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## Supreme Court upholds ban on traffic stops based on a caller's tip

**The justices uphold a ruling in a drunk driving case that officers must see a suspicious act before stopping a vehicle. Chief Justice Roberts dissents, saying it will give drunk drivers 'one free swer**

By David G. Savage

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Reporting from Washington

The Supreme Court cast some doubt Tuesday on the legal authority of a police officer to pull over a suspected drunk driver based solely on a caller's tip.

Over a strong dissent by Chief Justice John G. Roberts Jr., the high court let stand a Virginia Supreme Court ruling that held a police officer can follow but cannot stop a suspected drunk driver's car until the officer sees the driver do something suspicious, such as swerve in a lane.

"The effect of [this] rule will be to grant drunk drivers 'one free swerve' before they can be pulled over by the police," Roberts said. "It will be difficult for an officer to explain to the family of a motorist killed by that swerve that the police had a tip that the driver of the other car was drunk, but that they were powerless to pull him over, even for a quick check."

Roberts noted that hotlines and other services encouraged the public to report suspected drunk drivers.

The Supreme Court's action is not a formal ruling, and it does not require other states to follow Virginia's lead. But the case is likely to encourage more legal challenges to police stops that rely solely on anonymous tips.

The Virginia ruling freed Joseph Harris of Richmond, who was arrested early one morning after a caller had reported his green Nissan Altima was headed south on Meadowbridge Road. The tip included a partial license plate number as well as his name.

Harris stumbled out of his car and appeared obviously intoxicated when the officer tried to question him. Nonetheless, the Virginia high court said it was an "unreasonable search" to stop and question a motorist



based entirely on a caller's tip.

Most state courts, including those in California, have upheld car searches based on a tip from a caller, so long as the vehicle matches the description given.

By a 7-2 vote, the justices turned down without comment an appeal from Virginia prosecutors, which was backed by Mothers Against Drunk Driving. The group said more than 12,000 Americans died every year in alcohol-related crashes. Its lawyers argued that the Virginia rule, if adopted widely, would crimp efforts to get drunk drivers off the road before they caused injuries or death. Justice Antonin Scalia joined Roberts in dissent.

Nine years ago, in a case involving a Miami youth who was arrested at a bus stop, the Supreme Court said police could not frisk a pedestrian based solely on an anonymous call. In that case, a caller said a youth wearing a plaid shirt was carrying a gun. The Virginia judges cited that precedent when ruling in favor of the drunk driver.

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