
NYU
LAW

Anatomy of a Case

HOW TO READ | REAL GOOD

Learn by Doing

- There are things in this world that we learned by having been taught.

- And then there are things that we learn by blindly stumbling toward the abyss… that is, by experience & practice.

395 U.S. 752

Ted Steven CHIMEL, Petitioner,

v.

State of CALIFORNIA.

No. 770.

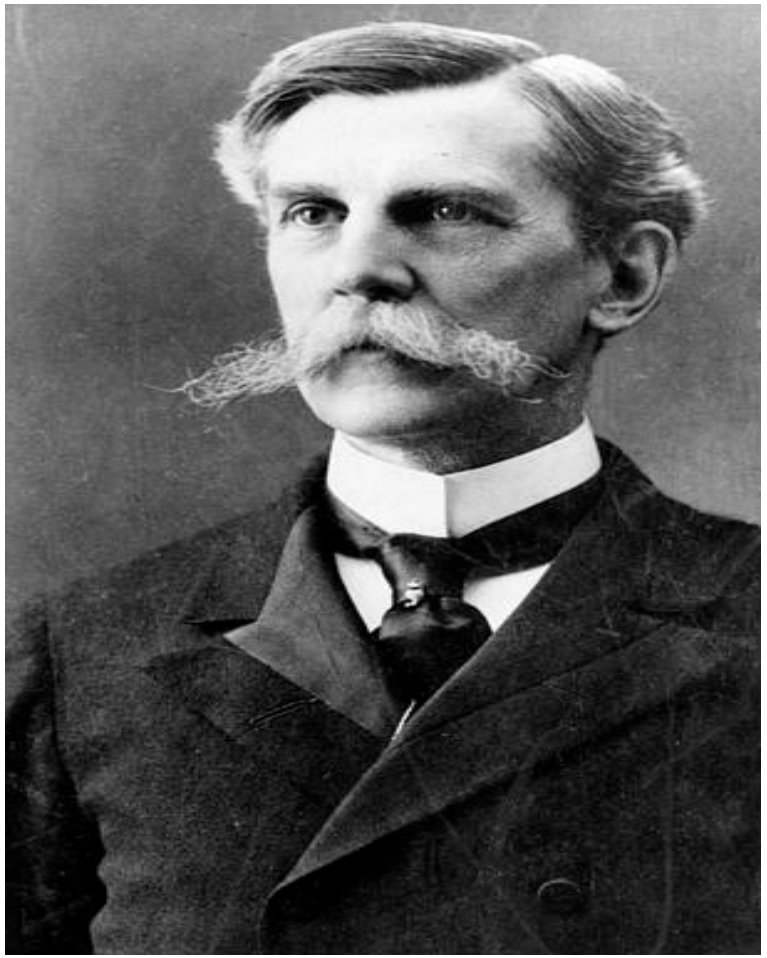
The Case Method

Philosophy of law

Holmes and the "prediction theory" of law

"When we study law we are not studying a mystery but a well-known profession. We are studying what we shall want in order to appear before judges, or to advise people in such a way as to keep them out of court. . . . **The object of our study, then, is prediction** . . . ."

The Path of the Law,
10 Harv. L. Rev. 457 (1897)



Oliver Wendell Holmes, Jr.
(1841-1935)

The Case Method

- The 4th Amendment to U.S. Constitution:

  The right of the people to be secure in their persons, houses, papers, and effects, against **unreasonable searches and seizures**, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

- But that doesn't tell you:
  - What's unreasonable?
  - What is a search? A seizure?
  - What is probable cause?
  - Do the same rules apply in house/car/street?
  - How does it apply to different types of people?

Briefing a Case

- Basics
  - Caption
  - Procedural History (which court, who appealed)
  - Basic Facts (what happened?)
  - Arguments by both sides (dispute)
  - Question (specific)

- Result
  - Reasoning (why? U. S. Constitution/prior cases/law/policy)
  - Holding (core legal principle, rule of the case)
  - Disposition (what the court does)

- Your Impressions

Caption

Chimel v. California, 395 U.S. 752 (1969)
89 S.Ct. 2034, 23 L.Ed.2d 685

89 S.Ct. 2034
Supreme Court of the United States

Ted Steven CHIMEL, Petitioner,
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No. 770.
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Argued March 27, 1969.
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Rehearing Denied Oct. 13, 1969.
See 90 S.Ct. 36.

Burglary prosecution. The Superior Court, Orange County, California, rendered judgment, and defendant appealed. The California Supreme Court, 68 Cal.2d 436, 67 Cal.Rptr. 421, 439 P.2d 333, vacating an opinion of the Court of Appeal at 61 Cal.Rptr. 714, affirmed, and defendant obtained certiorari. The Supreme Court, Mr. Justice Stewart, held that warrantless search of defendant's entire house, incident to defendant's proper arrest in house on burglary charge, was unreasonable as extending beyond defendant's person and area from which he might have obtained either weapon or something that could have been used as evidence against him.

Reversed.

Mr. Justice White and Mr. Justice Black dissented.

Attorneys and Law Firms

****2035 *753** Keith C. Monroe, Santa Ana, Cal., for petitioner.

Ronald M. George, Los Angeles, Cal., for respondent.

Opinion

Mr. Justice STEWART delivered the opinion of the Court.

This case raises basic questions concerning the permissible scope under the Fourth Amendment of a search incident to a lawful arrest.

The relevant facts are essentially undisputed. Late in the afternoon of September 13, 1965, three police officers arrived at the Santa Ana, California, home of the petitioner with a warrant authorizing his arrest for the burglary of a coin shop. The officers knocked on the door, identified themselves to the petitioner's wife, and asked if they might come inside. She ushered them into the house, where they waited 10 or 15 minutes until the petitioner returned home from work. When the petitioner entered the house, one of the officers handed him the arrest warrant and asked for permission to 'look around.' The petitioner objected, but was advised that ***754** 'on the basis of the lawful arrest,' the officers would nonetheless conduct a search. No search warrant had been issued.

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Without deciding the question, we proceed on the hypothesis that the California ****2036** courts were correct in holding that the arrest of the petitioner was valid under the Constitution. This brings us directly to the question whether the warrantless search of the petitioner's entire house can be constitutionally justified as incident to that

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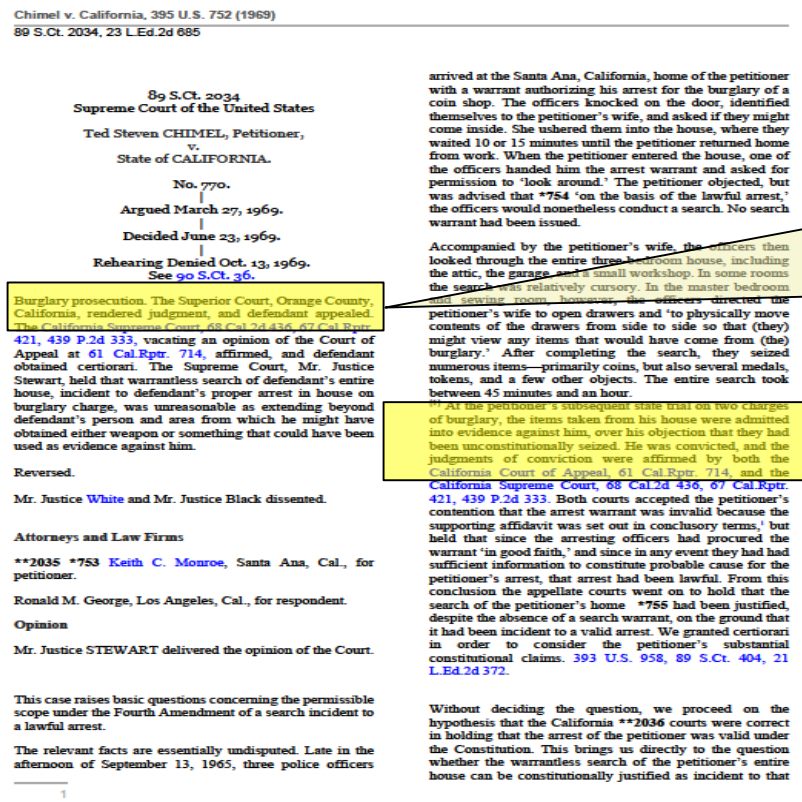
Procedural History



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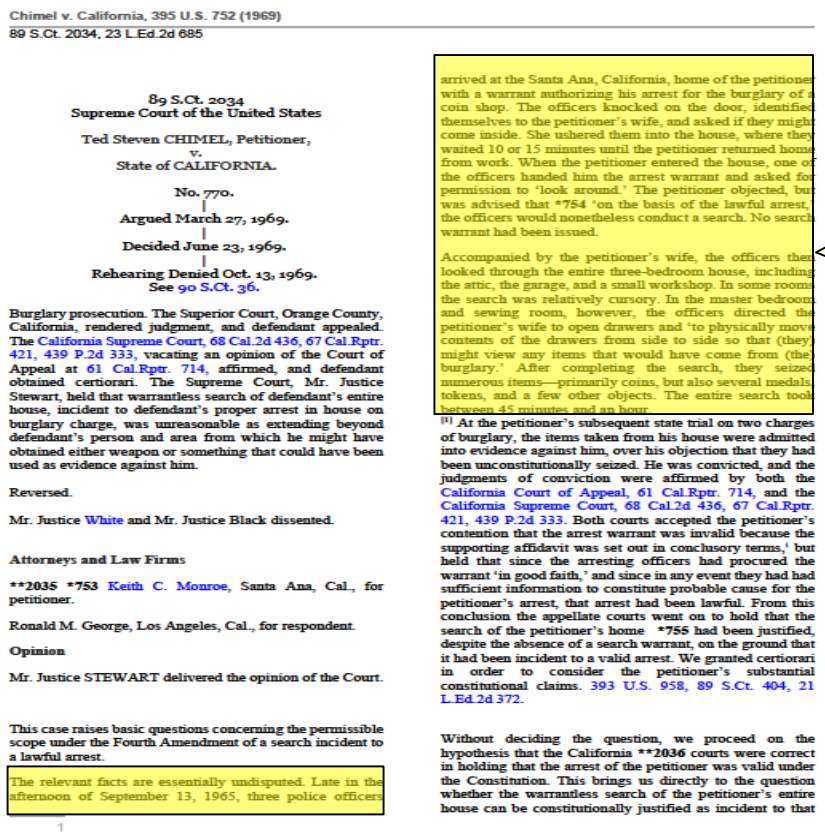

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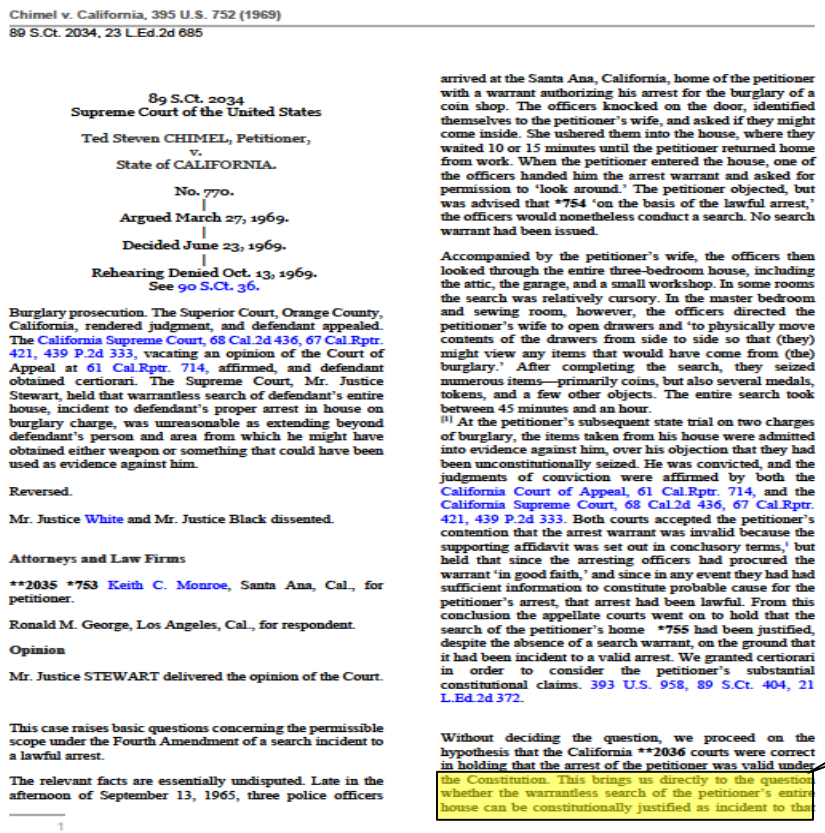
Question



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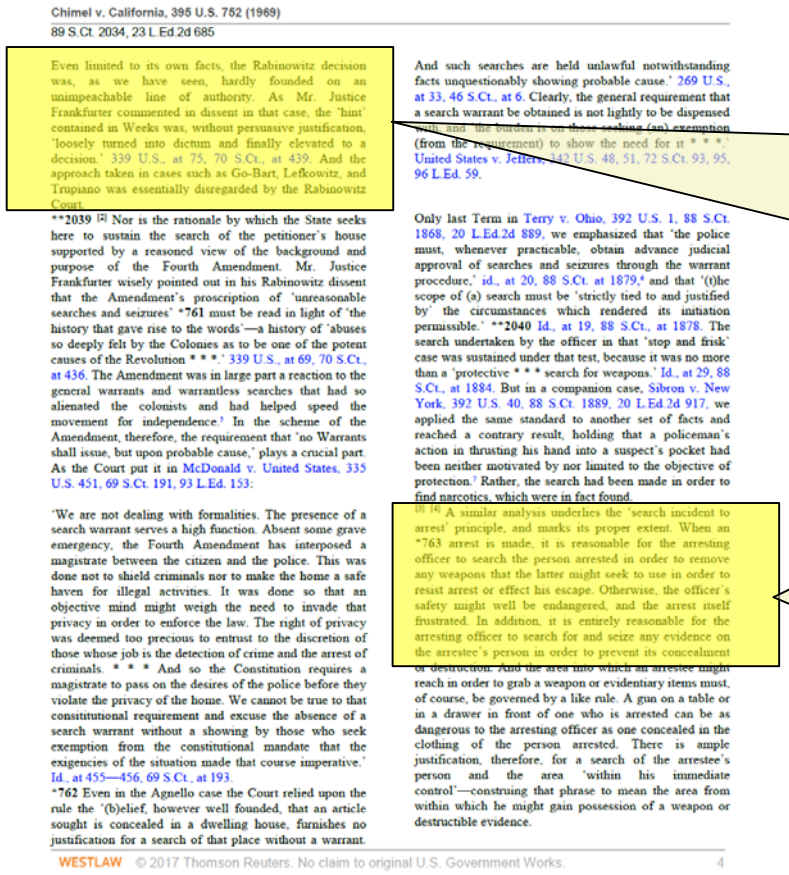
Reasoning: Precedent



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Even limited to its own facts, the Rabinowitz decision was, as we have seen, hardly founded on an unimpeachable line of authority. As Mr. Justice Frankfurter commented in dissent in that case, the 'hint' contained in Weeks was, without persuasive justification, 'loosely turned into dictum and finally elevated to a decision.' 339 U.S., at 75, 70 S.Ct., at 439. And the approach taken in cases such as Go-Bart, Lefkowitz, and Trupiano was essentially disregarded by the Rabinowitz Court.

**2039 [2] Nor is the rationale by which the State seeks here to sustain the search of the petitioner's house supported by a reasoned view of the background and purpose of the Fourth Amendment. Mr. Justice Frankfurter wisely pointed out in his Rabinowitz dissent that the Amendment's proscription of 'unreasonable searches and seizures' *761 must be read in light of 'the history that gave rise to the words'—a history of 'abuses so deeply felt by the Colonies as to be one of the potent causes of the Revolution * * *.' 339 U.S., at 69, 70 S.Ct., at 436. The Amendment was in large part a reaction to the general warrants and warrantless searches that had so alienated the colonists and had helped speed the movement for independence.[3] In the scheme of the Amendment, therefore, the requirement that 'no Warrants shall issue, but upon probable cause,' plays a crucial part. As the Court put it in McDonald v. United States, 335 U.S. 451, 69 S.Ct. 191, 93 L.Ed. 153:

'We are not dealing with formalities. The presence of a search warrant serves a high function. Absent some grave emergency, the Fourth Amendment has interposed a magistrate between the citizen and the police. This was done not to shield criminals nor to make the home a safe haven for illegal activities. It was done so that an objective mind might weigh the need to invade that privacy in order to enforce the law. The right of privacy was deemed too precious to entrust to the discretion of those whose job is the detection of crime and the arrest of criminals. * * * And so the Constitution requires a magistrate to pass on the desires of the police before they violate the privacy of the home. We cannot be true to that consititutional requirement and excuse the absence of a search warrant without a showing by those who seek exemption from the constitutional mandate that the exigencies of the situation made that course imperative.' Id., at 455—456, 69 S.Ct., at 193.

*762 Even in the Agnello case the Court relied upon the rule the '(b)elief, however well founded, that an article sought is concealed in a dwelling house, furnishes no justification for a search of that place without a warrant. And such searches are held unlawful notwithstanding facts unquestionably showing probable cause.' 269 U.S., at 33, 46 S.Ct., at 6. Clearly, the general requirement that a search warrant be obtained is not lightly to be dispensed with, and the burden is on those seeking (an) exemption (from the requirement) to show the need for it * * *.' United States v. Jeffers, 342 U.S. 48, 51, 72 S.Ct. 93, 95, 96 L.Ed. 59.

Only last Term in Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889, we emphasized that 'the police must, whenever practicable, obtain advance judicial approval of searches and seizures through the warrant procedure,' id., at 20, 88 S.Ct. at 1879,[4] and that '(t)he scope of (a) search must be 'strictly tied to and justified by' the circumstances which rendered its initiation permissible.' **2040 Id., at 19, 88 S.Ct., at 1878. The search undertaken by the officer in that 'stop and frisk' case was sustained under that test, because it was no more than a 'protective * * * search for weapons.' Id., at 29, 88 S.Ct., at 1884. But in a companion case, Sibron v. New York, 392 U.S. 40, 88 S.Ct. 1889, 20 L.Ed.2d 917, we applied the same standard to another set of facts and reached a contrary result, holding that a policeman's action in thrusting his hand into a suspect's pocket had been neither motivated by nor limited to the objective of protection.[5] Rather, the search had been made in order to find narcotics, which were in fact found.

[6] [7] A similar analysis underlies the 'search incident to arrest' principle, and marks its proper extent. When an *763 arrest is made, it is reasonable for the arresting officer to search the person arrested in order to remove any weapons that the latter might seek to use in order to resist arrest or effect his escape. Otherwise, the officer's safety might well be endangered, and the arrest itself frustrated. In addition, it is entirely reasonable for the arresting officer to search for and seize any evidence on the arrestee's person in order to prevent its concealment or destruction. And the area into which an arrestee might reach in order to grab a weapon or evidentiary items must, of course, be governed by a like rule. A gun on a table or in a drawer in front of one who is arrested can be as dangerous to the arresting officer as one concealed in the clothing of the person arrested. There is ample justification, therefore, for a search of the arrestee's person and the area 'within his immediate control'—construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence.

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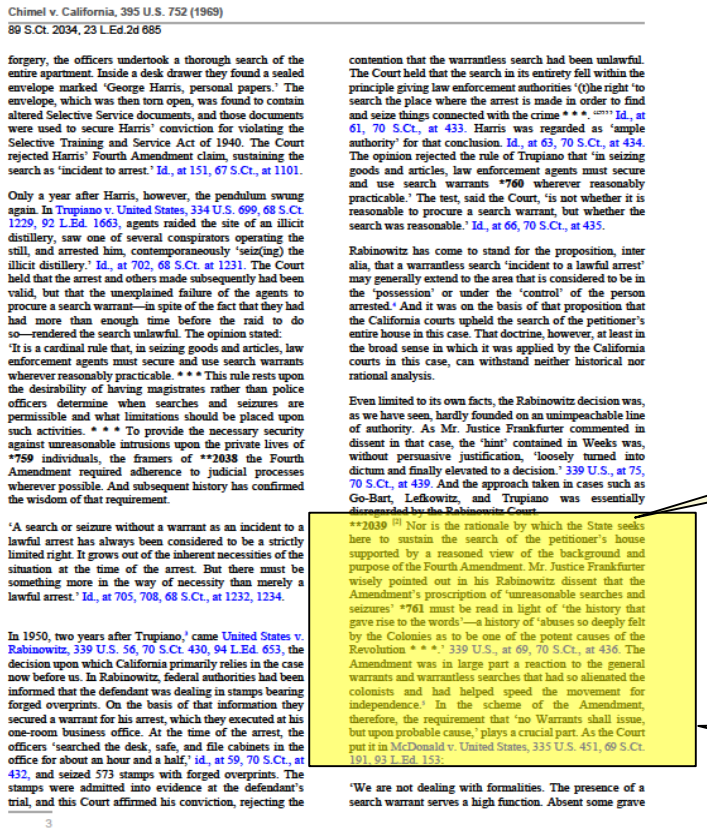
Reasoning: 4th Amendment



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forgery, the officers undertook a thorough search of the entire apartment. Inside a desk drawer they found a sealed envelope marked 'George Harris, personal papers.' The envelope, which was then torn open, was found to contain altered Selective Service documents, and those documents were used to secure Harris' conviction for violating the Selective Training and Service Act of 1940. The Court rejected Harris' Fourth Amendment claim, sustaining the search as 'incident to arrest.' Id., at 151, 67 S.Ct., at 1101.

Only a year after Harris, however, the pendulum swung again. In Trupiano v. United States, 334 U.S. 699, 68 S.Ct. 1229, 92 L.Ed. 1663, agents raided the site of an illicit distillery, saw one of several conspirators operating the still, and arrested him, contemporaneously 'seiz(ing) the illicit distillery.' Id., at 702, 68 S.Ct. at 1231. The Court held that the arrest and others made subsequently had been valid, but that the unexplained failure of the agents to procure a search warrant—in spite of the fact that they had had more than enough time before the raid to do so—rendered the search unlawful. The opinion stated:
'It is a cardinal rule that, in seizing goods and articles, law enforcement agents must secure and use search warrants wherever reasonably practicable. * * * This rule rests upon the desirability of having magistrates rather than police officers determine when searches and seizures are permissible and what limitations should be placed upon such activities. * * * To provide the necessary security against unreasonable intrusions upon the private lives of *759 individuals, the framers of **2038 the Fourth Amendment required adherence to judicial processes wherever possible. And subsequent history has confirmed the wisdom of that requirement.

'A search or seizure without a warrant as an incident to a lawful arrest has always been considered to be a strictly limited right. It grows out of the inherent necessities of the situation at the time of the arrest. But there must be something more in the way of necessity than merely a lawful arrest.' Id., at 705, 708, 68 S.Ct., at 1232, 1234.

In 1950, two years after Trupiano,[4] came United States v. Rabinowitz, 339 U.S. 56, 70 S.Ct. 430, 94 L.Ed. 653, the decision upon which California primarily relies in the case now before us. In Rabinowitz, federal authorities had been informed that the defendant was dealing in stamps bearing forged overprints. On the basis of that information they secured a warrant for his arrest, which they executed at his one-room business office. At the time of the arrest, the officers 'searched the desk, safe, and file cabinets in the office for about an hour and a half,' id., at 59, 70 S.Ct., at 432, and seized 573 stamps with forged overprints. The stamps were admitted into evidence at the defendant's trial, and this Court affirmed his conviction, rejecting the contention that the warrantless search had been unlawful. The Court held that the search in its entirety fell within the principle giving law enforcement authorities '(t)he right 'to search the place where the arrest is made in order to find and seize things connected with the crime * * *.'' Id., at 61, 70 S.Ct., at 433. Harris was regarded as 'ample authority' for that conclusion. Id., at 63, 70 S.Ct., at 434. The opinion rejected the rule of Trupiano that 'in seizing goods and articles, law enforcement agents must secure and use search warrants *760 wherever reasonably practicable.' The test, said the Court, 'is not whether it is reasonable to procure a search warrant, but whether the search was reasonable.' Id., at 66, 70 S.Ct., at 435.

Rabinowitz has come to stand for the proposition, inter alia, that a warrantless search 'incident to a lawful arrest' may generally extend to the area that is considered to be in the 'possession' or under the 'control' of the person arrested.[4] And it was on the basis of that proposition that the California courts upheld the search of the petitioner's entire house in this case. That doctrine, however, at least in the broad sense in which it was applied by the California courts in this case, can withstand neither historical nor rational analysis.

Even limited to its own facts, the Rabinowitz decision was, as we have seen, hardly founded on an unimpeachable line of authority. As Mr. Justice Frankfurter commented in dissent in that case, the 'hint' contained in Weeks was, without persuasive justification, 'loosely turned into dictum and finally elevated to a decision.' 339 U.S., at 75, 70 S.Ct., at 439. And the approach taken in cases such as Go-Bart, Lefkowitz, and Trupiano was essentially disregarded by the Rabinowitz Court.

**2039 [2] Nor is the rationale by which the State seeks here to sustain the search of the petitioner's house supported by a reasoned view of the background and purpose of the Fourth Amendment. Mr. Justice Frankfurter wisely pointed out in his Rabinowitz dissent that the Amendment's proscription of 'unreasonable searches and seizures' *761 must be read in light of 'the history that gave rise to the words'—a history of 'abuses so deeply felt by the Colonies as to be one of the potent causes of the Revolution * * *.' 339 U.S., at 69, 70 S.Ct., at 436. The Amendment was in large part a reaction to the general warrants and warrantless searches that had so alienated the colonists and had helped speed the movement for independence.[3] In the scheme of the Amendment, therefore, the requirement that 'no Warrants shall issue, but upon probable cause,' plays a crucial part. As the Court put it in McDonald v. United States, 335 U.S. 451, 69 S.Ct. 191, 93 L.Ed. 153:

'We are not dealing with formalities. The presence of a search warrant serves a high function. Absent some grave

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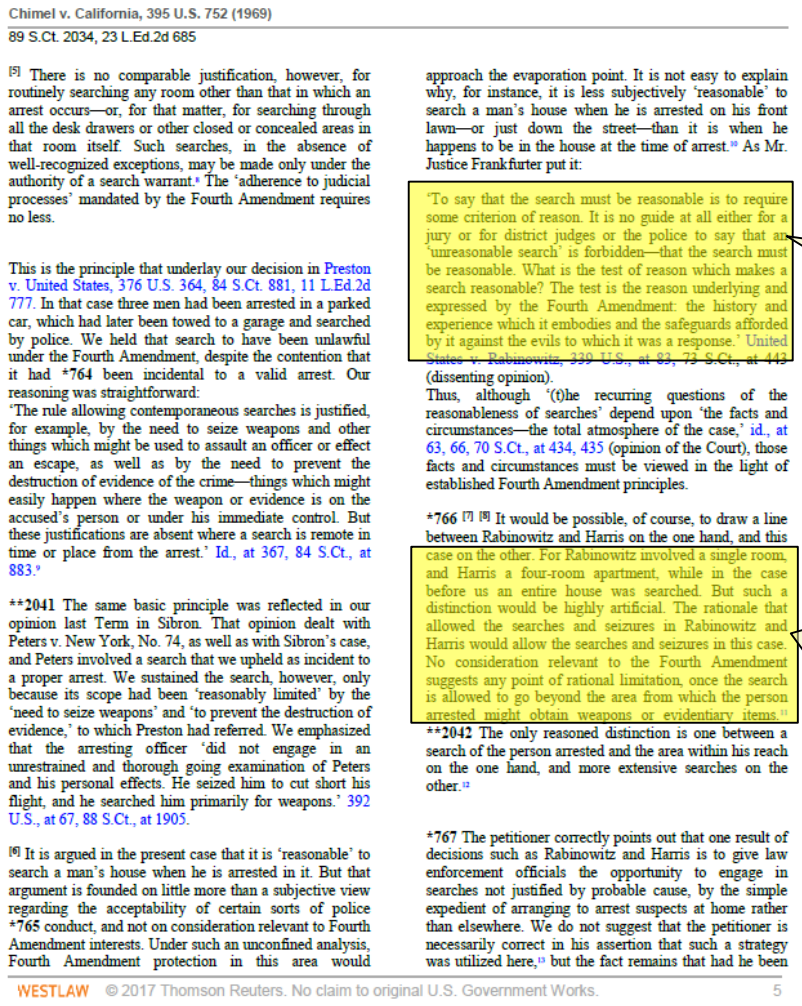
"Nor is the rationale by which the State seeks here to sustain the search of the petitioner's house supported by a reasoned view of the background and purpose of the Fourth Amendment. ."

"…the Amendment's proscription of 'unreasonable searches and seizures' must be read in light of 'the history that gave rise to the words'—a history of 'abuses so deeply felt by the Colonies as to be one of the potent causes of the Revolution * * *.'"

Reasoning: Policy



Chimel v. California, 395 U.S. 752 (1969)
89 S.Ct. 2034, 23 L.Ed.2d 685

[5] There is no comparable justification, however, for routinely searching any room other than that in which an arrest occurs—or, for that matter, for searching through all the desk drawers or other closed or concealed areas in that room itself. Such searches, in the absence of well-recognized exceptions, may be made only under the authority of a search warrant.[8] The 'adherence to judicial processes' mandated by the Fourth Amendment requires no less.

This is the principle that underlay our decision in Preston v. United States, 376 U.S. 364, 84 S.Ct. 881, 11 L.Ed.2d 777. In that case three men had been arrested in a parked car, which had later been towed to a garage and searched by police. We held that search to have been unlawful under the Fourth Amendment, despite the contention that it had *764 been incidental to a valid arrest. Our reasoning was straightforward:
'The rule allowing contemporaneous searches is justified, for example, by the need to seize weapons and other things which might be used to assault an officer or effect an escape, as well as by the need to prevent the destruction of evidence of the crime—things which might easily happen where the weapon or evidence is on the accused's person or under his immediate control. But these justifications are absent where a search is remote in time or place from the arrest.' Id., at 367, 84 S.Ct., at 883.[9]

**2041 The same basic principle was reflected in our opinion last Term in Sibron. That opinion dealt with Peters v. New York, No. 74, as well as with Sibron's case, and Peters involved a search that we upheld as incident to a proper arrest. We sustained the search, however, only because its scope had been 'reasonably limited' by the 'need to seize weapons' and 'to prevent the destruction of evidence,' to which Preston had referred. We emphasized that the arresting officer 'did not engage in an unrestrained and thorough going examination of Peters and his personal effects. He seized him to cut short his flight, and he searched him primarily for weapons.' 392 U.S., at 67, 88 S.Ct., at 1905.

[6] It is argued in the present case that it is 'reasonable' to search a man's house when he is arrested in it. But that argument is founded on little more than a subjective view regarding the acceptability of certain sorts of police *765 conduct, and not on consideration relevant to Fourth Amendment interests. Under such an unconfined analysis, Fourth Amendment protection in this area would approach the evaporation point. It is not easy to explain why, for instance, it is less subjectively 'reasonable' to search a man's house when he is arrested on his front lawn—or just down the street—than it is when he happens to be in the house at the time of arrest.[10] As Mr. Justice Frankfurter put it:

'To say that the search must be reasonable is to require some criterion of reason. It is no guide at all either for a jury or for district judges or the police to say that an 'unreasonable search' is forbidden—that the search must be reasonable. What is the test of reason which makes a search reasonable? The test is the reason underlying and expressed by the Fourth Amendment: the history and experience which it embodies and the safeguards afforded by it against the evils to which it was a response.' United States v. Rabinowitz, 339 U.S., at 83, 70 S.Ct., at 443 (dissenting opinion).
Thus, although '(t)he recurring questions of the reasonableness of searches' depend upon 'the facts and circumstances—the total atmosphere of the case,' id., at 63, 66, 70 S.Ct., at 434, 435 (opinion of the Court), those facts and circumstances must be viewed in the light of established Fourth Amendment principles.

*766 [7] [8] It would be possible, of course, to draw a line between Rabinowitz and Harris on the one hand, and this case on the other. For Rabinowitz involved a single room, and Harris a four-room apartment, while in the case before us an entire house was searched. But such a distinction would be highly artificial. The rationale that allowed the searches and seizures in Rabinowitz and Harris would allow the searches and seizures in this case. No consideration relevant to the Fourth Amendment suggests any point of rational limitation, once the search is allowed to go beyond the area from which the person arrested might obtain weapons or evidentiary items.[11]
**2042 The only reasoned distinction is one between a search of the person arrested and the area within his reach on the one hand, and more extensive searches on the other.[12]

*767 The petitioner correctly points out that one result of decisions such as Rabinowitz and Harris is to give law enforcement officials the opportunity to engage in searches not justified by probable cause, by the simple expedient of arranging to arrest suspects at home rather than elsewhere. We do not suggest that the petitioner is necessarily correct in his assertion that such a strategy was utilized here,[13] but the fact remains that had he been

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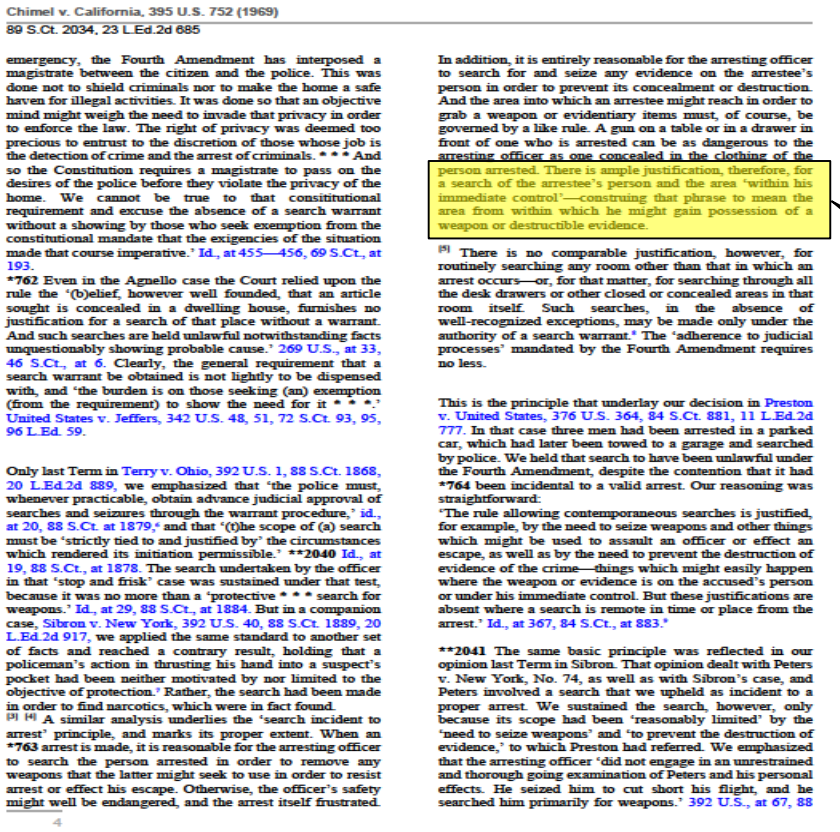
Holding



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emergency, the Fourth Amendment has interposed a magistrate between the citizen and the police. This was done not to shield criminals nor to make the home a safe haven for illegal activities. It was done so that an objective mind might weigh the need to invade that privacy in order to enforce the law. The right of privacy was deemed too precious to entrust to the discretion of those whose job is the detection of crime and the arrest of criminals. * * * And so the Constitution requires a magistrate to pass on the desires of the police before they violate the privacy of the home. We cannot be true to that consititutional requirement and excuse the absence of a search warrant without a showing by those who seek exemption from the constitutional mandate that the exigencies of the situation made that course imperative.' Id., at 455—456, 69 S.Ct., at 193.

*762 Even in the Agnello case the Court relied upon the rule the '(b)elief, however well founded, that an article sought is concealed in a dwelling house, furnishes no justification for a search of that place without a warrant. And such searches are held unlawful notwithstanding facts unquestionably showing probable cause.' 269 U.S., at 33, 46 S.Ct., at 6. Clearly, the general requirement that a search warrant be obtained is not lightly to be dispensed with, and 'the burden is on those seeking (an) exemption (from the requirement) to show the need for it * * *.' United States v. Jeffers, 342 U.S. 48, 51, 72 S.Ct. 93, 95, 96 L.Ed. 59.

Only last Term in Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889, we emphasized that 'the police must, whenever practicable, obtain advance judicial approval of searches and seizures through the warrant procedure,' id., at 20, 88 S.Ct. at 1879,[4] and that '(t)he scope of (a) search must be 'strictly tied to and justified by' the circumstances which rendered its initiation permissible.' **2040 Id., at 19, 88 S.Ct., at 1878. The search undertaken by the officer in that 'stop and frisk' case was sustained under that test, because it was no more than a 'protective * * * search for weapons.' Id., at 29, 88 S.Ct., at 1884. But in a companion case, Sibron v. New York, 392 U.S. 40, 88 S.Ct. 1889, 20 L.Ed.2d 917, we applied the same standard to another set of facts and reached a contrary result, holding that a policeman's action in thrusting his hand into a suspect's pocket had been neither motivated by nor limited to the objective of protection.' Rather, the search had been made in order to find narcotics, which were in fact found.

[3] [4] A similar analysis underlies the 'search incident to arrest' principle, and marks its proper extent. When an *763 arrest is made, it is reasonable for the arresting officer to search the person arrested in order to remove any weapons that the latter might seek to use in order to resist arrest or effect his escape. Otherwise, the officer's safety might well be endangered, and the arrest itself frustrated.

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In addition, it is entirely reasonable for the arresting officer to search for and seize any evidence on the arrestee's person in order to prevent its concealment or destruction. And the area into which an arrestee might reach in order to grab a weapon or evidentiary items must, of course, be governed by a like rule. A gun on a table or in a drawer in front of one who is arrested can be as dangerous to the arresting officer as one concealed in the clothing of the person arrested. There is ample justification, therefore, for a search of the arrestee's person and the area 'within his immediate control'—construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence.

[5] There is no comparable justification, however, for routinely searching any room other than that in which an arrest occurs—or, for that matter, for searching through all the desk drawers or other closed or concealed areas in that room itself. Such searches, in the absence of well-recognized exceptions, may be made only under the authority of a search warrant.[6] The 'adherence to judicial processes' mandated by the Fourth Amendment requires no less.

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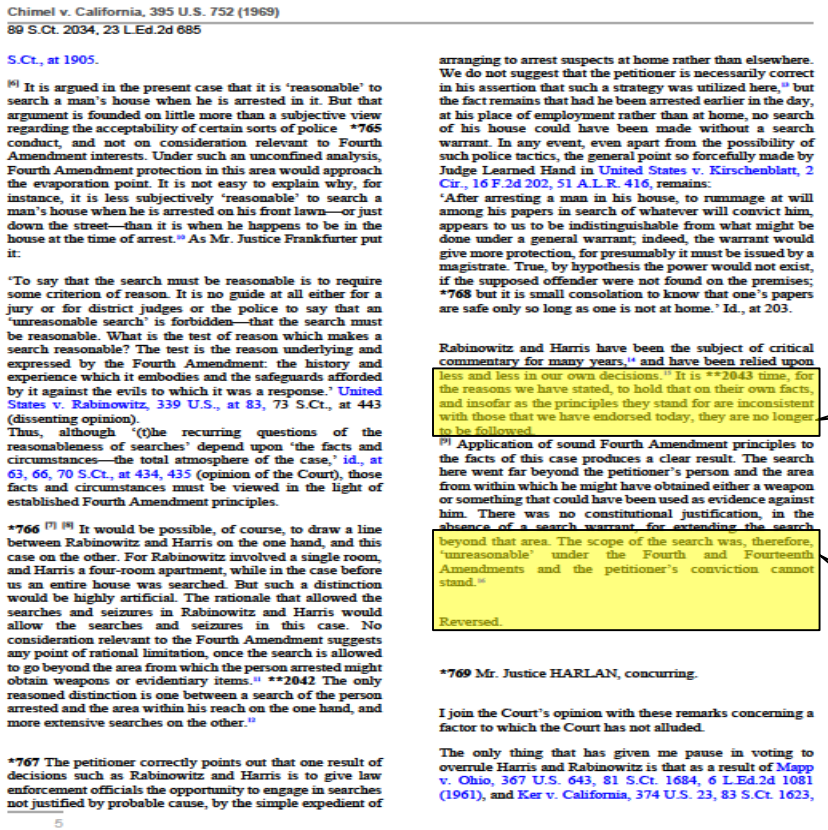
Holding?/Disposition



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Thus, although '(t)he recurring questions of the reasonableness of searches' depend upon 'the facts and circumstances—the total atmosphere of the case,' id., at 63, 66, 70 S.Ct., at 434, 435 (opinion of the Court), those facts and circumstances must be viewed in the light of established Fourth Amendment principles.

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*767 The petitioner correctly points out that one result of decisions such as Rabinowitz and Harris is to give law enforcement officials the opportunity to engage in searches not justified by probable cause, by the simple expedient of arranging to arrest suspects at home rather than elsewhere. We do not suggest that the petitioner is necessarily correct in his assertion that such a strategy was utilized here,[13] but the fact remains that had he been arrested earlier in the day, at his place of employment rather than at home, no search of his house could have been made without a search warrant. In any event, even apart from the possibility of such police tactics, the general point so forcefully made by Judge Learned Hand in United States v. Kirschenblatt, 2 Cir., 16 F.2d 202, 51 A.L.R. 416, remains:
'After arresting a man in his house, to rummage at will among his papers in search of whatever will convict him, appears to us to be indistinguishable from what might be done under a general warrant; indeed, the warrant would give more protection, for presumably it must be issued by a magistrate. True, by hypothesis the power would not exist, if the supposed offender were not found on the premises; *768 but it is small consolation to know that one's papers are safe only so long as one is not at home.' Id., at 203.

Rabinowitz and Harris have been the subject of critical commentary for many years,[14] and have been relied upon less and less in our own decisions.[15] It is **2043 time, for the reasons we have stated, to hold that on their own facts, and insofar as the principles they stand for are inconsistent with those that we have endorsed today, they are no longer to be followed.

[9] Application of sound Fourth Amendment principles to the facts of this case produces a clear result. The search here went far beyond the petitioner's person and the area from within which he might have obtained either a weapon or something that could have been used as evidence against him. There was no constitutional justification, in the absence of a search warrant, for extending the search beyond that area. The scope of the search was, therefore, 'unreasonable' under the Fourth and Fourteenth Amendments and the petitioner's conviction cannot stand.[16]

Reversed.

*769 Mr. Justice HARLAN, concurring.

I join the Court's opinion with these remarks concerning a factor to which the Court has not alluded.

The only thing that has given me pause in voting to overrule Harris and Rabinowitz is that as a result of Mapp v. Ohio, 367 U.S. 643, 81 S.Ct. 1684, 6 L.Ed.2d 1081 (1961), and Ker v. California, 374 U.S. 23, 83 S.Ct. 1623,

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A Holding: "It is time, for the reasons we have stated, **to hold** that on their own facts, and insofar as the principles they stand for are inconsistent with those that we have endorsed today, they [Rabinowitz and Harris] are no longer to be followed."

Disposition: "The scope of the search was, therefore, 'unreasonable' under the Fourth and Fourteenth Amendments and the petitioner's conviction cannot stand.

Reversed."

Concurrence & Dissent

- Why take the time? (That is, what is being added, distinguished, challenged?)

The Way We Read

- For Class
  - Describe the Case (summarize posture, facts, question)
  - Identify the Rule
    - What is it based on? Reasoning? (lion's share of work)
    - Basis? (Constitution/cases/law/policy/legislative history)
  - Discuss and test the rule
    - Critique the reasoning
    - Hypotheticals (apply the rules to new fact patterns)

- In Practice (and in Lawyering)
  - We almost always already have a set of facts . . .
  - . . . So we read other cases in light of our current facts (i.e., for the strengths and weaknesses of our case)
    - Similarities / Distinctions

- Legal writing and its terminology can be tough
  - The terminology is new
  - Oftentimes, the writing is just plain bad:

    "The place was used for retailing and drinking intoxicating liquors."

How to Read a Judicial Opinion: A Guide for New Law Students

Professor Orin S. Kerr
George Washington University Law School

http://euro.ecom.cmu.edu/program/law/08-732/Courts/howtoreadv2.pdf


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