

## **The Injustice System**

The Supreme Court's Judicial Institutionalization of Ignorance through  
its Jurisprudential Revision of Reasonableness into Ridiculousness

ULR 110

### **Abstract**

Philosophy is the discipline of studying thought itself. Its methods and teachings have served as the intellectual foundation for every modern field of inquiry—from science and mathematics, to ethics, politics, and, most notably for the purposes of this essay, **law**. Scholars in these fields were once all known as philosophers, with the field being a mere modifier to that primary title. Since its reinvention by Socrates in the fifth century BCE, philosophy has undergone extraordinary development; nevertheless, Alfred North Whitehead famously described the entire Western philosophical tradition as “a series of footnotes to Plato” (Whitehead 1929 p. 33). Ever since his permanent revolutionization of the discipline, philosophy has consistently held that self-doubt is imperative for the acquisition of truth, only beginning when one refuses to accept assumptions uncritically. Doubt, reason, and critical reflection form the method by which wisdom is pursued. As a result, it pays no heed to whom such wisdom is sourced from, instead being concerned solely with the quality of that wisdom itself, irrespective of its author. Constitutional interpretation, just as much as philosophical inquiry, must for the same reason reject subjective appeal to authority as its justification and instead prioritize self-standing reason to be factual, reasonable, or *objective*, necessarily. Consequently, the academic philosophical understanding is direly needed in the modern Supreme Court’s rulings on constitutional law, and nowhere more urgently than in its interpretation of the Fourth Amendment. The Amendment’s protection against “unreasonable searches and seizures” depends entirely on what counts as objectively reasonable. However, according to philosophy’s definition of reason, this concept is inherently indeterminable by the Supreme Court standard thereof.

**Reason, Appeal to Authority, Objective, Philosophy, Doubt**

## Impact

This is consequential to the fact that the court's standard is inherently corrupted by faulty sensory perception and unexamined subjective reasoning, both fundamentally exponentiating the falsity of subsequent jurisprudence in an endless feedback loop. It must be stated that the common understanding of philosophy as "a way of thinking", which is inherently subjective, is not that which is discussed in this paper; instead, it is the *academic discipline* of philosophy—the *art of wisdom*. All such subjective "philosophies" are not methodologically equal; without standards of reasoning there can be no objectivity: a tenet required by reason, case precedent, and even the idea of a *Supreme* Court itself. Yet the Supreme Court's Fourth Amendment rulings thereupon have habitually lacked genuinely objective grounding in reason, logic, and conceptual clarity from the modern era onwards, instead relying on the aforesaid flawed factors in their judgements. As a result, the Court has fundamentally distorted the Fourth Amendment, transforming a vital safeguard against government intrusion into an increasingly and dangerously permissive doctrine that makes its "reasonableness" more closely resemble *rationalization* of invasive police practices. To demonstrate this, academic philosophy's historical development by its foremost figures and their usage of these methodological principles shall first be laid out. These principles will then be contrasted with the evolution of the Supreme Court's reasoning in landmark Fourth Amendment cases relevant to modern jurisprudence on the subject. Finally, by synthesizing these analyses, it will be shown that the Court's approach—throughout the landmark Fourth Amendment cases which continually shaped its contemporary interpretation thereof—rests, and always has, on procedural errors that philosophy is uniquely equipped and expressly poised to expose. In doing so, the absurdity and insurmountable inconsistency of the Court's parameters for search and seizure will be *objectively* demonstrated.

### **The Socratic Wisdom of Knowing Nothing**

This tension is a poetically timeless one: Socrates was sentenced to death in a court of law in the *Apology* (which is regarded to portray a historically accurate rendition of Socrates' testimony; fittingly marking the line between early and later Plato). For uprooting the establishment of his day, he was prosecuted on the grounds of a false accusation of "corrupting the youth" with his teachings. His findings were so incendiary because of this quote, famous to this very day: "the oracle [was asked] whether there was anyone wiser than I was, and the Pythian prophetess answered that there was no man wiser [...] He, Socrates, knows that his wisdom is in truth worth nothing"(Plato, 399 BCE/1871 pp. 3-5). This quote is remembered for good reason because it exemplifies how the foundational core of philosophical inquiry remains in recognizing and exploring the limits of human knowledge, and most prominent Western philosophers since have prioritized that aspect henceforth. During his trial, he lays the groundwork for philosophy's timeless battle against unexamined authority:

I went to one who had the reputation of wisdom, and observed to him [...] a politician [...] he was not really wise, although he was thought wise by many, and wiser still by himself; and I went and tried to explain to him that he thought himself wise, but was not really wise [...] I am better off than he is - for he knows nothing, and thinks that he knows. I neither know nor think that I know.(Plato pp. 3-4). Socrates' analysis also showcases the irrelevance of authority in determining true wisdom, and how most of those who see themselves as knowing reason and wisdom are furthest from it, with their pretentious self-confidence clouding their judgement to a deleterious degree. This fact further demands wisdom and inward examination for the purposes of judgement, as the very wisdom integral to doing so rightly is itself "knowing that you know nothing".

## Philosophy's Necessity in Judgment

Resultantly, philosophy and the justice system are inextricably tied in that the purpose of said system is to render judgment—to decide correctly. If it does so in a manner incompatible with philosophy, then it does not render justice well. This results in jurisprudence's potential escalation into abject *injustice* resulting from the relationship explained in the prior paragraph. Socrates further emphasizes the cruciality of philosophy to not only law as being

given to the state by the God; and the state [...] requires [it] to be stirred into life. I am that [...] which God has given the state and all day long and in all places am always fastening upon you, arousing and persuading and reproaching you. And as you will not easily find another like me. (Plato, 399 BCE/1871 p. 10)

Through this allegory Socrates sarcastically casts himself as an annoyance, but one whose annoyance is divinely ordained and vital to the progress of the state through cutting it loose from the prejudicial laws which hold it back, and rousing to wakefulness those consumed by slumber to their chagrin—telling the truth to those deceived by their own ignorance who then hate him for it, despite the possibility they might remain asleep/ignorant forever. Even so, Socrates still considers himself ignorant. It was that Socratic ignorance which paved the groundwork for all of human intellect henceforth, including our own legal system; and even today one must be mindful of their own ignorance when they speak beforehand because of that. Not only is it likely that one is ignorant because of overconfidence, but also, because all of human knowledge today is founded on the idea that it may be wrong. For that possibility to not be preemptively considered is a grave error, and one we see often today as the illusion of certainty provided by the rapid intellectual development of man in every field of study has induced a collective amnesia in the species that such knowledge's origin is in knowing nothing.

### Descartian Reason

This fact is personified in the figure of René Descartes, whose works are regarded as instrumental in creating not only Modern Philosophy, but also, the Scientific Revolution. While Socrates was insistent upon his own ignorance, Descartes was the first to truly set doubt as the standard for any human inquiry, though in examining his methodology in doing so, the extreme degree to which his doubt is taken could just as well be deemed strategic ignorance. In his most famous work, *Meditations on First Philosophy*, Descartes (1641/1911) explained that “reason already persuades me that I ought no less carefully to withhold my assent from matters which are not entirely certain and indubitable than from those which appear to me manifestly to be false, if I am able to find in each one some reason to doubt, this will suffice to justify my rejecting the whole”(p. 1). Descartes establishes that, just as much as one may doubt something that seems uncertain, one may doubt equally that which has any possibility for doubt whatsoever. Descartes did this because he realized that “now some years since I detected how many were the false beliefs that I had from my earliest youth admitted as true, [so] I must once for all seriously undertake to rid myself of all the opinions which I had formerly accepted, and commence to build anew from the foundation, if I wanted to establish any firm and permanent structure in the sciences”(p.1). For him, the realization that many of the foundational tenets themselves he had previously seen as unquestionably true were, in fact, false was enough for him to find a total reevaluation of everything he ever thought he knew, and rightfully so. Can we say that any human, no matter how Honorable or Just they may be titled, has not succumbed to the same deception as did Descartes? This style of inquiry is, as he said, also the origin of science as an independent study outside of philosophy, having given birth to the scientific method, though at this point scientists would still be deemed “natural philosophers”(Cahan, 2003).

## **Modern Science from Material Doubt and Sensory Input's Scientific Unreliability**

Descartes (1641/1911) first casts doubt on “the senses; but it is sometimes proved to me that these senses are deceptive, and it is wiser not to trust entirely to anything by which we have once been deceived”(p.2). This logic is entirely correct, as sense-perception does not necessarily provide true and accurate information to the mind. Therefore, it cannot be trusted in general. This is because Descartes determines he “must remember that I am a man, and that consequently I am in the habit of sleeping, and in my dreams representing to myself the same things or sometimes even less probable things, than do those who are insane in their waking moments”(p.2).

He establishes both insanity and dreams as impetuses for false sensory perception of false reality, and given that men in these states do not know that to be the case, it cannot be said for certain that sane, awake individuals are so because they would perceive themselves equally as that other group. Descartes continues that “such a class of things pertains [...] nature in general, [...] composite things, are very dubious and uncertain; [...] whether I am awake or asleep, two and three together always form five”(p. 3). This is where the utility of Descartes' procedure becomes evident: there are things that can be determined to be wholly certain.

Notably, they explicitly exclude anything in the physical world, pertaining only to abstract logic that exists independent sensory perception and is ontologically certain. “it is now manifest to me that even bodies are not properly speaking known by the senses or by the faculty of imagination, but by the understanding only, and since they are not known from the fact that they are seen or touched, but only because they are understood”(Descartes, p.12). All of sense perception, then, results from the mind, not actually from reality. Given the manifold ways in which the mind may be mistaken, it would be unreasonable to come to any conclusion derived from it, including experience.

## Can Knowledge, Perception, and Volition Coexist?

Descartes (1641/1911) says there is still a “reason, which is that these ideas must proceed from objects outside me, since they do not depend on my will, I do not find it any the more convincing. For just as these impulses of which I have spoken are found in me, notwithstanding that they do not always concur with my will, so perhaps there is in me some faculty fitted to produce these ideas without the assistance of any external things”(p.14). This crusade of doubting in every possible direction is finalized with Descartes’ conclusion:

in many cases there was a great difference between the object and its idea. I find [...] the sun [...] to be extremely small; but [according to] astronomical reasonings, [...] the sun appears to be several times greater than the earth. These two ideas cannot, indeed, both resemble the same sun, and reason makes me believe that the one which [...] originated directly from [observing] the sun itself, is [less accurate].(p.14)

He now sets up the objection that two distinct ideas of something can exist at the same time within a person, proving that they do not result as a natural consequence of observing true reality, rather, they must be produced in the mind in order for these distinct ideas to coexist, casting even further doubt that the reliance upon sense perception is necessarily reasonable. Descartes then identifies that because he does “not restrain [the will] within the same bounds, but extend it also to things which I do not understand [...] not that I found myself compelled to do so by some external cause, but simply because”(p.21). Here he establishes the will, another component of the mind, as being an *identifiable* deceiver of true knowledge. Simple possession of the desire to believe in one’s own senses impels them to believe in false conclusions derived thereof to maintain that certainty. This is corroborated by scientific studies on not just witness unreliability, but the specific quality in question, namely the witness’s confidence.



## Contemporary Natural Philosophy on the Matter

Modern science concurs with this conclusion. According to the Supreme Court of New Jersey, identification evidence must be scrutinized carefully. Human beings have the ability to recognize other people from past experiences and to identify them at a later time, but research has shown that there are risks of making mistaken identifications. That research has focused on the nature of memory and the factors that affect the reliability of eyewitness identifications. Human memory is not foolproof. Research has revealed that human memory is not like a video recording that a witness need only replay to remember what happened. Memory is far more complex. (*State v. Henderson*, 208 N.J. 208, 245 2011)

In evaluating this identification, you should consider the observations and perceptions on which the identification was based, the witness's ability to [correctly identify considering] the circumstances under which the identification was made. Although nothing may appear more convincing than a witness's categorical identification of a perpetrator, you must critically analyze such testimony. Such identifications, even if made in good faith, may be mistaken. Therefore, when analyzing such testimony, be advised that a witness's level of confidence, [is] not be an indication of the reliability of the identification. (*State v. Romero*, 191 N.J. 59, 76 2007)

This is yet another aspect of individual testimony that could likely make it unreliable, yet it is treated as sacrosanct in determining reasonable suspicion. Descartes used procedural philosophy to come to this scientific conclusion because of how accurate philosophy is in its study of mental processes from a theoretical framework. Given that this impulse is something everyone has, how is it reasonable to regard suspicion or other feelings as being reasonable? Rather, the idea is self-contradictory, and beyond a reasonable doubt from a Cartesian

standpoint. He also casts doubt on the nature of memory, something empirically shown in terms of witness identification, for which he also provided the same logical explanation:

for although I am of such a nature that as long as I understand anything very clearly and distinctly, I am naturally impelled to believe it to be true, yet [...] I often recollect having formed a past judgment without at the same time properly recollecting the reasons that led me to make it, it may happen meanwhile that other reasons present themselves to me, which would easily cause me to change my opinion.(p. 28)

### **Humean Doubt**

Hume takes the idea that everything that we sense is a product of the mind to a higher degree of dubitability, and in doing so, disproves the one caveat that Descartes could produce to possibly assuage his fears that nothing can be certain except for the existence of the mind.

However, he begins outlining the *origin* of ideas in an entirely different way than Descartes, as Hume (1748) asserts that

we can divide the mind's perceptions into two classes, [...] less forcible and lively are commonly called 'thoughts' or 'ideas'. [...] By the term 'impression', then, I mean all our more lively perceptions when we hear or see or feel or love or hate or desire or will. These are to be distinguished from ideas, which are the fainter perceptions of which we are conscious when we reflect on [= 'look inwards at'] our impressions.(pp.7-8)

Hume uses this to refute Descartes' one hope for objective reality, as "all [...] thinking are derived either from our outward senses or from our inward feelings: all that the mind and will do is to mix and combine these materials [...] every idea that we examine is copied from a similar impression"(p. 8). This also exposed the solipsistic nature of human perception, further casting doubt on witness reliability, not through flaws, but innate perceptual reception.

## Are Facts Even Reasonable?

Hume (1748) follows this up by elaborating on human thought beyond Descartes' explanation, bisecting it into two kinds, the first including

geometry, algebra, and arithmetic, [...] every statement that is either intuitively or demonstratively certain. [...] Matters of fact, which are the second [...] cannot have such strong grounds for thinking them true. The contrary of every matter of fact is still possible, because it doesn't imply a contradiction and is conceived by the mind as easily and clearly as if it conformed perfectly to reality. That the sun will not rise tomorrow is [...] no more contradictory than [...] that the sun will rise. (p. 11)

These matters of fact, as described by Hume, no longer seem so factual as per our understanding. The word fact is derived from Latin *factus* "that which has been made". What is there that prohibits the inverse from being or already having been made? The answer is nothing. This casts a massive shadow of doubt over the idea that not only suspicion, but even reasonable suspicion and probable cause, can qualify as legitimate evidence and totally refutes the idea that either can be objective. Both of the last two philosophers made compelling arguments that reality, factuality, and truth are truly illusory, really existing in the eye of the beholder alone.

## Cause and Effect is Itself an Assumption

Hume (1748) continues his inquiry into the source of the issue, that being that there is no situation in which cause and effect can be used in the formation of anything involving reason because they relate to totally different cognitive processes. Using reason will take its user to a necessary truth. Cause and effect, however, are only ventured at based upon past experience of them. Essentially, they are guesses whose "process of thought or inference [...] needs to be explained. These two propositions are far from being the same: •I have found that such and such

an object has always had such and such an effect. •I foresee that other objects which appear similar will have similar effects. The second proposition is always inferred from the first; and if you like I'll grant that it is rightly inferred. But if you insist that the inference is made by a chain of reasoning, I challenge you to produce the reasoning"(p. 16). The Phoenicians' experience taught them that sacrificing children to the fire-god would bring them victory and prosperity as each time they practiced such an abomination, their predictions proved true. Is that reasonable? Such is as reasonable as is the dog who barks incessantly at the mailman who, seeing his foe's flight follow without fail, comes to resolutely believe that his brave barking is the cause thereof. That same line of "reasoning", correlationally inductive cause and effect, is that which is used to justify "reasonable" suspicion as per the opinion of the Court.

### **Cause and Effect is A Circular Argument**

Neither are reasonable, as Hume (1748), puts forth that "if there are arguments to justify us in trusting past experience and making it the standard of our future judgment, these arguments can only [,,] concern matters of fact and real existence [and] can't provide us with the argument we are looking for. [...] So if we try to prove this assumption by [...] arguments regarding existence, we shall obviously be going in a circle"(p.16). In fact, cause and effect in general is based on the idea that the future will resemble the past: a conclusion reached based on the future resembling the past in the past. This makes the reasoning behind experiential judgements on matters of fact a *circular argument*, which is illogical and so, by definition, devoid of reason, explaining the Supreme Court's radical departure from true reason: it is incompatible with matters of fact. However, reason is not yet lost. Immanuel Kant will provide the final bastion against the illogicality of reason combined with experience, but his analysis, too, we see being diametrically opposed to the Court's.

### **Kant and Reason In Disguise**

Immanuel Kant wanted to salvage the uncertain nature of reality following the writings of Hume. In his 1787 *Critique of Pure Reason*, he lays out the way by which reason may be correctly aligned with experience to eliminate the issue of experience's cause and effect circularity. Kant (1787/1881) highlights how "logical illusion, which consists in a mere imitation of the forms of reason [...] arises entirely from want of attention to logical rules"(p. 241). Here, he is describing Hume's experiential reasoning as explained in the previous paragraph. He says that "the cause of this is that there exists in our reason (considered subjectively as a faculty of human knowledge) principles and maxims of its use, which have the appearance of objective principles, and lead us to mistake the subjective necessity of a certain connection of our concepts in favour of the understanding for an objective necessity in the determination of things by themselves"(p. 241). He explains that Hume's experiential reasoning is actually a limited form of attempting to create practical understanding, which combines subjective principles with concepts that occur in our perception of reality.

Also called "common sense", this instinctual use of maxims, unsubstantiated imperative claims such as "fight for your country", as well as subjective principles, results in the appearance of objectivity but the true character of subjective, flawed, and illogical thinking. Truly objective thinking cannot depend on the opinion of the holder, and can only relate to the issue in question itself, not proposed or supposed consequences not directly related thereto as has been brought up in 4th Amendment Supreme Court Rulings as early as *Terry v. Ohio* and all the others which will be later examined. Kant's (1787/1881) next paragraph of relevance eerily echoes this: "For we have here to deal with a natural and inevitable illusion, which itself rests on subjective principles, representing them to us as objective, [...] an artificial illusion produced by an imitation "(p.242).

## Kantian Reason

Fortunately, *pure reason*, elaborated upon later in this essay, can overcome these natural hurdles of subjectivity. However, if those in charge of the system are unaware of how to harness or unwilling to apply it, it cannot undergo that profoundly needed change within. Kant then provides a more detailed overview of his understanding of the mental geography that Hume attempted to map out but only succeeded in losing himself in: “all our knowledge begins with the senses, proceeds thence to the understanding, and ends with reason. There is nothing higher than reason, for working up the material of intuition, and comprehending it under the highest unity of thought. As it here becomes (...) necessary to give a definition of that highest faculty of knowledge, [...] of reason, as there is of the understanding, a purely formal, that is logical use, [...] there is also a real use, in so far as reason itself contains the origin of certain concepts and principles, which it has not borrowed either from the senses or from the understanding”(pp. 242-243). So, if this methodology is correctly followed, there can still be a practical application of reason: through the objective verification of the universality of concepts and its application onto the senses and the understanding, rather than the other way around. However, this is not how the Supreme Court treats the issue. He addresses the confusion as being the result of the difference between “the understanding as the faculty of rules, and we now distinguish reason from it, by calling it the faculty of principles”(p. 243). Reason is thus defined as “the faculty of principles”, which, as he explains, is just as prone to unreasonableness as it is to reasonableness and be the result of experiential inferencing. Principles, or rules that are true for every rational being, must actually be that or else they are limited and based on the understanding, falling victim to the issues that he brought up regarding experience. Namely, that their subjective nature precludes them from ever being valid grounds for objective judgment.

## True Reasoning per Kant

However, experience is not necessarily wrong. Kant (1787/1881) says that “reason is a form of deducing some kind of knowledge from a principle”(p. 244). Hume’s problem was with inductive reasoning, i.e. coming up with general principles based on instantial observations. Kant solves this issue through the promotion of deductive reasoning, where a necessary principle guides one’s actions as per the dictates of reason. This allows for reason’s use in practice once more. Despite this, that reasoning is not used in investigatory procedure sanctioned by the Supreme Court as being “reasonable”. The knowledge he speaks of is the successful fusion, or union of experiential understanding with reason, and can only be done through proper deduction from principles self-evident by reason’s terms. The requirements for this are extremely restrictive, and as mentioned above, do not align with the inductive reasoning practiced investigatively today. Kant then sums up the other mental faculty most thus: “if the understanding is a faculty for producing unity among phenomena, according to rules, reason is the faculty for producing unity among the rules of the understanding, according to principles. Reason therefore never looks directly to experience, or to any object, but to the understanding”(p. 245). The Supreme Court’s understanding of reason lines up more with understanding, given that both result from producing unity among phenomena, whereas Kant’s reason requires logical oversight thereof in order for such to be true reason. An example of how the Supreme Court’s definition is inherently irrational, resultantly, would be this: someone who has consistently had bad experiences with African Americans will understand them to *all* be bad as a result. This is flawed, subjective, inductive reasoning. Proper reason would be applying the self-standing principle that everyone is an individual and hasty generalizations are necessarily false. This is why in his earlier quote he called principles of the understanding “relative”.

## Reason Cannot Be Relative

Because reason must be based on these objective, higher principles, the idea of a “reasonable person” standard is self contradictory, and furthermore, the idea that a “reasonable mistake” can be made is equally so. Both are extremely subjective because they result from individual understandings as opposed to detached, impersonal reason, which remains the same for everyone. People simply are not typically adept at reaching such heights to truly see existence from a bird’s eye view as pure reason requires. Kant (1787/1881) then claims “that reason, in forming conclusions, tries to reduce the great variety of the knowledge of the understanding to the smallest number of principles”(p. 247). Particularized, articulable suspicion as the starting point causes the investigation to move in the opposite direction and cannot be called reasonable. He then pivots to say that the “principle however prescribes no law to the objects themselves, nor does it contain the ground on which the possibility of knowing and determining objects depends”(p. 248). This establishes limits to the use of reason for personal purposes, acknowledging Descartes’ and Hume’s objections to the inaccuracy of sensory perception, with Kant clarifying that “it is merely [...] subjective [and] applied to the stores of our understanding; having for its purpose, [...] to reduce [phenomena] to the smallest possible number”(p. 248).

We now reach the final stage of our philosophical inquiry. Kant (1787/1881) says that “reason, [...] has no immediate relation to them and their intuition, but only to the understanding and its judgments, these having a direct relation to the senses and their intuition, and determining their objects.”(p.249). This further solidifies the fact that reason must be wholly independent of not only sense perception but the intuitions and suspicions that arise from the experience from which they are produced, given their antipodal nature. Reason actually occupies a third tier of knowledge, and one whose impact is top-down and not bottom-up, and that is supported by its



usability whilst entirely estranged from experience through logic or math as shown by Hume and Descartes. This presents a massive problem: as a man is not omnipotent, he cannot possibly know all of the situations wherein a pattern he concluded a general rule based upon his own experience may have applied in order to fashion his logical certainty based on reason.

This is the final nail in the coffin for Supreme Court doctrine regarding “reasonableness” beginning with *Terry v. Ohio*, which I shall critically examine as per the findings of philosophy: the foundational field of study that created all others, including law, because it itself asks and solves these vital questions of the limits of the human mind and how it operates. The Supreme Court’s post-Terry reasonableness doctrine is not imperfect philosophy; instead, it is the systematic **rejection** of philosophy, and so reason in general. In *Terry v. Ohio* (1968), the court held that “Under the Fourth Amendment of the U.S. Constitution, a police officer may stop a suspect on the street and frisk him or her without probable cause to arrest, if the police officer has a reasonable suspicion that the person has committed, is committing, or is about to commit a crime and has a reasonable belief that the person ‘may be armed and presently dangerous’”. The idea that an officer’s suspicion can even be reasonable is thoroughly rejected by Kant, in that reason cannot, by its very definition, license an empirical inference in the concrete, fast-paced sensory overload of a police encounter; instead, such demonstrates, as Kant articulated, limited understanding masquerading as reason. Additionally, the aforementioned scientific evidence has shown that the more stressful a situation is the more likely a witness’ testimony will be unlikely, adding empirical proof for the logical conclusions made by the above philosophers (*State v. Henderson* 208 N.J. 208 (2011)).

### McFadden's Supposedly Reasonable Suspicion

Detective McFadden based his already unreasonable suspicion on his experiential induction, which, as Hume proved, is entirely divorced from reason, something only further proven by his being “unable to say precisely what first drew his eye to them”. He also testified to being a policeman for 39 years, a detective for 35, and that he had been assigned to patrol this vicinity of Cleveland for shoplifters and pickpockets for 30 years. He explained that he had developed routine habits of observation over the years, and that he would “stand and watch people or walk and watch people at many intervals of the day.” He added: “Now, in this case, when I looked over, they didn't look right to me at the time”(Terry v. Ohio, 1968). Descartes said that anything subject to just the slightest doubt is equally likely to be false as it is to be true. Was this officer's personal, particular prejudice of them “not looking right” reasonable beyond any doubt? Whether he was even right or not will never be known, because of his preemptive seizure of the suspects without probable cause or even an explanation beyond a mumble. Reason does not silence; it listens. Reason does not assume; it doubts. Reason is not a maybe: it is a certainty. This is not an opinion, like the rulings of the Supreme Court. This is the conclusion of two and a half millennia of the study of wisdom itself. It is impossible to think that any judgment based upon one person's experience constitutes objective rules that are true for everyone in every situation, something proven by the very results of the next landmark cases created by this ruling. Furthermore, the circumstance-based analysis is entirely matter of fact and not only unreasonable by Hume's standards, but its conditional particularity makes it unreasonable by Kantian ones as well. Was McFadden's suspicion “on the basis of his experience”, habit, and/or customs? Did he have any reason to believe otherwise? Then reason played no part in his decision.

## Subjectivity as the Basis for Reason

Reason played a very minimal role in the verdict of the justices, just about as much as in McFadden's actions. Does every police encounter end with them getting shot? If no, it is not reasonable to assume that they will be "answered by a bullet" (*Terry v. Ohio*, 1968). In fact, per the logic of the court, killing **police would be thereby reasonable**, as statistics on homicides committed by police versus police victims of homicide indicate that the officer is exponentially more likely to answer with a bullet than be answered by one. 1552 cases of the former in just sixteen states versus 1335 of the latter nationally, respectively from 2005-2012 (Barber et. al. 2012, National Law Enforcement Officers Memorial Fund 2024). Are "police officers whose judgment is necessarily colored by their primary involvement in "the often competitive enterprise of ferreting out crime" (*Terry v. Ohio*, 1968) reliable and reasonable as per Descartes, Hume, or Kant? Is judging *only* the facts of the case before the court reasonable? Could not the opposite be equally conceivable? Then that judgement would not be based on reason, and so be likely unjust the same way a scientific experiment conducted without using the scientific method would have an astronomically slim chance of being truly scientific. What does the scope of the search have to do with its reasonableness? Is the central inquiry of the Fourth Amendment that which is reasonable *under all the circumstances*? Of the *particular* government invasion? All of these terms expressly deny that reason was involved in the decision-making process. So does "necessarily swift action predicated upon the on-the-spot observations of the officer on the beat - - which historically has not been, and, as a practical matter, could not be, subjected to the warrant procedure" (*Terry v. Ohio*). Once again, this is the understanding pretending to be true reason as nearly every single term of significance proves: from swift action, to predicated, to on-the-spot, to observations, to on the beat.

## Reinventing Reason as Rationalization

None of these conditions are, in any way, independent of the perspective of the subject and are, necessarily, *subjective*. Are officer observations empirically resultant in correct judgements in order to satisfy Hume's conundrum? That shall be covered shortly. What is abundantly clear, however, is that none of this has involved reason or the consideration thereof at any point. They claim there is "no ready test for determining reasonableness other than by balancing the need to search [or seize] against the invasion which the search [or seizure] entails"(Terry v. Ohio, 1968), but ignore the fact that such has been determined centuries ago as has been laid out in the preceding pages; the same determinations which created modern science and all human progress since their initial authorship. "Specific" and "inferences" further prove this to be the understanding veiled as reason. Does the judgment of one, supposedly neutral, though unlikely so given how human behavior is dictated by many impulses that naturally command them otherwise, necessarily hold true for all rational beings? That is oxymoronic and thus logically unreasonable, just like the idea that a human can be neutral at all given the influence of experience, custom, habit, and the deceptive nature of the senses. Can the imaginary idea of "a man of reasonable caution"(Terry v. Ohio) be an objective standard? That is a double oxymoron. The viewpoint of one man would not be objective, by definition, and furthermore, that man's being imaginary adds another level of subjectivity in that he must first be imagined by another for consideration to even begin. Is an inarticulate hunch anything other than what was possessed by McFadden? He surely did not articulate anything. Furthermore, can it be said that anything resulting solely from sense perception and experience is anything but a hunch? To say otherwise would imply that one person's experience will hold true absolutely, which is impossible to determine.

### **Objectivity v. Ohio and The Justice System's Jurisdiction over Definitions**

To say that weighing government interest versus personal rights constitutes the determination of reasonableness is an ignorant affront to the scholars who genuinely researched the topic and actually attempted not only to define it, but even just look into what it meant to be reasonable without just tossing the word out there as if it were universal amongst everyone. The fact that determination is the purported goal of this process only further solidifies its lack of objective reasonableness as well as empirical necessity. It is a matter of fact that the sun will rise since it always has. Has every stop and frisk resulted in the procurement of illegal weapons? According to *Floyd v. City of New York* (2013), a mere 1% did. Moreover, in the vast minority of cases in which they did, was such always necessary for officer safety? Then it is not just unreasonable, it cannot even qualify as a matter of fact. The court claims that it does not “not follow from the necessity of factual evidence for an arrest that police may not intrude short of an arrest” (*Terry v. Ohio*, 1968), but it certainly follows that it would be unreasonable with anything other than universally valid principles (i.e. reason) as justification. To reasonably conclude “in light of his experience”, as well as the idea that one can have a reasonable fear that someone *might* be or do something are both impossible because they contradict themselves. If such an intrusion happened to be a search and/or seizure, it would be thus illegal under the Fourth Amendment's prohibition thereof, irrespective of the opinion of the court. Freedom is not slavery just because it is ruled to be so by a group of nine. The idea that a small subset of people gets to determine truth, literally delivering *opinions* without any actual objective thinking thereabout, is wholly subjective, unreasonable and contrary to reason's very definition, and accordingly the mortal enemy of philosophy and even justice itself. The idea that an officer need not probability but only suspicion of something to be reasonable in his actions is another oxymoron.

### **Alexander Hamilton's Cautionary Prophecy**

Reason requires universal necessity else it is, by definition, *not* objective and so an entirely invalid cause to infringe on the rights given to us by the Fourth Amendment, something eerily predicted by one of our nation's most beloved founding fathers to this day. In fact, Alexander Hamilton argued that this defect would result from the simple idea of a government drafting

bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They might urge with a semblance of reason, that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given. (Hamilton, A. (2012). Federalist No. 84. In *The Federalist Papers*)

This case review will be concluded to avoid repeating the same rejections of the justices' claims that all fall under the umbrella of unreasonable as enumerated prior.

### **Justice Douglas' Clairvoyant Prediction**

One last note, however, will be reserved for the Honorable Justice Douglas, who identifies exactly the same procedural issues in calling a suspicion reasonable:

it is a mystery how that "search" and that "seizure" can be constitutional by Fourth Amendment standards unless there was "probable cause" to believe that (1) a crime had been committed or (2) a crime was in the process of being committed or (3) a crime was about to be committed. The opinion of the Court disclaims the existence of "probable cause." If loitering were in issue and that was the offense charged, there would be "probable cause" shown. But the crime here is carrying concealed weapons; and there is no basis for concluding that the officer had "probable cause" for believing that that crime was being committed. [...] At the time of their "seizure" without a warrant, they must possess facts concerning the person arrested that would have satisfied a magistrate that "probable cause" was indeed present. The term "probable cause" rings a bell of certainty that is not sounded by phrases such as "reasonable suspicion (...) the infringement on personal liberty of any "seizure" of a person can only be "reasonable" under the Fourth Amendment if we require the police to possess "probable cause" before they seize him. Only that line draws a meaningful distinction between an officer's mere inkling and the presence of facts within the officer's personal knowledge (...) to give the police greater power than a magistrate is to take a long step down the totalitarian path. (*Terry v. Ohio*, 1968)

Douglas' valiant protest against his fellow "Justices" intentionally ignoring the Constitution in favor of inventing a system wholly alien to it would end up being in vain, and decade by decade, his foreboding prediction would unveil itself to be a prophecy that would play out exactly as he worried it would. The Court was well aware of his dissent, not only when they heard it at the time, in person, but over and over as subsequent Courts and rulings referenced and studied *Terry* in full knowledge of their exact implementation of that totalitarian path he so fervently opposed—and they never turned back. In the *Terry v. Ohio* decision, the justices essentially invented out of thin air a matrix, the "balancing test", as a replacement for reason,

with the implications therein being reason's gradual replacement by more complex and more arbitrary tests and decisions as would be commanded by precedent. The Supreme Court does not have the authority to unilaterally change the definition of words. If reasonableness is a way to govern, and not about how we know something, then that governance is done in ignorance.

### **Reason's Rightful Owner and the Ramifications of her Robbery**

The fact that philosophy came to that conclusion does not make it any less valid, in fact, it validates it even more because that is exactly philosophy's specialty: the limits of the mind. If there is any specialty with the authority to interpret words, reason in particular, it would be that which not only studies, but created, the very idea itself: without philosophy, the Supreme Court would not even have the term reasonable to misuse in the first place. Philosophy cannot replace legal reasoning because it is the foundation of valid reasoning itself; the idea that there is some sort of fundamental difference that makes the two incompatible ignores what philosophy is. The idea that law is somehow above logic and reason is a testament to how terrible the *Terry* ruling was because, rather openly, legal reasoning and regular reasoning became two wholly different things. In other circumstances, such a divergence would be called "being wrong". Justice Douglas even warned of the dangers of that ruling, but he was mistaken in thinking the path had just begun. When words are ruled to mean their opposite by governing bodies, we are past mere totalitarianism: that is **Orwellian**. In giving the government total control by elevating individualized suspicion to supposed objective reason, the word has been redefined to mean its opposite: the doublethink seen in Orwell's novel *1984*. That is totalitarianism's very definition. Reason is subjective. Opinions are facts. Oligarchy is democracy. Alexander Hamilton dreaded even writing these rights, fearing their potential for distortion. The remainder of this article will demonstrate just how right he was and meaningless the legal definition of "reason" has become.



### **Terry's Reign of Terror**

To expedite the remaining cases pertaining to this topic, each will be evaluated based on its essential evolution of the central contradiction of the Supreme Court's understanding of "reasonableness" that has already been laid out in full. Accordingly, each shall be primarily examined in terms of the increasing permission each case ruling crepaciouly cedes to government intrusion all the way up to the fulfillment of Justice Douglas' clairvoyant warning. This next step was the "reasonable person" standard articulated in *U.S. v. Mendenhall's* (1980) is oxymoronic, as reason is not particular to a specific person as per Kant, nor is it compatible with Hume's mental geography of what motivates human behavior and cognition, nor would it be in line with Descartes' reasonable requirement that doubt be eliminated at every step of the way, not to mention the incompatibility of "reasonable suspicion" with all three as illustrated prior. It also licenses police intimidation identified and expressly condemned in *Miranda v. Arizona* (1966).

### **Graham v. Connor: It is Reasonable to be Wrong**

*Graham v. Connor's* (1989) standard of objective reasonability of determining "whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation" can be neither; nothing can be objective if viewed from the perspective of an individual subject. Such is by definition subjective and not reasonable. Per Kant, the resultant relegation of the inquiry into the understanding, and even intuition based on the excusal of actions taken in reaction to the flashpoint nature of the encounter, it is not only unreasonable on those but also upon Hume's outline of human motivation, not even a practical judgement based on matter of fact as cause and

effect resulted in the fact being that Graham was innocent; a diabetic young man was ruthlessly beaten to a pulp for that error whom the Justices had no sympathy for, but only the perpetrators.

Finally, the frantic nature of the encounter created case-centric sense deception, which, combined with the the innumerable instances of officers ignoring obvious clues to doubt and cease their arrest certainly failed Descartes' reasonableness test in every way. Ultimately, the constitutionally irrelevant ruling by Judge Friendly in improperly applying the *Johnson v. Glick* test demonstrates the fallibility of judges and subsequently court precedent in general, a ruling that formed the very basis for this own case that has now become itself precedent, a progression that defies all notions of critical analysis and abandons logical overtures.

### **U.S. v. Banks: Paranoia is Prudent and Precedent**

*U.S. v. Banks* (2004) further reduced the Supreme Court's understanding of "reasonable" to ridiculousness, first through its discussion of reasonableness for forced entry existing on a case-by-case basis, a contradiction as per Kant, but mainly through the Court's endorsement of the idea that "the obligation to knock and announce before entering gives way when officers have reasonable grounds to expect futility or to suspect that an exigency, such as evidence destruction, will arise instantly upon knocking" (*United States v. Banks*, 540 US 31 (2004)). Kant's definition requires the 20/20 hindsight (i.e. true objectivity) prohibited by *Graham v. Connor*'s paradoxical ruling otherwise, and that those grounds in question be unconditionally true in any case and any perspective. The dissenting lower courts' concerns' disrespectful, unsubstantiated, and unceremonious labelling as implementing "bad laws" by the Supreme Court certainly disproves that notion even within the judicial system. Moreso, not only is it *unreasonable* per Hume, it is not even a *matter of fact* since there was no factual basis behind their actions, only paranoia, nor even experience of anything in the house as per the court's own

admission, all of which rather blatantly fails Descartes' test in a cumulative fulfillment of my earlier claim that the justice system, and particularly the Supreme Court, severely and structurally lacks genuine reasoning in its decision making to the point of totally perverting, through its own arrogant, self-assured arbitrary authority, our most fundamental right against police intrusion into an absurd excuse to violate it.

### **Heien v. North Carolina: The Court's Carte Blanche**

The Court enshrined this principle in law to an even more alarming degree in *Heien v. North Carolina* (2014), wherein it was determined that "Sergeant Darisse's mistaken understanding of the vehicle code was reasonable, the stop was valid [...] an officer may make a mistake, including a mistake of law, yet still act reasonably under the circumstances. . . . [W]hen an officer acts reasonably under the circumstances, he is not violating the Fourth Amendment". This means that, so long as the courts deem an officer's actions to be reasonable, the protection of the 4th Amendment is entirely nullified.

In both this case and the last, the evolution of reasonableness to rationalization quite apparent: no longer is the term "reasonable", it is "reason-able". Given that reasonable is a word, there is no obvious purpose in adding a hyphen between reason and its suffix. Such a distinction eerily accords with the Court's evolving, unspoken interpretation of reasonableness that replaced the requirement that searches and seizures have legitimate reason behind them, with that of reason-able, or being able to invent a reason post-hoc. Despite there being no proof for this, it echoes the policies of the Court's evolving jurisprudence, and illustrates this change etymologically, regardless of whether this direct connection is imagined or not.

The Fourth Amendment protects "the right of the people [...] against unreasonable searches and seizures". The clause therein that protects the right of the officer is not exactly

apparent, although according to the ruling, cases from around two hundred years ago provided the precedent by declaring that “reasonable suspicion also allows for reasonable mistakes of law”. That very sentence epitomizes the neutering of the word reasonable, as well as the shift away from the Fourth Amendment being a protective document for the people and instead for law enforcement. If they can come up with a reason as to why it is reasonable, then they are in the clear. However, that is predicated upon the mistake being one that the doubly subjective and ever-present, fictional “reasonable man” would make for it to be considered reasonable by the Supreme Court. “Reasonable” is defined as “being in accordance with reason, fairness, and good judgement”(Oxford Languages n.d). Is making a mistake good judgement? One does not even need philosophy to come to this conclusion, merely a dictionary. Regardless, it will be evaluated if, by the standards of the true pioneers of human reason, this stop was reasonable. Kant’s conception of reason demands that it be pure, and he specifically writes on how understanding can be disguised as reason; this case openly conflates the two by saying that “Darisse’s mistaken understanding of the law was reasonable, and thus the stop was valid”. Reason does not come from understanding; rather, it governs it, though the latter will pretend to be the former quite frequently. This very excerpt is self-contradictory and is objectively unreasonable in the Kantian construction of reason: the only objective construction of reason provided by any of the most recognized philosophers that wrote on the subject. It also ironically showcases how the lack of Kantian reason really does contribute to increasingly complicated and outright unjust legal interpretation, proves Hume’s point about experience being unreliable given the arresting officer likely had done so without any knowledge that it was not actually the law. Finally, Descartes most certainly would not consider such a thing reasonable given that his methodology involves the rigorous doubt of everything, especially the foundations of one’s knowledge. And just as

Justice Douglas and I predicted, over  $\frac{2}{3}$  of cases that have cited this precedent did, in fact, utilize this post-hoc rationalization that the Justices said would be “exceedingly rare”(Goldstein 2024). As the other issues with the “reasonableness” concept as described in this article have already been covered most extensively, the inquiry shall cease here.

### **Conclusion**

In all, the Supreme Court’s treatment of reasonableness contrary to the definition provided by the experts thereon, and even just the Oxford English Dictionary, has resulted in an institutionalization of ignorance, the reification of retroactive rationalization, and the permanent placement of the pavement of that predicted path towards totalitarianism that Justice Douglas cautioned against all the way back in the *Terry v. Ohio* (1968) ruling. It is clear that this is the result of a seemingly willful ignorance of the meaning of “reasonable”, and its subsequent semantic torture, to use the language of *Terry*, to the point where the 4th Amendment protects law enforcement more than it protects the people to whom the right was actually promised in the Constitution. This is why philosophy is indispensable to law and society in that it is the Gadfly which spurs the beast of the state onwards and awakens its people to face the unmasked nakedness of the oppression that they now find themselves in. Furthermore, philosophy addresses these complex conundrums of what exactly reason is, and what exactly it means to think, to understand, and to know: topics whose importance may initially seem inconsequential, but in cases like this, their integrality to justice and progress as a whole become crystal clear.

### **Forever Is Philosophy’s Fight against Falsity**

Today’s Americans’ Fourth Amendment rights dangle by a frail fiber, relentlessly hewed away by the Court’s interpretations of reason that fail to follow the very findings of the philosophers who first defined it, and fulfilling the full fruition of the fears that the Founding

Fathers who formulated the Fourth *fought* to forever prevent. Philosophy is not just a relic: it is the magnifying glass through which law, justice, freedom, and all other abstract concepts of the human understanding may be accurately examined rather than uncritically assumed. Though it has no power in the justice system of today, its provision of the ultimate measure of rational legitimacy permits it to judge far more harshly and objectively: its judgements are eternal.

Socrates lives forevermore through his lessons and struggle against the law of his age; his legacy extends beyond the creation of our nation itself by a factor of ten. This discipline is immortal for good reason: when law contradicts it, law's claim to reasonableness evaporates. Ours, then, is solely maintained by the smokescreen of the false premises of the authority of its meager, decimal precedent in comparison to philosophy's true authority. In examining the Supreme Court from the perspective of philosophy, this finding is only more legitimized. Despite not governing the people, it governs the very concepts themselves which our and all law rely upon to even have their most essential terminology.

### **Philosophy's Eternal Flame**

Just as Socrates outlasted Ancient Athens after it fell by two thousand years, so too will the fall of this flawed, failed farce leave philosophy victorious after it lights the fuse to once more burn down the foundations of a system in the dark with its everlasting fire of wisdom. The notion that philosophy and its teachings are subjective or merely just "a way of thinking" is a critically dangerous threat that bodes an ominous future for whatever society such a delusion takes hold of. Rather than a forgotten and outdated thing of the past, philosophy still remains as the source of all intellectual pursuits, as it has since it was the very term denoting all of them, and thus the questions it ponders and the findings philosophers come about are timeless and indescribably pertinent to not only pursuits of the mind, but life as a whole, given that the only

reason we know we even exist, to this day, is because we think: a necessary aspect of the life of man in general. Philosophy has always been the engine and origin of human scholarly and technological development, and its lessons must be remembered especially as all of these fields continue to develop more identities of their own independent of philosophy. Specialized sciences and studies forget how to truly think because of their increasingly narrow scope of focus. We must not forget how to think: that trait is what defines and confirms our very existence.

Otherwise, we will fall into the darkness of absurdity and chaos that the flaming light of philosophy has spent millennia nobly warding off. Historically, however, that light has burned, uninterrupted, far longer than the Olympic flame of both Ancient Greece and today that the culture of the former considered as sacred its upkeep. Perhaps, then, philosophy was actually the real sacred flame of Ancient Greece, as its brilliance has never been extinguished. Certainly, its fires are divine in their immemorial immolation of inaccuracy and, ultimately, injustice itself.

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