

Anatomy of a Case

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

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

Riding a Bike



The Case Method

- The 4th Amendment to U.S. Constitution prohibits unreasonable searches and seizures
- Doesn't tell you:
 - What's unreasonable?
 - What is a search? A seizure?
 - Same rules apply in house/car/street?
 - How does this apply in different situations?

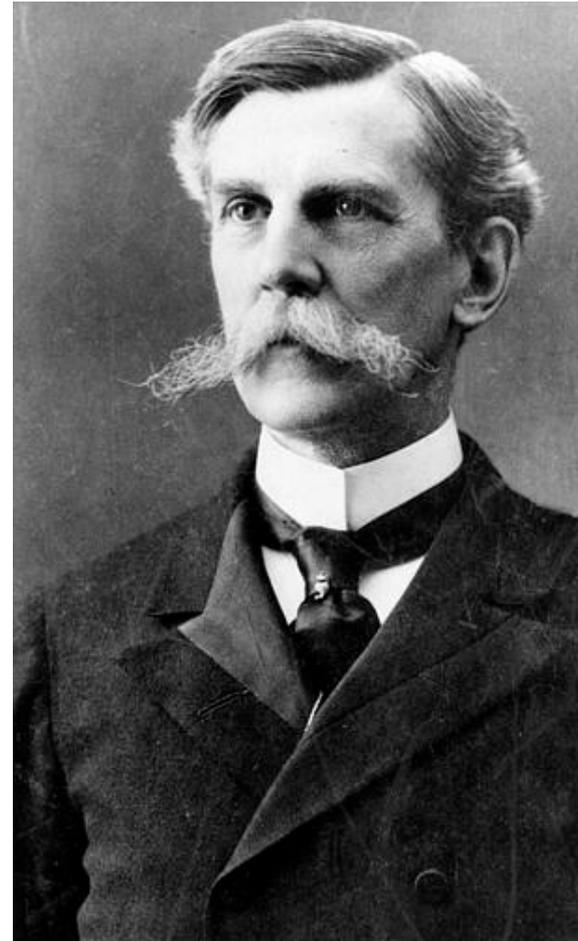
The Case Method

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)

Briefing a Case

- Basics
 - Procedural History (which court, who appealed)
 - Basic Facts (what happened?)
 - Question (specific)
 - Arguments by both sides (dispute)
- Result
 - Holding (core legal principle, rule of the case)
 - Disposition (what the court does)
 - Reasoning (why? because...U. S. Constitution/prior cases/law/policy)

Procedural History

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,
v.
State of CALIFORNIA.

No. 770.

Argued March 27, 1969.

Decided June 23, 1969.

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.

Accompanied by the petitioner's wife, the officers then looked through the entire three-bedroom home, including the attic, the garage and a small workshop. In some rooms the search was relatively cursory. In the master bedroom and sewing room, however, the officers directed the petitioner's wife to open drawers and 'to physically move contents of the drawers from side to side so that (they) might view any items that would have come from (the) burglary.' After completing the search, they seized numerous items—primarily coins, but also several medals, tokens, and a few other objects. The entire search took between 45 minutes and an hour.

[¹] At the petitioner's subsequent state trial on two charges of burglary, the items taken from his house were admitted into evidence against him, over his objection that they had been unconstitutionally seized. He was convicted, and the judgments of conviction were affirmed by both the California Court of Appeal, 61 Cal.Rptr. 714, and the California Supreme Court, 68 Cal.2d 436, 67 Cal.Rptr. 421, 439 P.2d 333. Both courts accepted the petitioner's contention that the arrest warrant was invalid because the supporting affidavit was set out in conclusory terms, but held that since the arresting officers had procured the warrant in good faith, and since in any event they had had sufficient information to constitute probable cause for the petitioner's arrest, that arrest had been lawful. From this conclusion the appellate courts went on to hold that the search of the petitioner's home *755 had been justified, despite the absence of a search warrant, on the ground that it had been incident to a valid arrest. We granted certiorari in order to consider the petitioner's substantial constitutional claims. 393 U.S. 958, 89 S.Ct. 404, 21 L.Ed.2d 372.

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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Question

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Reasoning: 4th A / Policy

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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*,¹ came *United States v. Rabinowitz*, 339 U.S. 56, 70 S.Ct. 420, 94 L.Ed. 453, 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 * * *. ¹⁹¹¹ *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** ¹⁹¹ 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.' 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

“...background and purpose of the Fourth Amendment.”

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Reasoning: Precedent

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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 constitutional 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 139.

*763 Even in the *Agallo* 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. 1966,

30 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; 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—20 (emphasis added). 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.

^[1] ^[H] 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.

^[H] 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.' 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. 360, 84 S.Ct. 804, 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 the 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 as follows:

'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 weapons 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 833.'

**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

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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 weapons 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.'

**2041 The same basic principle was reflected in our opinion last Term in *Sibron*. That opinion dealt with *Peters v. New York*, 392 U.S. 45, as well as with *Sibron's* case, and *Peters* involved a search that we upheld as incidental 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

“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.”

Holding #1

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

emergency, the Fourth Amendment has interposed a magisterial barrier 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 constitutional 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 183.

*762 Even in the *Aguello* 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; and that '(t)he scope of (a) search must be 'strictly tied to and justified by' the circumstances which rendered its initiation permissible.' **7040 *Id.*, at 19, 88 S.Ct., at 1879. 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.

[1] [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.

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.

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:

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**7041 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 incidental 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

“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.”

Holding #2/Disposition

Chimel v. California, 395 U.S. 752 (1969)
89 S.Ct. 2034, 23 L.Ed.2d 686

S.Ct., at 1905.

¹⁶¹ 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 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.¹⁶² 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, 73 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.

¹⁶⁶ ¹⁶⁷ ¹⁶⁸ 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*'s 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.¹⁶⁹ ¹⁷⁰ 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.¹⁷¹

¹⁶⁷ 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,¹⁶² 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; ¹⁶⁸ 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,¹⁶³ and have been relied upon less and less in our own decisions.¹⁶⁴ 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.

¹⁶⁵ 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.¹⁶⁶

Reversed.

¹⁶⁹ 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,

Holding #2: "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 [*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.¹⁶ Reversed."

Class

- Discuss and test the rule
- What is it based on
(Constitution/case/law/policy)
- *Critique reasoning*
- Change facts
- New fact patterns

- Language: terminology and writing can be tough
- “the place was used for retailing and drinking intoxicating liquors.”

- What's important and what isn't....or what you will really learn in law school

Final Thoughts

- How to read a case