DNA on Trial

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In March 4, 1974, a nine-year-old boy was raped in his home in Lake Wales, Florida. When the police arrived, the boy described his assailant as possibly 17 or 18 years old with a mustache and thick sideburns and named "Jim" or "Jimmy." After being identified in a photograph lineup by the victim, Jimmy Bain, who said that he was at home watching television with his sister, was arrested and charged with child sex abuse, kidnapping, and burglary/unlawful entry. During the trial, the prosecutors relied on both the photograph lineup and semen that had been found at the scene. The analyst identified that the semen came from a person with Type B blood, but Bain had Type AB blood. However, because the analyst said that Bain's blood type was a weak A, he could not be excluded from the list of suspects. He was eventually convicted and sentenced to life in prison based on a hair sample with regards to their DNA, whether given voluntarily or not. DNA testing has also made its way to the Supreme Court. In Maryland v. King (2013), the Supreme Court ruled that DNA swabbing can be considered part of the regular arrest booking procedure alongside mug shots and fingerprints. Thus, when a police officer swabs the inside of an arrestee's mouth to collect DNA without cause, the officer is not in violation of the Fourth Amendment, which protects against "unreasonable searches and seizures" of "persons, houses, papers, and effects." King was arrested for attempted violence, burglary, and attempted burglary. When he was booked, his DNA was run through CODIS and matched DNA from an unsolved rape. King was convicted of first-degree rape and sentenced to life in prison. King appealed his case, arguing that the cheek swab was an unconstitutional search in violation of his Fourth Amendment rights against warrantless searches. The Court ruled against King saying the search was not a violation. Justice Kennedy, writing for the majority, said that a cheek swab involves a slight touch on the outside of the cheek . . . The fact that an intrusion is negligible is of central relevance to determining reasonableness, although it is still a search as the law defines that term. Essentially, because the swab is noninvasive, it is not unreasonable for a police officer to undergo a "search" without cause. This allows for police officers to utilize the wide capabilities of DNA testing to solve crimes without needing to obtain a warrant. Although this would bring a host of good in crime solving, it could be readily abused, which the Fourth Amendment is meant to protect against. Justice Scalia, writing a dissenting opinion in which Justices Sotomayor, Ginsburg, and Kagan joined, categorically prevents officers from performing a search without cause. The Court has always held that "no matter the degree of invasiveness, suspicionless searches are never allowed if their principal end is ordinary crime-solving." Scalia continues saying that the Court's ruling "will, to be sure, have the beneficial effect of solving more crimes; again, so would the taking of DNA samples from anyone who flies on an airplane, applies for a driver's license, or attends a public school." The increasing capabilities of DNA testing should be carefully regulated just as with any new technology that can have implications on the legal system. As powerful as these new technologies are for exonerating and crime solving, individuals' privacy should be given proper weight and protections in the face of the extraordinary capabilities of DNA testing.

References