brought his claims under federal statutes that authorize fee awards to prevailing plaintiffs' attorneys. He contends that application of the anticipatory assignment principle would be inconsistent with the purpose of statutory fee-shifting provisions. See *Venegas v. Mitchell,* 495 U.S. 82, 86, 110 S.Ct. 1679, 109 L.Ed.2d 74 (1990) (observing that statutory fees enable "plaintiffs to employ reasonably competent lawyers without cost to themselves if they prevail"). In the federal system statutory fees are typically awarded by the court under the lodestar approach, *Hensley v. Eckerhart,* 461 U.S. 424, 433, 103 S.Ct. 1933, 76 L.Ed.2d 40 (1983), and the plaintiff usually has little control over the amount awarded. Sometimes, as when the plaintiff seeks only injunctive relief, or when the statute caps plaintiffs' recoveries, or when for other reasons damages are substantially less than attorney's fees, court-awarded attorney's fees can exceed a plaintiff's monetary recovery. See, *e.g., Riverside v. Rivera,* 477 U.S. 561, 564–565, 106 S.Ct. 2686, 91 L.Ed.2d 466 (1986) (compensatory and punitive damages of $33,350; attorney's fee award of $245,456.25). Treating the fee award as income to the plaintiff in such cases, it is argued, can lead to the perverse result that the plaintiff loses money by winning the suit. Furthermore, it is urged that treating statutory fee awards as income to plaintiffs would $\lfloor_{439}$undermine the effectiveness of fee-shifting statutes in deputizing plaintiffs and their lawyers to act as private attorneys general.

We need not address these claims. After Banks settled his case, the fee paid to his attorney was calculated solely on the basis of the private contingent-fee contract. There was no court-ordered fee award, nor was there any indication in Banks' contract with his attorney, or in the settlement agreement with the defendant, that the contingent fee paid to Banks' attorney was in lieu of statutory fees Banks might otherwise have been entitled to recover. Also, the amendment added by the American Jobs Creation Act redresses the concern for many, perhaps most, claims governed by fee-shifting statutes.

* * *

For the reasons stated, the judgments of the Courts of Appeals for the Sixth and Ninth Circuits are reversed, and the cases are remanded for further proceedings consistent with this opinion.

It is so ordered.

THE CHIEF JUSTICE took no part in the decision of these cases.

543 U.S. 405, 160 L.Ed.2d 842

ILLINOIS, Petitioner,

v.

Roy I. CABALLES.

No. 03–923.

Argued Nov. 10, 2004.

Decided Jan. 24, 2005.

Background: Defendant was convicted, following bench trial in the Circuit Court, La Salle County, H. Chris Ryan, Jr., J., of cannabis trafficking, and he appealed from denial of motion to suppress evidence discovered during traffic stop of vehicle he was driving. The Illinois Appellate Court affirmed. Granting petition for leave to appeal, the Illinois Supreme Court, Kilbride, J., 207 Ill.2d 504, 280 Ill.Dec. 277, 802 N.E.2d 202, reversed. Certiorari was granted.

Holding: The United States Supreme Court, Justice Stevens, held that, where lawful traffic stop was not extended be-

yond time necessary to issue warning ticket and to conduct ordinary inquiries incident to such a stop, another officer's arrival at scene while stop was in progress and use of narcotics-detection dog to sniff around exterior of motorist's vehicle did not rise to level of cognizable infringement on motorist's Fourth Amendment rights, such as would have to be supported by some reasonable, articulable suspicion.

Vacated and remanded.

Justice Souter dissented and filed opinion.

Justice Ginsburg dissented and filed opinion, in which Justice Souter joined.

Chief Justice Rehnquist took no part in the decision of the case.

1. Searches and Seizures ⚷53.1

Seizure that is lawful at its inception can violate the Fourth Amendment if its manner of execution unreasonably infringes interests protected by the Constitution. U.S.C.A. Const.Amend. 4.

2. Automobiles ⚷349(17)

Seizure that is justified solely by interest in issuing a warning ticket to driver can become unlawful, in violation of Fourth Amendment, if it is prolonged beyond time reasonably required to complete that mission. U.S.C.A. Const.Amend. 4.

3. Searches and Seizures ⚷13.1

Official conduct that does not compromise any legitimate interest in privacy is not "search" subject to the Fourth Amendment. U.S.C.A. Const.Amend. 4.

See publication Words and Phrases for other judicial constructions and definitions.

4. Searches and Seizures ⚷26

Any interest that party may have in possessing contraband cannot be deemed "legitimate," and government conduct that reveals only the possession of contraband compromises no legitimate privacy interest protected by the Fourth Amendment. U.S.C.A. Const.Amend. 4.

5. Automobiles ⚷349(18), 349.5(7)

Use of well-trained narcotics-detection dog, one that does not expose noncontraband items that otherwise would remain hidden from public view, during lawful traffic stop generally does not implicate legitimate privacy interests protected by the Fourth Amendment. U.S.C.A. Const. Amend. 4.

6. Automobiles ⚷349(17, 18)

Where lawful traffic stop was not extended beyond time necessary to issue warning ticket and to conduct ordinary inquiries incident to such a stop, another officer's arrival at scene while stop was in progress and use of narcotics-detection dog to sniff around exterior of motorist's vehicle did not rise to level of cognizable infringement on motorist's Fourth Amendment rights, such as would have to be supported by some reasonable, articulable suspicion. U.S.C.A. Const.Amend. 4.

7. Automobiles ⚷349(18), 349.5(7)

Dog sniff conducted during lawful traffic stop, that reveals no information other than location of contraband that no individual has any right to possess, does not violate Fourth Amendment. U.S.C.A. Const.Amend. 4.

⌊405 *Syllabus* *

After an Illinois state trooper stopped respondent for speeding and radioed in, a second trooper, overhearing the transmission, drove to the scene with his narcotics-detection dog and walked the dog around

* The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.,* 200 U.S. 321, 337, 26 S.Ct. 282, 50 L.Ed. 499.

respondent's car while the first trooper wrote respondent a warning ticket. When the dog alerted at respondent's trunk, the officers searched the trunk, found marijuana, and arrested respondent. At respondent's drug trial, the court denied his motion to suppress the seized evidence, holding, *inter alia,* that the dog's alerting provided sufficient probable cause to conduct the search. Respondent was convicted, but the Illinois Supreme Court reversed, finding that because there were no specific and articulable facts to suggest drug activity, use of the dog unjustifiably enlarged a routine traffic stop into a drug investigation.

Held: 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. Pp. 837–838.

207 Ill.2d 504, 280 Ill.Dec. 277, 802 N.E.2d 202, vacated and remanded.

STEVENS, J., delivered the opinion of the Court, in which O'CONNOR, SCALIA, KENNEDY, THOMAS, and BREYER, JJ., joined. SOUTER, J., filed a dissenting opinion, *post,* p. 838. GINSBURG, J., filed a dissenting opinion, in which SOUTER, J., joined, *post,* p. 843. REHNQUIST, C. J., took no part in the decision of the case.

Christopher A. Wray, for the United States as amicus curiae, by special leave of the Court, supporting the petitioner.

Lisa Madigan, Attorney General of Illinois, Gary Feinerman, Counsel of Record, Solicitor General, Linda D. Woloshin, Mary Fleming, Assistant Attorneys General, Chicago, IL, for petitioner.

Ralph E. Meczyk, Counsel of Record, Lawrence H. Hyman, Chicago, IL, for respondent.

For U.S. Supreme Court briefs, see:

2004 WL 1530261 (Pet.Brief)

2004 WL 2097415 (Resp.Brief)

2004 WL 2398459 (Reply.Brief)

Justice STEVENS delivered the opinion of the Court.

⌊406Illinois 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.

⌊407Respondent 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.

[1, 2] Here, the initial seizure of respondent when he was stopped on the highway was based on probable cause and was concededly lawful. It is nevertheless clear that a seizure that is lawful at its inception can violate the Fourth Amendment if its manner of execution unreasonably infringes interests protected by the Constitution. *United States v. Jacobsen,* 466 U.S. 109, 124, 104 S.Ct. 1652, 80 L.Ed.2d 85 (1984). A seizure that is justified solely by the interest in issuing a warning ticket to the driver can become unlawful if it is prolonged beyond the time reasonably required to complete that mission. In an earlier case involving a dog sniff that occurred during an unreasonably prolonged traffic stop, the Illinois Supreme Court held that use of the dog and the subsequent discovery ⌊408 of contraband were the product of an unconstitutional seizure. *People v. Cox,* 202 Ill.2d 462, 270 Ill.Dec. 81, 782 N.E.2d 275 (2002). We may assume that a similar result would be warranted in this case if the dog sniff had been conducted while respondent was being unlawfully detained.

In the state-court proceedings, however, the judges carefully reviewed the details of Officer Gillette's conversations with respondent and the precise timing of his radio transmissions to the dispatcher to determine whether he had improperly extended the duration of the stop to enable the dog sniff to occur. We have not recounted those details because we accept the state court's conclusion that the duration of the stop in this case was entirely justified by the traffic offense and the ordinary inquiries incident to such a stop.

Despite this conclusion, the 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.

[3, 4] 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 expecta⌊409tion "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.

[5, 6] 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.

[7] 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 ⌊410home, 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.

THE CHIEF JUSTICE took no part in the decision of this case.