantly disregard Fourth Amendment case law. We have a duty to adhere to Supreme Court precedent, and *controlling* case law is clear. Canine sniffs are *sui generis*. A dog sniff is not a search. Accordingly, because Officer Davis conducted no search within the meaning of the Fourth Amendment, I respectfully dissent.

A CANINE SNIFF DOES NOT OFFEND A REASONABLE EXPECTATION OF PRIVACY

In *Illinois v. Caballes*, 543 U.S. 405 (2005), the Supreme Court grappled with whether a canine sniff of a vehicle during a traffic stop constituted a search. The Court held it did not. Relevant to the Court's reasoning was that "possessing contraband cannot be deemed 'legitimate,' and thus, governmental conduct that *only* reveals possession of contraband 'compromises no legitimate privacy interest.'" *Caballes*, 543 U.S. at 408 (citations omitted). Thus, the Court found that "[a] dog sniff conducted during a concededly lawful traffic stop that reveals no information other than the location of a substance that no individual has any right to possess does not violate the Fourth Amendment." *Id.* at 410.

The reasoning in *Caballes* is dispositive here. Max is a well-trained, highly perceptive dog. His nose does not disclose any intimate details, other than the presence of narcotics. Indeed, the facts indicate that the reason Max picked up on Cole's smell was because it *was* marijuana. While the smell was *later revealed* to be related to an extremely personal and sensitive area of

Cole's life, at the time of the incident, Max *only* picked up on the presence of drugs and not any intimate details of Cole himself. *See Caballes*, 543 U.S. at 409 ("[A]n erroneous alert [does not], in and of itself, reveal[] any legitimate private information.").

The majority twists and bends *Kyllo* to cram it into the facts of this case. Yet, the facts here are materially distinguishable. *Kyllo* emphasized that the reason a person had a reasonable expectation of privacy was, in part, because the thermal imaging technology was "not in general public use." *Kyllo v. United States*, 533 U.S. 27, 34 (2001). In contrast, dogs like Max have been domesticated for about 12,000 years.

More striking, *Kyllo* is about the privacy of the *home*. Not so here—Max's sniff of appellant concerned only his personal space. Time and time again, the Supreme Court has emphasized the privacy of the *home* has eclectic "roots deep in the common law." *Kyllo*, 533 U.S. at 34; *see also Caballes*, 543 U.S. at 409–10 ("Critical to [*Kyllo*] . . . was the fact that the device was capable of detecting lawful activity—in that case, intimate details in a *home*.") (emphasis added). That heightened protection of privacy interests stems from history and tradition. Yet, that history is notably lacking in the privacy of *personal space*. And the majority cites no authority suggesting that personal space would have similar protection to the home.

Accordingly, I respectfully dissent.

THE SUPREME COURT OF THE UNITED STATES
JANUARY 2026 TERM

No. 27-6790

Nat Cole,
Petitioner

v.

City of Bluenote,
Respondent

ORDER GRANTING CERTIORARI

The petition for writ of certiorari is granted. The parties are directed to address the following question:

I. Whether a police canine sniff of a student in a bus is a search that implicates the Fourth Amendment

389 U.S. 347 (1967)
Supreme Court of the United States

Charles KATZ, Petitioner,
v.
UNITED STATES.

Opinion

MR. JUSTICE STEWART delivered the opinion of the Court.

The petitioner was convicted in the District Court for the Southern District of California under an eight-count indictment charging him with transmitting wagering information by telephone from Los Angeles to Miami and Boston in violation of a federal statute. At trial the Government was permitted, over the petitioner's objection, to introduce evidence of the petitioner's end of telephone conversation, overheard by FBI agents who had attached an electronic listening and recording device to the outside of the public telephone booth from which he had placed his calls. In affirming his conviction, the Court of Appeals rejected the contention that the recordings had been obtained in violation of the Fourth Amendment, because '(t)here was no physical entrance into the area occupied by, (the petitioner).' We granted certiorari in order to consider the constitutional questions thus presented.

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The petitioner has strenuously argued that the booth was a 'constitutionally protected area.' The Government has maintained with equal vigor that it was not. But this effort to decide whether or not a given 'area,' viewed in the abstract, is 'constitutionally protected' deflects attention from the problem presented by this case. For the Fourth Amendment protects people, not places. What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection. See Lewis v. United States, 385 U.S. 206, 210, 87 S.Ct. 424, 427, 17 L.Ed.2d 312; United States v. Lee, 274 U.S. 559, 563, 47 S.Ct. 746, 748, 71 L.Ed. 1202. But what he seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected. See Rios v. United States, 364 U.S. 253, 80 S.Ct. 1431, 4 L.Ed.2d 1688; Ex parte Jackson, 96 U.S. 727, 733, 24 L.Ed. 877.

The Government stresses the fact that the telephone booth from which the petitioner made his calls was constructed partly of glass, so that he was as visible after he entered it as he would have been if he had remained outside. But what he sought to exclude when he entered the booth was not the intruding eye—it was the uninvited ear. He did not shed his right to do so simply because he made his calls from a place where he might be seen. No less than an individual in a business office, in a friend's apartment, or in a taxicab, a person in a telephone booth may rely upon the protection of the Fourth Amendment. One who occupies it, shuts the door behind him, and pays the toll that permits him to place a call is surely entitled to assume that the words he utters into the mouthpiece will not be broadcast to the world. To read the Constitution more narrowly is to ignore the vital role that the public telephone has come to play in private communication.

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These considerations do not vanish when the search in question is transferred from the setting of a home, an office, or a hotel room to that of a telephone booth. Wherever a man may be, he is entitled to know that he will remain free from unreasonable searches and seizures. The government agents here ignored 'the procedure of antecedent justification * * * that is central to the Fourth Amendment,' a procedure that we hold to be a constitutional precondition of the kind of electronic surveillance involved in this case. Because the surveillance here failed to meet that condition, and because it led to the petitioner's conviction, the judgment must be reversed.

Mr. Justice HARLAN, concurring.

I join the opinion of the Court, which I read to hold only (a) that an enclosed telephone booth is an area where, like a home, Weeks v. United States, 232 U.S. 383, 34 S.Ct. 341, 58 L.Ed. 652, and unlike a field, Hester v. United States, 265 U.S. 57, 44 S.Ct. 445, 68 L.Ed. 898, a person has a constitutionally protected reasonable expectation of privacy; (b) that electronic as well as physical intrusion into a place that is in this sense private may constitute a violation of the Fourth Amendment; and (c) that the invasion of a constitutionally protected area by federal authorities is, as the Court has long held, presumptively unreasonable in the absence of a search warrant.

As the Court's opinion states, 'the Fourth Amendment protects people, not places.' The question, however, is what protection it affords to those people. Generally, as here, the answer to that question requires reference to a 'place.' My understanding of the rule that has emerged from prior decisions is that there is a twofold requirement, first that a person have exhibited an actual (subjective) expectation of privacy and, second, that the expectation be one that society is prepared to recognize as 'reasonable.' Thus a man's home is, for most purposes, a place where he expects privacy, but objects, activities, or statements that he exposes to the 'plain view' of outsiders are not 'protected' because no intention to keep them to himself has been exhibited. On the other hand, conversations in the open would not be protected against being overheard, for the expectation of privacy under the circumstances would be unreasonable. Cf. Hester v. United States, supra.

The critical fact in this case is that '(o)ne who occupies it, (a telephone booth) shuts the door behind him, and pays the toll that permits him to place a call is surely entitled to assume' that his conversation is not being intercepted. Ante, at 511. The point is not that the booth is 'accessible to the public' at other times, ante, at 511, but that it is a temporarily private place whose momentary occupants' expectations of freedom from intrusion are recognized as reasonable. Cf. Rios v. United States, 364 U.S. 253, 80 S.Ct. 1431, 4 L.Ed.2d 1688.

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533 U.S. 27 (2001)
Supreme Court of the United States

Danny Lee KYLLO, Petitioner,
v.
UNITED STATES.

Opinion

Justice SCALIA delivered the opinion of the Court.

This case presents the question whether the use of a thermal-imaging device aimed at a private home from a public street to detect relative amounts of heat within the home constitutes a "search" within the meaning of the Fourth Amendment.

I

In 1991 Agent William Elliott of the United States Department of the Interior came to suspect that marijuana was being grown in the home belonging to petitioner Danny Kyllo, part of a triplex on Rhododendron Drive in Florence, Oregon. Indoor marijuana growth typically requires high-intensity lamps. In order to determine whether an amount of heat was emanating from petitioner's home consistent with the use of such lamps, at 3:20 a.m. on January 16, 1992, Agent Elliott and Dan Haas used an Agema Thermovision 210 thermal imager to scan the triplex. Thermal imagers detect infrared radiation, which virtually all objects emit but which is not visible to the naked eye. The imager converts radiation into images based on relative warmth—black is cool, white is hot, shades of gray connote relative differences; in that respect, it operates somewhat like a video camera showing heat images. . . .The scan showed that the roof over the garage and a side wall of petitioner's home were relatively hot compared to the rest of the home and substantially warmer than neighboring homes in the triplex. Agent Elliott concluded that petitioner was using halide lights to grow marijuana in his house, which indeed he was. . . . Petitioner was indicted on one count of manufacturing marijuana, in violation of 21 U.S.C. § 841(a)(1). He unsuccessfully moved to suppress the evidence seized from his home and then entered a conditional guilty plea.

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The *Katz* test—whether the individual has an expectation of privacy that society is prepared to recognize as reasonable—has often been criticized as circular, and hence subjective and unpredictable. . . .[However, t]o withdraw protection of this minimum expectation would be to permit police technology to erode the privacy guaranteed by the Fourth Amendment. We think that obtaining by sense-enhancing technology any information regarding the interior of the home that could not otherwise have been obtained without physical "intrusion into a constitutionally protected area," *Silverman,* 365 U.S., at 512, 81 S.Ct. 679, constitutes a search—at least where (as here) the technology in question is not in general public use. This assures preservation of that degree of privacy against government that existed when the Fourth Amendment was adopted. On the basis of this criterion, the information obtained by the thermal imager in this case was the product of a search.

The Government maintains, however, that the thermal imaging must be upheld because it detected "only heat radiating from the external surface of the house," Brief for United States 26. The dissent makes this its leading point, see *post,* at 2047, contending that there is a fundamental difference between what it calls "off-the-wall" observations and "through-the-wall surveillance." But just as a thermal imager captures only heat emanating from a house, so also a powerful directional microphone picks up only sound emanating from a house-and a satellite capable of scanning from many miles away would pick up only visible light emanating from a house. We rejected such a mechanical

interpretation of the Fourth Amendment in *Katz,* where the eavesdropping device picked up only sound waves that reached the exterior of the phone booth. Reversing that approach would leave the homeowner at the mercy of advancing technology—including imaging technology that could discern all human activity in the home. While the technology used in the present case was relatively crude, the rule we adopt must take account of more sophisticated systems that are already in use or in development.

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The Government also contends that the thermal imaging was constitutional because it did not "detect private activities occurring in private areas," Brief for United States 22. . . .Limiting the prohibition of thermal imaging to "intimate details" would not only be wrong in principle; it would be impractical in application, failing to provide "a workable accommodation between the needs of law enforcement and the interests protected by the Fourth Amendment," *Oliver v. United States,* 466 U.S. 170, 181, 104 S.Ct. 1735, 80 L.Ed.2d 214 (1984). To begin with, there is no necessary connection between the sophistication of the surveillance equipment and the "intimacy" of the details that it observes—which means that one cannot say (and the police cannot be assured) that use of the relatively crude equipment at issue here will always be lawful. The Agema Thermovision 210 might disclose, for example, at what hour each night the lady of the house takes her daily sauna and bath—a detail that many would consider "intimate"; and a much more sophisticated system might detect nothing more intimate than the fact that someone left a closet light on. We could not, in other words, develop a rule approving only that through-the-wall surveillance which identifies objects no smaller than 36 by 36 inches, but would have to develop a jurisprudence specifying which home activities are "intimate" and which are not. And even when (if ever) that jurisprudence were fully developed, no police officer would be able to know *in advance* whether his through-the-wall surveillance picks up "intimate" details—and thus would be unable to know in advance whether it is constitutional.

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We have said that the Fourth Amendment draws "a firm line at the entrance to the house," *Payton,* 445 U.S., at 590, 100 S.Ct. 1371. That line, we think, must be not only firm but also bright—which requires clear specification of those methods of surveillance that require a warrant. While it is certainly possible to conclude from the videotape of the thermal imaging that occurred in this case that no "significant" compromise of the homeowner's privacy has occurred, we must take the long view, from the original meaning of the Fourth Amendment forward.

> "The Fourth Amendment is to be construed in the light of what was deemed an unreasonable search and seizure when it was adopted, and in a manner which will conserve public interests as well as the interests and rights of individual citizens." *Carroll v. United States,* 267 U.S. 132, 149, 45 S.Ct. 280, 69 L.Ed. 543 (1925).

Where, as here, the Government uses a device that is not in general public use, to explore details of the home that would previously have been unknowable without physical intrusion, the surveillance is a "search" and is presumptively unreasonable without a warrant.

Since we hold the Thermovision imaging to have been an unlawful search, . . .[t]he judgment of the Court of Appeals is reversed; the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

543 U.S. 405 (2005)
Supreme Court of the United States

ILLINOIS, Petitioner,
v.
Roy I. CABALLES.

Opinion

Justice STEVENS delivered the opinion of the Court.

Illinois State Trooper Daniel Gillette stopped respondent for speeding on an interstate highway. When Gillette radioed the police dispatcher to report the stop, a second trooper, Craig Graham, a member of the Illinois State Police Drug Interdiction Team, overheard the transmission and immediately headed for the scene with his narcotics-detection dog. When they arrived, respondent's car was on the shoulder of the road and respondent was in Gillette's vehicle. While Gillette was in the process of writing a warning ticket, Graham walked his dog around respondent's car. The dog alerted at the trunk. Based on that alert, the officers searched the trunk, found marijuana, and arrested respondent. The entire incident lasted less than 10 minutes.

Respondent was convicted of a narcotics offense and sentenced to 12 years' imprisonment and a $256,136 fine. The trial judge denied his motion to suppress the seized evidence and to quash his arrest. He held that the officers had not unnecessarily prolonged the stop and that the dog alert was sufficiently reliable to provide probable cause to conduct the search. Although the Appellate Court affirmed, the Illinois Supreme Court reversed, concluding that because the canine sniff was performed without any " 'specific and articulable facts' " to suggest drug activity, the use of the dog "unjustifiably enlarg[ed] the scope of a routine traffic stop into a drug investigation." 207 Ill.2d 504, 510, 280 Ill.Dec. 277, 802 N.E.2d 202, 205 (2003).

The question on which we granted certiorari, 541 U.S. 972, 124 S.Ct. 1875, 158 L.Ed.2d 466 (2004), is narrow: "Whether the Fourth Amendment requires reasonable, articulable suspicion to justify using a drug-detection dog to sniff a vehicle during a legitimate traffic stop." Pet. for Cert. i. Thus, we proceed on the assumption that the officer conducting the dog sniff had no information about respondent except that he had been stopped for speeding; accordingly, we have omitted any reference to facts about respondent that might have triggered a modicum of suspicion.

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[T]he Illinois Supreme Court held that the initially lawful traffic stop became an unlawful seizure solely as a result of the canine sniff that occurred outside respondent's stopped car. That is, the court characterized the dog sniff as the cause rather than the consequence of a constitutional violation. In its view, the use of the dog converted the citizen-police encounter from a lawful traffic stop into a drug investigation, and because the shift in purpose was not supported by any reasonable suspicion that respondent possessed narcotics, it was unlawful. In our view, conducting a dog sniff would not change the character of a traffic stop that is lawful at its inception and otherwise executed in a reasonable manner, unless the dog sniff itself infringed respondent's constitutionally protected interest in privacy. Our cases hold that it did not.

Official conduct that does not "compromise any legitimate interest in privacy" is not a search subject to the Fourth Amendment. *Jacobsen,* 466 U.S., at 123, 104 S.Ct. 1652. We have held that any interest in possessing contraband

cannot be deemed "legitimate," and thus, governmental conduct that *only* reveals the possession of contraband "compromises no legitimate privacy interest." *Ibid.* This is because the expectation "that certain facts will not come to the attention of the authorities" is not the same as an interest in "privacy that society is prepared to consider reasonable." *Id.,* at 122, 104 S.Ct. 1652 (punctuation omitted). In *United States v. Place,* 462 U.S. 696, 103 S.Ct. 2637, 77 L.Ed.2d 110 (1983), we treated a canine sniff by a well-trained narcotics-detection dog as "*sui generis* " because it "discloses only the presence or absence of narcotics, a contraband item." *Id.,* at 707, 103 S.Ct. 2637; see also *Indianapolis v. Edmond,* 531 U.S. 32, 40, 121 S.Ct. 447, 148 L.Ed.2d 333 (2000). Respondent likewise concedes that "drug sniffs are designed, and if properly conducted are generally likely, to reveal only the presence of contraband." Brief for Respondent 17. Although respondent argues that the error rates, particularly the existence of false positives, call into question the premise that drug-detection dogs alert only to contraband, the record contains no evidence or findings that support his argument. Moreover, respondent does not suggest that an erroneous alert, in and of itself, reveals any legitimate private information, and, in this case, the trial judge found that the dog sniff was sufficiently reliable to establish probable cause to conduct a full-blown search of the trunk.

Accordingly, the use of a well-trained narcotics-detection dog—one that "does not expose noncontraband items that otherwise would remain hidden from public view," *Place,* 462 U.S., at 707, 103 S.Ct. 2637—during a lawful traffic stop, generally does not implicate legitimate privacy interests. In this case, the dog sniff was performed on the exterior of respondent's car while he was lawfully seized for a traffic violation. Any intrusion on respondent's privacy expectations does not rise to the level of a constitutionally cognizable infringement.

This conclusion is entirely consistent with our recent decision that the use of a thermal-imaging device to detect the growth of marijuana in a home constituted an unlawful search. *Kyllo v. United States,* 533 U.S. 27, 121 S.Ct. 2038, 150 L.Ed.2d 94 (2001). Critical to that decision was the fact that the device was capable of detecting lawful activity—in that case, intimate details in a home, such as "at what hour each night the lady of the house takes her daily sauna and bath." *Id.,* at 38, 121 S.Ct. 2038. The legitimate expectation that information about perfectly lawful activity will remain private is categorically distinguishable from respondent's hopes or expectations concerning the nondetection of contraband in the trunk of his car. A dog sniff conducted during a concededly lawful traffic stop that reveals no information other than the location of a substance that no individual has any right to possess does not violate the Fourth Amendment.

The judgment of the Illinois Supreme Court is vacated, and the case is remanded for further proceedings not inconsistent with this opinion.

It is so ordered.