

Kevin Hamzaj 2687959

Cyberlaw

Module 7

22 October 2023

In the case of *Carpenter v. United States* (2018), the Supreme Court ruled that the government's collection of cell site location information (CSLI) without a warrant constitutes a search under the Fourth Amendment, and therefore, the data should be protected. This decision established that individuals have a reasonable expectation of privacy in their historical CSLI, as it provides a comprehensive record of their physical movements over time.

Applying the *Carpenter* precedent to the scenario of geofencing in the context of a known crime, the Fourth Amendment protection still holds. Geofencing involves the collection of location data for all persons within a specific area around a crime at the time of the crime. While there may be legitimate law enforcement interests in using geofencing to solve crimes, it raises significant privacy concerns.

The Fourth Amendment protects individuals from unreasonable searches and seizures, and geofencing falls within the purview of these protections. Similar to the collection of CSLI in *Carpenter*, geofencing provides a detailed record of an individual's location, which can reveal sensitive and personal information. Therefore, a geofencing operation should require a warrant

based on probable cause, as it constitutes a search that intrudes upon an individual's reasonable expectation of privacy.

In summary, under the Carpenter decision, the geofencing practice should be subject to Fourth Amendment protections. To collect location data within a specific area and timeframe, law enforcement should obtain a warrant, demonstrating probable cause and adhering to the constitutional safeguards against unreasonable searches and seizures.