

Transit fare inspections are upheld by WA Supreme Court

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Fare enforcement on public transit has come under intense scrutiny in recent years. Here, a passenger boards a train at the Northgate light-rail station. (Kylie Cooper / The Seattle Times, 2022)

By [David Kroman](#) and [Mike Lindblom](#)

The Washington State Supreme Court on Thursday upheld fare enforcement checks on public transit as legal, but ruled that deputies wrongfully detained a Snohomish County man when he didn't show proof of payment on a bus.

[The decision](#) does not tell transit agencies how to do fare enforcement, and appears unlikely to change the daily experience of most riders. “The government has a general need for fare enforcement on barrier-free transit,” justices wrote.

Some justices concluded the very presence of armed police inside a transit vehicle, telling someone to produce fare and ID, was coercive. Others found insufficient evidence that deputies were authorized to conduct fare inspections for Community Transit, during the 2018 incident.

Community Transit's Swift buses in Snohomish County, as well as King County Metro RapidRide buses, Sound Transit's Link light rail, and Sounder commuter trains, rely on spot-checks of passengers, instead of turnstiles or fare gates, to compel payment. These "barrier free" methods reduce costs to build rail stations, and in the case of buses they allow quick loading through all three doors.

The arguments before the court involved the experience of bus passenger Zachery Meredith in 2018. Meredith was aboard Community Transit's Swift bus line, between Everett Station and the Aurora Village Transit Center in Shoreline, where riders tap their cards at a kiosk before boarding. While riding, he was approached by three Snohomish County sheriff's deputies, who asked for proof he'd paid in advance.

After lower courts found fare enforcement to be constitutional, the Meredith case came before the state Supreme Court in 2021.

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"Without evidence that Meredith was informed that fare enforcement on the bus may involve questioning by law enforcement officers, the State cannot meet its burden of proving that Meredith voluntarily consented to such an interaction merely by boarding," said the lead opinion, written by Justice Mary Yu.

"We do not strike down any statute permitting designated persons to request proof of fare payment on barrier-free transit systems," Yu concluded. "We reject only the particular method of fare enforcement used here, given the lack of legal justification in the record. Our holding is necessary both to preserve the constitutional privacy rights of transit passengers and to mitigate the known, racially disproportionate impact of such fare enforcement practices."

Meredith's attorney, Tobin Klusty, called Thursday's ruling a great result for the citizens of Washington state. "The right to privacy was given the protection it needs and deserves," he said.

"Clearly, having law enforcement going up to people and requesting proof of payment, and issuing an infraction that goes with that, does not pass constitutional muster," Klusty said.

Sound Transit trains and King County Metro's RapidRide buses have relied on contracted private security guards instead of police to do fare checks, with the ability to call law enforcement in the event of serious confrontations. Thursday's ruling does not contain any orders that immediately affect these two agencies.

In the Snohomish County incident, Meredith was approached from the outset by deputies, and he had neither an ORCA card to tap nor a receipt showing he'd paid. The deputies asked him to disembark at the next stop.

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When asked for his name, Meredith gave the deputies an alias. After failing to find any record of the name, the deputies identified Meredith using a fingerprint reader and found he had outstanding warrants in their system. The deputies arrested him on investigation of making false statements.

After a district court jury found Meredith guilty of making false statements — a ruling upheld in Snohomish County Superior Court — attorney Tobin Klusty took the case to state appellate court. There, he argued that the fare enforcement by officers was an [illegal invasion of privacy under the state constitution](#). The appellate court disagreed.

At the state Supreme Court, Klusty made a similar argument, that fare enforcement constitutes illegal seizure under the state constitution because riders do not have a reasonable belief that they are free to walk away in that moment.

“By merely walking onto public transportation, individuals do not consent to a waiver of their constitutional right to be free from arbitrary and erratic seizures of the person,” Klusty argued in February 2022.

Nathan Sugg, Snohomish County deputy prosecuting attorney, offered two reasons the stop of Meredith was not unconstitutional:

“First, a reasonable rider consents to such request when they do choose to ride transit,” he told the justices. Second, he said, even if the court finds that a request for proof of fare by a law enforcement officer is a nonconsensual seizure, the request is “justified under the special needs exception.”

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Fare enforcement has come under intense scrutiny by transit agencies in recent years amid data showing it disproportionately affected people of color.

The Supreme Court ruling Thursday emphasized those findings, and also mentioned “the coercive effect that a weapon can have in a police encounter, which is known to disproportionately affect Black, Indigenous, Latinx, and Pacific Islanders based on reasonable ‘fear[s] of how an officer with a gun will react to them.’ ”

In a dissenting opinion, Justice Debra Stephens questions the idea that fare-checking Meredith was coercive, or a “seizure,” given there was no force and the deputy struck a conversational tone of voice.

Stephens writes that Meredith knew he could be fare-checked, and that “for over a century we have recognized that that ‘it is incumbent upon the [passenger] to produce a ticket showing his right to transportation, when called upon . . . or pay the fare in money, or peaceably leave.’ ”

But there were also unusual circumstances that day. Sheriff’s deputies conducted a fare emphasis patrol with two in uniform on the bus, and one following in a marked car — unlike Community Transit’s own normal method for civilian Swift ambassadors to approach people first, then work with deputies as needed, Yu’s ruling explained.

Sound Transit has done away with traditional fare enforcement officers, who promptly evicted or ticketed non-payers, in favor of educational “fare ambassadors” dressed in yellow and blue. The agency intends to give riders warnings and alternatives before fines are charged, starting at \$50. Meanwhile, transit agencies have created a [discount ORCA LIFT farecard](#) where low-income adults can travel for only \$1 per trip. Youth ride free.

The pandemic upended fare collections on local transit. Both Sound Transit and King County Metro suspended them for months.

Low ridership and anemic enforcement mean the revenue coming into the agencies via fares is just a fraction of what it was in 2019.

Sound Transit has recently hired about 17 of its planned 26 fare ambassadors, to canvass its trains, and educate riders, but has yet to re-impose fines or citations for repeat violations. As of early March, an estimated 85% of passengers were showing proof of fare, a staff report said. CEO Julie Timm has announced plans this year to mark “fare paid zones” on the station platforms, so people will be approached to show proof-of-payment while waiting, rather than onboard a crowded train.

“We’ll review the decision and determine if it has implications for our fare inspection activities. We won’t speculate ahead of a close review,” said Sound Transit spokesperson Rachelle Cunningham. Community Transit hasn’t reacted yet to the ruling.

At Metro, “currently there is no emphasis on fare enforcement,” said spokesperson Al Sanders, as the county continues to work out its future strategy.

In fact, Metro now operates some non-RapidRide buses the same way, by opening multiple doors at stations, where payment is by the honor system.

David Kroman: 206-464-3196 or dkroman@seattletimes.com; on Twitter: [@KromanDavid](https://twitter.com/KromanDavid). *Seattle Times* staff reporter David Kroman covers transportation.

Mike Lindblom: 206-515-5631 or mlindblom@seattletimes.com; on Twitter: [@MikeLindblom](https://twitter.com/MikeLindblom). Staff reporter Mike Lindblom covers transportation for *The Seattle Times*.