10-1980

Michigan v. Summers

Lewis F. Powell Jr.

C.F.R. (Paul - There was the Supplemental memo.)

Dissent - Probably correctly decided, but is different from any prior case of this Court

See P.S.'s Supp. memo 9/11

Presents Q whether a warrant to search a house justifies search of the person of an individual who lived but was outside when police arrived. The search of person there, which was not made until after heroin had been found in the basement. The police detained Rena pending search of house - Mich. S/Ct 4-3 held search invalid.

PRELIMINARY MEMORANDUM

Summer List 5, Sheet 2

No. 79-1794-CSY

Cert. to Mich. Sup.Ct. (Moody, Levin, Kavanagh, Ryan; Williams, Coleman, Fitzgerald, dissenting)

MICHIGAN

v.

SUMMERS

State/Criminal Timely

1. Summary. The questions presented are whether police violated the Fourth Amendment by detaining the occupant of a house on the premises during the course of an authorized search, and whether the exclusionary rule should apply in this circumstance.

2. Facts. On October 10, 1974, a team of Detroit police officers arrived at 9356 Mansfield to execute a warrant for the

This case does present a hard legal issue because it is unclear what justification the police had for stopping Rena before entering the house. The State court may be correct but I would call for a response - Joe

search of the premises. As they approached the house, the officers saw resp leaving. One of the police asked resp whether he lived there, and when he replied in the affirmative, the officer asked to be admitted. Resp replied that he was without his keys, but that he would ring for someone inside to open the door. One Dwight Calhoun answered the door, but when the police officer identified himself and attempted to enter Calhoun quickly shut the door again. The police then broke down the door and commenced the search.

During these events resp had been standing on the porch. When police gained entry they required resp to come into the parlor of the house and remain there until the search was completed. Petr was not frisked. When heroin was discovered hidden in the basement, the police searched resp's person and discovered a bag of heroin in resp's pocket. Apparently the search warrant did not specifically authorize search of persons on the premises.

search of person

3. Decisions Below. The trial court ordered suppression of the heroin discovered on petr's person. The Mich. Ct. App. affirmed, and the Mich. Sup. Ct. also affirmed. Relying on Terry v. Ohio, 392 U.S. 1 (1968); Dunaway v. New York, 442 U.S. 200 (1979); and Ybarra v. Illinois, 444 U.S. 85 (1979), that court concluded that "the seizure of [resp] on the porch and his subsequent detention were not, by nature, limited intrusions permissible under Terry and subsequent cases." It reasoned that resp's behavior at no time gave police a basis for suspecting unlawful activity or fearing for their safety. Moreover, any basis for detention under Terry was exhausted

after brief questioning on the doorstep was completed. Accordingly, the court held that resp "was for all practical purposes arrested without a warrant when he was 'seized' on his front porch, at a time when the police officers did not have probable cause to believe that [resp] had committed or was committing a felony." Since the heroin was discovered as a fruit of this detention, the court held that it should be excluded.

Justice Williams filed a dissent in which two other justices joined. The dissenters argued that the proper approach was to consider whether the detention was "reasonable" under four criteria: 1) did the case call for a quick decision by police? 2) did the officers have reasonable belief that the public peace was in jeopardy? 3) was the intrusion reasonably related in scope to the perceived need? and 4) was the officer's personal safety immediately at risk? Under these criteria, the dissenters argued that the decision to restrain resp was reasonable and fit within the Terry standard. They particularly stressed the minimal intrusion involved in "merely requiring [resp] to cross his own threshold while the warrant was being executed," and they expressed the view that police safety was implicated under the circumstances. Once resp crossed the threshold, the dissenters took the view that requiring him to remain in one place until the search was completed was reasonably necessary to effectuate the search; and they asserted that police have probable cause to arrest the owner-occupant of a premises on which there is probable cause to believe narcotics is present.

4. Contentions. Petr argues that the Mich. Sup. Ct. erred in requiring probable cause. Petr urges the Court to recognize an exception from the probable cause requirement for detention of the occupant of a premises being searched. Such an exception assertedly was recognized in United States v. Micheli, 487 F.2d 429 (CA 1 1973). Petr relies on the dissenting opinion for the proposition that reasonable suspicion was established in this instance.

Petr next argues a point that was raised in the Mich. Sup. Ct. but was not fully discussed. In petr's view, the court should have held that detention and search of the occupant was implicitly authorized by the warrant. In support of this argument, petr cites a number of federal appellate decisions holding that search of articles (such as bags, purses, briefcases, or the like) held by occupants of a house was fairly encompassed by a warrant for search of a premises, as well as certain state cases allowing search of occupants' persons as a reasonable incident of the warrant. See, e.g., United States v. Micheli, supra; Walker v. United States, 327 F.2d 597, 600 (CA DC 1963), cert. denied, 377 U.S. 956 (1964); Clay v. United States, 246 F.2d 298, 305 (CA 5), cert. denied, 255 U.S. 863 (1957); People v. Pugh, 69 Ill. App.2d 312, 217 N.E.2d 557 (1966); People v. Kielczynski, 264 N.E.2d 767 (Ill. App. 1970); State v. Loudermilk, 494 P.2d 1174 (Kan. 1972) (alternative theory).

Finally, petr argues that resort to the exclusionary rule in this case would serve no valid purpose. Cf. Michigan v. Tucker, 417 U.S. 433, 450 (1974). The division of the lower

courts itself indicates that the officers' decision to detain and search was not unreasonable, so that exclusion of the evidence would have little deterrant effect.

5. Discussion. The present case is factually distinguishable from most of the cases on which petr relies because resp was not within the premises at the time when the warrant was served, but was forcibly required to enter the premises and await the outcome of the search. It was primarily this initial detention that the court below found to be unreasonable. Accordingly, petr's first and second arguments, even if correct for persons present at the time of search, would not necessarily resolve this case. Nevertheless, it is possible that this factual difference is not of great legal significance, as the dissent below concludes. Nor does Ybarra v. Illinois fully resolve the issues raised, though it generally cuts against petr's position; resp was an occupant of the dwelling to be searched, not simply an invitee, and the location of the search was a private residence. Petr does demonstrate that the lower courts are not in entire agreement on how to handle occupants of houses that are searched. I recommend calling for a response.

There is no response.

7/8/80 Rahdert Op in pet.

PS 9/11/80 Helpful memo. See K 2

To: Mr. Justice Powell

From: Paul Smith

Re: Michigan v. Summers, No. 79-1794

You asked for a supplemental memo when the response in this case came in. Resp makes two basic points: (1) that the search warrant for his home did not authorize the police to detain him or to search his person, and (2) that any independent grounds for searching him personally did not appear until after he was illegally detained without probable cause during the house search. Resp relies on Ybarra v. Illinois for the proposition that a search warrant for premises does not authorize a search of persons found there. Although Ybarra involved a public bar, and this case involves

Paul sub. to a logical argument in support of State position

resp's residence, resp argues that the Fourth Amendment pertains to "persons, not places," and Ybarra therefore controls. As for any probable cause that was furnished by the discovery of heroin in the basement, resp argues that this is irrelevant, since the discovery was preceded by an illegal detention of him that was not based on probable cause.

The second issue does not merit review by this Court. The Michigan courts concluded that this was a significant detention, not a mere Terry stop, and therefore required probable cause to arrest. This was apparently lacking, although the police did have probable cause, confirmed in a search warrant, for the search of resp's home. In any event, the nature of this particular detention, and the nature of the justification possessed by the police, are factual issues that will come up in many cases and need not be reviewed now.

But the first issue--the scope of the authority granted by the search warrant--may be certworthy. The state may be correct that a search warrant for premises should include searches of the owner of the premises, especially when the object sought (drugs) can be concealed so easily in clothing. If so, there is probably a correlative power to detain the object of such a personal search during the time that it takes to look around the house itself. Clearly this is a far cry from the Ybarra situation where bar patrons were searched merely because they were in the bar at the wrong

time. Here it is the owner of the house whom the police searched.

The cases cited by the state (see the original cert memo) evidence a certain amount of confusion over the permissible scope of personal searches conducted as adjuncts to house searches. It is unclear how the warrant relates to containers such as briefcases that may or may not be in the physical possession of their owner at the time of the search. It is also unclear whether the outcome depends on the status of the owner of the container as a resident or a visitor. See United States v. Micheli, 487 F.2d 429 (1st Cir. 1973). A third open question involves searches of persons themselves, at least persons who reside at the location. Cf. United States v. DiRe, 332 U.S. 581 (1948) (dictum) ("The Government says it would not contend that, armed with a search warrant for a residence only, it could search all persons found in it.").

The state also argues that it would be inappropriate in any event to apply the exclusionary rule here because the officers acted in good faith based on a reasonable view of the law. But while it is certainly true in some sense that the officers acted reasonably, it is far from clear how the retroactivity issue should come out. If there is one, the prevailing assumption seems to be that search warrants for buildings do not justify "frisks" of occupants.

Arguing against a grant is the complicating factor that resp was not actually on the premises when the officers

arrived to serve the warrant. He was standing in front of the house, about to leave. It therefore might be argued that his person is not included in the scope of the warrant, although this is perhaps too technical an argument.

In sum, the Court should consider a grant on the issue of the permissible scope of personal searches based on a search warrant for a given premises. This case would provide a useful vehicle for working out the consequences of Ybarra when the police are searching a home and are dealing with a resident. A subsidiary question would be the power of the police to detain a person prior to such a search for a considerable period of time.

September 29, 1980

Court ..... *Voted on* ....., *19*...

Argued ....., *19*... *Assigned* ....., *19*... No. 79-1794

Submitted ....., *19*... *Announced* ....., *19*...

MICHIGAN

vs.

SUMMERS

Also motion of respondent for leave to proceed ifp.

Yabara in clear but not distributed.

Granted
(Relisted for CJ to take second look)

	HOLD FOR	CERT. G	CERT. D	JURISDICTIONAL STATEMENT N	JURISDICTIONAL STATEMENT POST	JURISDICTIONAL STATEMENT DIS	JURISDICTIONAL STATEMENT AFF	MERITS REV	MERITS AFF	MOTION G	MOTION D	ABSENT	NOT VOTING
Burger, Ch. J.		✓											
Brennan, J.			✓										
Stewart, J.			✓										
White, J.			✓										
Marshall, J.			✓										
Blackmun, J.				Join 3 (but am in some doubt)									
Powell, J.			✓										
Rehnquist, J.		✓											
Stevens, J.		✓											
.....													

October 10, 1980

Court ..... *Voted on* ....., *19*...

Argued ....., *19*... *Assigned* ....., *19*... No. 79-1794

Submitted ....., *19*... *Announced* ....., *19*...

MICHIGAN

vs.

SUMMERS

See Paul Smith's helpful Supplemental Memo of 9/11

Also motion of respondent for leave to proceed ifp. Relisted for the Chief Justice.

Granted

	HOLD FOR	CERT. G	CERT. D	JURISDICTIONAL STATEMENT N	JURISDICTIONAL STATEMENT POST	JURISDICTIONAL STATEMENT DIS	JURISDICTIONAL STATEMENT AFF	MERITS REV	MERITS AFF	MOTION G	MOTION D	ABSENT	NOT VOTING
Burger, Ch. J.													
Brennan, J.												No change	
Stewart, J.										No			
White, J.												Voted to	
Marshall, J.										vote			
Blackmun, J.													
Powell, J.													
Rehnquist, J.													
Stevens, J.													

Reviewed 2/25 Good memo.

I agree with Paul that my Mendenhall analysis is applicable & persuasive. Reversal — possibly with a remand on the "length of detention issue".

I did not participate in Dunnaway, & don't like its language as to need for probable cause. It can be distinguished. (5)

pwc 02/24/81

BENCH MEMORANDUM

TO: Mr. Justice Powell

FROM: Paul Cane

DATE: February 24, 1981

RE: No. 79-1794, Michigan v. Summers

Question Presented

There are three interrelated issues in this case, and it is not clear that the Court will have to address all of them. First, may police detain an individual without probable cause for investigatory purposes for a period somewhat longer than that permitted by Terry v. Ohio? Second, may police search an individual found in a house if they have a valid search warrant for the house itself? Third, does the exclusionary rule apply to good faith mistakes of law?

Background

This case, although difficult and important, involves the application of well-known Fourth Amendment cases. I won't take your time recounting them. I will, however, review the facts of the case. I do so because, as in many Fourth Amendment cases, the legal issues do not become clear until the factual scenario is firmly in mind.

Detroit police obtained a warrant authorizing them to search for heroin and other narcotics at a dwelling. In the accompanying affidavit, an officer stated that an informant had purchased heroin from a man named "George" at that address. As the police approached, resp was seen leaving the house. An officer identified himself, displayed a copy of the search warrant, and asked resp if he lived in the house. Resp said that he did. The officer told him to open the front door. Resp said that he had left his keys inside and would ask someone over the intercom to open the door. Co-defendant Calhoun appeared at the door. The officer identified himself and attempted to open the storm door, which was locked. Calhoun then slammed the inside door shut.

lived in house

Police then forced the door open. Calhoun was seen fleeing toward a downstairs bedroom. One officer brought resp inside while another chased and finally caught Calhoun. In all, about seven persons were found in the house. They were assembled in the living room while the officers searched the house. The record does not reveal how long the search lasted. In the basement, police found two plastic bags containing

narcotics. Resp was arrested when it became known that resp owned the house. A search incident to this arrest uncovered heroin in resp's jacket pocket. It was this heroin that formed the basis for the charge against him.

Discussion

There are two key incidents that arguably are unconstitutional: (1) the detention of resp in the living room, and (2) the search of his jacket. The police have three theories, any one of which would permit introduction of the heroin. First, the initial detention was justified by analogy to Terry v. Ohio. Police, facing these circumstances, were entitled to detain resp for a period of time sufficient for investigation. Once the heroin was legally found in the basement, police had probable cause to arrest and to conduct the search incident to that arrest. Second, the police were entitled to search resp because he was on the premises that lawfully were being searched with a valid warrant. Third, even if the search was unconstitutional, the exclusionary rule is inapplicable because police made a "good faith mistake of law."

The Michigan Supreme Court, however, looked at the matter differently. It rejected the first argument, concluding that Dunaway v. New York requires probable cause for any detention longer than the limited intrusion upheld in Terry v. Ohio. Because the initial detention was illegal, the subsequent search incident to arrest was "fruit of the poisonous tree." It also appeared to reject the second

argument, concluding that Ybarra v. Illinois established that a warrant to search a place does not authorize the search of persons found therein. The Michigan Supreme Court did not address the third argument.

1. With respect to Michigan's first argument, I conclude that your position in this case is governed by your opinion last Term in United States v. Mendenhall. You wrote that "the reasonableness of a stop turns on . . . . (i) the public interest served by the seizure, (ii) the nature and scope of the intrusion, and (iii) the objective facts upon which the law enforcement officer relied in light of his knowledge and experience." Slip op. at 2. On the facts in Mendenhall, you concluded that, "in light of all the circumstances," that detention was reasonable. Slip op. at 6. I think the police activity in this case should be analyzed within your Mendenhall framework. (i) This case, like that one, involved drug crimes. (ii) The detention consisted only of detaining resp in his home. No questions were asked. There was no embarrassment such as that associated with a seizure and interrogation in a public place. (iii) The police had a high degree of information that criminal activity was afoot. A judge had issued a search warrant for the house, and resp had acknowledged that he lived there. The warrant mentioned that a man named "George" was involved in the drug sales. And other persons in this house had become frantic at the sight of police officers. In light of all these circumstances, I think it is

very likely that the police acted reasonably in detaining resp. Cf. Mendenhall, slip op. at 6-7.

There is, however, one critical fact missing from the record that we need to know before passing final judgment on the police conduct: the length of the detention. The record shows only that resp was detained while the house search was conducted. If that search took several hours, arguably the detention was unreasonable. One possible disposition, therefore, is to write an opinion along the lines of Mendenhall explicating the proper standard and then remanding for additional findings of fact to apply that standard.

a missing fact

There is, of course, one substantial obstacle to this approach: the Court opinion in Dunaway v. New York. Six justices in that case held that nothing less than probable cause was necessary to conduct custodial questioning. [You did not participate.] It is true that there are substantial factual differences between this case and Dunaway. There, the suspect was taken to the police station. Here, he was detained at home. There, the suspect was interrogated. Here, police asked no questions. But the language of the Court's opinion very strongly suggests that, except for the limited intrusion of Terry stops, probable cause is required before police may detain an individual. Dunaway seems inconsistent with your approach in Mendenhall, so it seems unlikely that you can get a Court for your theory.

I was ill, I think?

Yes

?

2. I doubt there is merit to Michigan's second argument, that a search warrant for a house permits the search

of any individuals found within it. This argument seems foreclosed by the Court's opinion in Ybarra v. Illinois. The Court noted that each occupant of the bar in that case "was clothed with constitutional protection against an unreasonable search or an unreasonable seizure. . . . Although the search warrant, issued upon probable cause, gave the officers authority to search the premises and to search [the individual named in the warrant], it gave them no authority whatsoever to invade the constitutional protections possessed individually by the tavern's customers."

To be sure, there are factual differences between this case and Ybarra. In a public bar, there is no reason to believe that any one patron is connected with criminal activity conducted by another patron. In a private dwelling, by contrast, there is a nexus between the occupants that tends to suggest a common enterprise. But Ybarra stands for a somewhat broader theory. I think that individuals possess fourth amendment rights that cannot be lost by mere presence at the site of a search conducted pursuant to a warrant. In any event, resp was stopped outside the house.

3. Michigan's third argument is one very familiar to you. Assuming arguendo that the detention and search violated the Fourth Amendment, Michigan argues that the exclusionary rule should not apply to good faith mistakes of law. The search in this case was conducted in 1974. The officers at that time had every reason to believe that their behavior was lawful, and no deterrent purpose would be served by applying the exclusionary rule.

The United States, as amicus, makes a slightly different argument. It suggests that Dunaway, if applicable here, should not be applied retroactively.

Conclusion

I conclude that the decision of the Michigan Supreme Court should be reversed, or at least vacated and remanded. But there are several ways you could reach that result. First, you could write an opinion along Mendenhall lines that holds that probable cause is not necessary if police conduct is reasonable in light of all the circumstances. [The problem with this is Dunaway, which (without the benefit of your participation) seems to have rejected this approach in favor of a "bright-line" probable cause requirement.] But if this is the way you want to proceed, you probably will have to remand because the record does not reveal the length of the detention.

Second, you could hold that the search warrant for the house authorized the search of all persons found within it. [The problem with this is Ybarra, which pretty clearly rejects this theory.] Another problem is the fact that resp was found outside the house and brought in.

Third, if it is held that the detention and search were illegal, you could reverse on the theory that the exclusionary rule is inapplicable to good faith mistakes of law. Alternatively, as the SG suggests, you could simply hold that Dunaway is not to be applied retroactively.

I recommend trying for a Court under a theory that limits Dunaway. If that substantive approach fails, and if the

Court deems the search to be illegal, you could try to command a Court for a "good faith mistake of law" exception.

Paul

P.W.C. 02/24/81

79-1794 MICHIGAN v. SUMMERS Argued 2/25/81

Dunaway v N.Y., relied on by Mich. S/Ct., involved "custodial interrogation" w/o probable cause. Also the D was brought to police station.

Baughman (Ann Arbor City Atty Mich.)

Detention at outside was 50 minutes – between 10.10 & 11:00 PM

Schulder (SG)

Dunaway distinguishable – there the detention was for "custodial interpretation". Detention for purpose is open-ended, as it could go on for long periods.

Cited Brignoni Ponce & especially Martinez-Fuerte. In latter case stops at check-point were approved w/o even reasonable suspicion.

Various examples of necessary police work (cited by Schulder) would be prescribed by Mich S/Ct decision. Must have reasonable, articulable suspicion to make stop, & to detain suspect, police must have a focused suspicion of a specific violation (e.g. narcotics in this case

If I write, should take a look at transcript to identify these examples.

SG's position. See this line

Lorence (for Reich)

Should not "carve out" another exception to 4th amend.

Ennis (ACLU)

Did it address merits

Should ~~of~~ DIG or remand on Krutza.

a frivolous argument — There was an independent state ground. ~~*~~ Even though S/Ct Mich relied only on Fed Const, argues that this was unnecessary

79-1794 Mich v. Summers
(Pre-Cf. notes)

Reverse on ground urged by SG that police had reasonable grounds to detain Resp.

1. Probable cause justified a warrant to search for narcotics in their residence

2. Resp. admitted he lived in residence, + immediately thereafter police were denied voluntary admittance. When they gain entrance, persons inside took flight.

3. Police would have been neglectful not to detain Resp

Terry; Brignoni, Martinez-Fuente support this view.

Dunaway was detention for custodial interrogation.

Rev 6-3

79-1794 Michigan v. Summers Conf. 2/27/81

The Chief Justice Reverse

Warrant is not challenged here.

Assuming no probable cause to detain, the police acted reasonably & properly

Could hold that the record does show probable cause. Resp could have been searched before he was taken into house. He admitted he lived there & there was probable cause to search his home.

Nothing to ACLU argument as to independent ~~&~~ state ground. (all of us agree to this)

Mr. Justice Brennan Affirm

Search warrant itself does not authorize detention of residents.

Only Q of substance in the Q argued by SG. Does a Terry type analysis authorize Resp. detention. Dunaway controls here.

Mr. Justice Stewart Affirm

The Writing to assume a search warrant authorizes search of persons who live there, but even on this assumption the police acted unlawfully in seizing Resp.

Mr. Justice White Reverse

Reverse on either of two grounds:

1. Warrant justified search of people in house (State's first argument) (not clear whether BRW would limit this to "residents" - I think he would not

2. SG's argument - detention was reasonable & this is sufficient

Mr. Justice Marshall Aff

Probable cause & warrant are necessary to search a person

Mr. Justice Blackmun Reverse

Agree with BRW

Key fact was concession that Resp. lived in house

(PS agrees, however, that he is not relying on Dunaway)

Mr. Justice Powell Reverse

Mr. Justice Rehnquist Reverse

May have been probable cause, but need not rest on this.

Police can't do everything at once - they acted reasonably

Mr. Justice Stevens Reverse

Not either a Dunaway or a ~~Ft~~ Yabsra case.

Not sure State is right on reach of warrant. But 56 is right. The detention was reasonable. Should not, however, rely on ~~safety~~ safety - police had other valid reasons

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

From: Mr. Justice Stevens

Circulated: MAY 18 '81

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-1794

State of Michigan, Petitioner, v. George Summers. | On Writ of Certiorari to the Supreme Court of Michigan.

[May —, 1981]

JUSTICE STEVENS delivered the opinion of the Court.

As Detroit police officers were about to execute a warrant to search a house for narcotics, they encountered respondent descending the front steps. They requested his assistance in gaining entry and detained him while they searched the premises. After finding narcotics in the basement and ascertaining that respondent owned the house, the police arrested him, searched his person, and found in his coat pocket an envelope containing 8.5 grams of heroin.[1]

[1] The execution of the warrant is described in greater detail in Justice Moody's opinion for the Michigan Supreme Court:

"Upon arriving at the named address, Officer Roger Lehman saw the defendant go out the front door of the house and proceed across the porch and down the steps. When defendant was asked to open the door he replied that he could not because he left his keys inside, but he could ring someone over the intercom. Dwight Calhoun came to the door, but did not admit the police officers. As a result, the officers obtained entrance to the premises by forcing open the front door. Once admittance had been gained Officer Lehman instructed Officer Conant, previously stationed along the side of the house, to bring the defendant, still on the porch, into the house.

"After the eight occupants of the house were detained, a search of the premises revealed two plastic bags of suspected narcotics under the bar in the basement. After finding the suspected narcotics in the basement and upon determining that the defendant was the owner of the house, Officer Conant formally arrested the defendant for violation of the Controlled

Respondent was charged with possession of the heroin found on his person. He moved to suppress the heroin as the product of an illegal search in violation of the Fourth Amendment,[2] and the trial judge granted the motion and quashed the information. That order was affirmed by a divided panel of the Michigan Court of Appeals, 68 Mich. App. 571, 243 N. W. 2d 689, and by the Michigan Supreme Court over the dissent of three of its justices. 407 Mich. 432, 289 N. W. 2d 226. We granted the State's petition for certiorari, — U. S. —, and now reverse.

I

The dispositive question in this case is whether the initial detention of respondent violated his constitutional right to be secure against an unreasonable seizure of his person. The State attempts to justify the eventual search of respondent's person by arguing that the authority to search premises granted by the warrant implicitly included the authority to search persons on those premises, just as that authority included an authorization to search furniture and containers in which the particular things described might be concealed. But as the Michigan Court of Appeals correctly noted, even

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Substances Act of 1971. MCL 335.341 (4)(a); MSA 18.1070 (41)(4)(a). A custodial search conducted by Officer Conant revealed a plastic bag containing suspected heroin in the defendant's jacket pocket. It is this heroin, discovered on the person of the defendant, that forms the basis of the instant possession charge." 407 Mich., at 441, 286 N. W. 2d, at 226–227.

[2] The Fourth Amendment to the United States Constitution provides:

"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."

The Fourteenth Amendment requires the several States to secure these rights. See *Payton* v. *New York*, 445 U. S. 573, 576; *Dunaway* v. *New York*, 442 U. S. 200, 207.

if otherwise acceptable, this argument could not justify the initial detention of respondent outside the premises described in the warrant. See 68 Mich. App., at 578–580, 243 N. W. 2d, at 692–693. If that detention was permissible, there is no need to reach the question whether a search warrant for premises includes the right to search persons found there, because when the police searched respondent, they had probable cause to do so.[3] The validity of the search of respondent's person therefore depends upon a determination whether the officers had the authority to require him to re-enter the house and to remain there while they conducted their search.[4]

arrest him and had done

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[3] Because there were several other occupants of the house, under Michigan law the evidence that narcotics had been found in the basement of respondent's house would apparently be insufficient to support a conviction. See *People* v. *Daveport*, 39 Mich. App. 252, 197 N. W. 2d 521 (1972). The Michigan Court of Appeals relied on *Davenport* to conclude that the officers did not have probable cause to arrest or search respondent even though he was the owner of a house in which contraband was found. 68 Mich. App., at 580–582, 243 N. W. 2d, at 692–693. Judge Bashara, dissenting in the Court of Appeals, 68 Mich. App., at 585, 243 N. W. 2d, at 695, and the three dissenting justices of the Michigan Supreme Court, 407 Mich., at 450, 463–464, 286 N. W. 2d, at 231, 237, pointed out that *Davenport*, which concerns the proof necessary to support a conviction, is not dispositive of the question whether the police had probable cause to arrest. See *Brinegar* v. *United States*, 383 U. S. 160, 174–176. Regardless of whether the police had probable cause to arrest respondent under Michigan law, probable cause within the meaning of the Fourth Amendment is not at issue here. Respondent does not challenge the conclusion that the evidence found in his home established probable cause to arrest him. See Brief for Respondent 17.

[4] The "seizure" issue in this case should not be confused with the "search" issue presented in *Ybarra* v. *Illinois*, 444 U. S. 85. In *Ybarra* the police executing a search warrant for a public tavern detained and searched all of the customers who happened to be present. No question concerning the legitimacy of the detention was raised. Rather, the Court concluded that the search of Ybarra was invalid because the police had no reason to believe he had any special connection with the premises, and the police had no other basis for suspecting that he was armed or in possession of contraband. See 444 U. S., at 90–93. In this case, only the

II

In assessing the validity of respondent's detention, we note first that it constituted a "seizure" within the meaning of the Fourth Amendment.[5] The State does not contend otherwise; and the record demonstrates that respondent was not free to leave the premises while the officers were searching his home. It is also clear that respondent was not formally arrested until after the search was completed. The dispute therefore involves only the constitutionality of a pre-arrest "seizure" which was admittedly unsupported by probable cause.

In *Dunaway* v. *New York*, 442 U. S. 200, the Court reaffirmed the general rule that an official seizure of the person must be supported by probable cause, even if no formal arrest is made. In that case police officers located a murder suspect at a neighbor's house, took him into custody and transported him to the police station, where interrogation ultimately produced a confession. Because the suspect was not arrested until after he had confessed, and because he presumably would have been set free if probable cause had not been established during his questioning, the State argued that the pre-arrest detention should not be equated with an arrest and should be upheld as "reasonable" in view of the serious character of the crime and the fact that the police had an articulable basis for suspecting that Dunaway was involved. *Id.*, at 207. The Court firmly rejected the State's argument, noting that "the detention of petitioner was in

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detention is at issue. The police knew respondent lived in the house, and they did not search him until after they had probable cause to arrest and had done so.

[5] "It is quite plain that the Fourth Amendment governs 'seizures' of persons which do not eventuate in a trip to the station house and prosecution for crime—'arrests' in traditional terminology. It must be recognized that whenever a police officer accosts an individual and restrains his freedom to walk away, he has 'seized' that person." *Terry* v. *Ohio*, 392 U. S. 1, 16.

important respects indistinguishable from a traditional arrest." *Id.*, at 212.[8] We stated:

> "Indeed, any 'exception' that could cover a seizure as intrusive as that in this case would threaten to swallow the general rule that Fourth Amendment seizures are 'reasonable' only if based on probable cause.
>
> "The central importance of the probable-cause requirement to the protection of a citizen's privacy afforded by the Fourth Amendment's guarantees cannot be compromised in this fashion. 'The requirement of probable cause has roots that are deep in our history.' *Henry* v. *United States*, 361 U. S. 98, 100 (1959). Hostility to seizures based on mere suspicion was a prime motivation for the adoption of the Fourth Amendment, and decisions immediately after its adoption affirmed that 'common rumor or report, suspicion, or even "strong reason to suspect" was not adequate to support a warrant for arrest.' *Id.*, at 101 (footnotes omitted). The familiar threshold standard of probable cause for Fourth Amendment seizures reflects the benefit of extensive experience accommodating the factors relevant to the 'reasonableness' requirement of the Fourth Amendment, and provides the relative simplicity and clarity necessary to the implementation of a workable rule. See *Brinegar* v. *United States*, [338 U. S., at 175–176]." *Id.*, at 213.

Although we refused in *Dunaway* to find an exception that would swallow the general rule, our opinion recognized that some seizures significantly less intrusive than an arrest have withstood scrutiny under the reasonableness standard embodied in the Fourth Amendment. In these cases the intru-

[8] The Court noted that Dunaway was "taken from a neighbor's home to a police car, transported to a police station, and placed in an interrogation room." He was not informed that he was free to leave, he would not have been free to leave and would have been physically restrained had he attempted to do so. 442 U. S., at 212.

sion on the citizen's privacy "was so much less severe" than that involved in a traditional arrest that "the opposing interests in crime prevention and detection and in the police officer's safety" could support the seizure as reasonable. *Id.*, at 209.

In the first such case, *Terry* v. *Ohio*, 392 U. S. 1, the Court recognized the narrow authority of police officers who suspect criminal activity to make limited intrusions on an individual's personal security based on less than probable cause. The Court approved a "frisk" for weapons as a justifiable response to an officer's reasonable belief that he was dealing with a possibly armed and dangerous suspect.[7] In the second such case, *Adams* v. *Williams*, 407 U. S. 143, the Court relied on *Terry* to hold that an officer could forcibly stop a suspect to investigate an informant's tip that the suspect was armed and carrying narcotics.[8] And in *United States* v. *Brignoni-Ponce*, 422 U. S. 873, the Court held that the special enforcement problems confronted by roving Border Patrol agents, though not sufficient to justify random stops of vehi-

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[7] In upholding the "frisk" employed by the officer in that case, the Court assumed, without explicitly stating, that the Fourth Amendment does not prohibit forcible stops when the officer has a reasonable suspicion that a crime has been or is being committed. See *id.*, at 32–33 (Harlan, J., concurring). *Id.*, at 34 (WHITE, J., concurring). In *Adams* v. *Williams*, 407 U. S. 143, 146, the Court made explicit what was implicit in *Terry*:

"A brief stop of a suspicious individual, in order to determine his identity or to maintain the status quo momentarily while obtaining more information, may be most reasonable in light of the facts known to the officer at the time."

See also *United States* v. *Brignoni-Ponce*, 422 U. S. 973; *United States* v. *Cortez*, — U. S. —.

[8] The Court noted that the informant's tip was insufficient to justify an arrest or search based on probable cause under *Spinelli* v. *United States*, 393 U. S. 410, and *Aguilar* v. *Texas*, 378 U. S. 108, but the information "carried enough indicia of reliability to justify the officer's forcible stop of Williams." 407 U. S., at 147.

cles near the Mexican border to question their occupants about their citizenship, *id.*, at 882–884,[9] were adequate to support vehicle stops based on the agents' awareness of specific articulable facts indicating that the vehicle contained illegal aliens. The Court reasoned that the difficulty in patrolling the long Mexican border and the interest in controlling the influx of illegal aliens justified the limited intrusion, usually lasting no more than a minute, involved in the stop. *Id.*, at 878–880.[10] See also *United States* v. *Cortez*, —— U. S. ——.

These cases recognize that some seizures admittedly covered by the Fourth Amendment constitute such limited intrusions on the personal security of those detained and are justified by such substantial law enforcement interests that they may be made on less than probable cause, so long as police have an articulable basis for suspecting criminal activity. In these cases, as in *Dunaway*, the Court was applying the ultimate standard of reasonableness embodied in the

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[9] In several cases, the Court has concluded that the absence of any articulable facts available to the officer rendered a detention unreasonable. In *Delaware* v. *Prouse*, 440 U. S. 648, 663, the Court held that police could not make random stops of vehicles in order to check drivers licenses and vehicle registrations in the absence of "articulable and reasonable suspicion" that the motorist was unlicensed or the car unregistered. In *Brown* v. *Texas*, 443 U. S. 47, we held that a statute requiring individuals to identify themselves was unconstitutional as applied because the police did not have any reasonable suspicion that the petitioner had committed or was committing a crime. Finally, in *Ybarra* v. *Illinois*, *supra*, we held that police executing a search warrant at a tavern could not invoke *Terry* to frisk a patron unless the officers had individualized suspicion that the patron might be armed or dangerous.

[10] The detention approved in *Brignoni-Ponce* did not encompass a search of the vehicle. The Court had held in *Almeida-Sanchez* v. *United States*, 413 U. S. 266, that such a search must be supported by probable cause. In *United States* v. *Martinez-Fuerte*, 428 U. S. 543, the Court held that stops at permanent checkpoints involved even less intrusion to a motorist than the detention by the roving patrol, and thus a stop at such a checkpoint need not even be based on any individualized suspicion.

Fourth Amendment.[11] They are consistent with the general rule that every arrest, and every seizure having the essential attributes of a formal arrest, is unreasonable unless it is supported by probable cause. But they demonstrate that the exception for limited intrusions that may be justified by special law enforcement interests is not confined to the momentary, on-the-street detention accompanied by a frisk for weapons involved in *Terry* and *Adams*.[12] Therefore, in

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[11] In his opinion for the Court in *Terry*, Chief Justice Warren identified "the central inquiry under the Fourth Amendment" as "the reasonableness in all the circumstances of the particular governmental invasion of a citizen's personal security." 392 U. S., at 19. Before analyzing the specific stop and frisk involved in that case, he stated:

"The scheme of the Fourth Amendment becomes meaningful only when it is assured that at some point the conduct of those charged with enforcing the laws can be subjected to the more detached, neutral scrutiny of a judge who must evaluate the reasonableness of a particular search or seizure in light of the particular circumstances. And in making that assessment it is imperative that the facts be judged against an objective standard: would the facts available to the officer at the moment of the seizure or the search 'warrant a man of reasonable caution in the belief' that the action taken was appropriate? Cf. *Carroll* v. *United States*, 267 U. S. 132 (1925); *Beck* v. *Ohio*, 379 U. S. 89, 96–97 (1964)." 392 U. S., at 21–22 (footnotes omitted).

[12] Justice White, concurring in *Dunaway*, noted that *Terry* is not "an almost unique exception to a hard-and-fast standard of probable cause." Rather, "the key principle of the Fourth Amendment is reasonableness—the balancing of competing interests." 442 U. S., at 219 (White, J., concurring). If the purpose underlying a *Terry* stop—investigating possible criminal activity—is to be served, the police must under certain circumstances be able to detain the individual for longer than the brief time period involved in *Terry* and *Adams*. As one commentator observed:

"It is clear that there are several investigative techniques which may be utilized effectively in the course of a *Terry*-type stop. The most common is interrogation, which may include both a request for identification and inquiry concerning the suspicious conduct of the person detained. Sometimes the officer will communicate with others, either police or private citizens, in an effort to verify the explanation tendered or to confirm the

order to decide whether this case is controlled by the general rule, it is necessary to examine both the character of the official intrusion and its justification.

III

Of prime importance in assessing the intrusion is the fact that the police had obtained a warrant to search respondent's house for contraband. A neutral and detached magistrate had found probable cause to believe that the law was being violated in that house and had authorized a substantial invasion of the privacy of the persons who resided there. The detention of one of the residents while the premises were searched, although admittedly a significant restraint on his liberty, was surely less intrusive than the search itself.[11] Indeed, we may safely assume that most citizens—unless they intend flight to avoid arrest—would elect to remain in order to observe the search of their possessions. Furthermore, the type of detention imposed here is not likely to be exploited by the officer or unduly prolonged in order to gain more information, because the information the officers seek normally will be

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identification or determine whether a person of that identity is otherwise wanted. Or, the suspect may be detained while it is determined if in fact an offense has occurred in the area, a process which might involve checking certain premises, locating and examining objects abandoned by the suspect, or talking with other people. If it is known that an offense has occurred in the area, the suspect may be viewed by witnesses to the crime. There is no reason to conclude that any investigative methods of the type just listed are inherently objectionable; they might cast doubt upon the reasonableness of the detention, however, if their use makes the period of detention unduly long or involves moving the suspect to another locale." 3 W. LaFave, Search and Seizure § 9.2, pp. 36–37 (1978).

[11] "As the Court reiterated just a few years ago, the 'physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.' *United States* v. *United States District Court*, 407 U. S. 297, 313. And we have long adhered to the view that the warrant procedure minimises the danger of needless intrusions of that sort." *Payton* v. *New York*, 445 U. S. 573, 585–586.

obtained through the search and not through the detention.[14] Moreover, because the detention in this case was in respondent's own residence, it could add only minimally to the public stigma associated with the search itself and would involve neither the inconvenience nor the indignity associated with a compelled visit to the police station.[15] In sharp contrast to the custodial interrogation in *Dunaway*, the detention of this respondent was "substantially less intrusive" than an arrest, 442 U. S., at 210.[16]

In assessing the justification for the detention of an occupant of premises being searched for contraband pursuant to a valid warrant, both the law enforcement interest and the nature of the "articulable facts" supporting the detention are relevant. Most obvious is the legitimate law enforcement interest in preventing flight in the event that incriminating evidence is found. Less obvious, but sometimes of greater importance, is the interest in minimizing the risk of harm to the officers. Although no special danger to the police is suggested by the evidence in this record, the execution of a warrant to search for narcotics is the kind of transaction that may give rise to sudden violence or frantic efforts to conceal or destroy evidence. The risk of harm to both the police and the occupants is minimized if the officers routinely exercise unquestioned command of the situation. Cf. 2 W.

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[14] Professor LaFave has noted that the reasonableness of a detention may be determined in part by "[w]hether the police are diligently pursuing a means of investigation which is likely to resolve the matter one way or another very soon. . ." 3 W. LaFave, Search and Seizure § 9.2, p. 40 (1978).

[15] Moreover, unlike the seizure in *Dunaway*, which was designed to provide an opportunity for interrogation and did lead to Dunaway's confession, the seizure in this case is not likely to have coercive aspects likely to induce self-incrimination.

[16] We do not view the fact that respondent was leaving his house when the officers arrived to be of constitutional significance. The seizure of respondent on the sidewalk outside was no more intrusive than the detention of those residents of the house that the police found inside.

LaFave, Search and Seizure § 4.9, pp. 150–151 (1978), Finally, the orderly completion of the search may be facilitated if the occupants of the premises are present. Their self-interest may induce them to open locked doors or locked containers to avoid the use of force that is not only damaging to property but may also delay the completion of the task at hand.

It is also appropriate to consider the nature of the articulable and individualized suspicion on which the police base the detention of the occupant of a home subject to a search warrant. We have already noted that the detention represents only an incremental intrusion on personal liberty when the search of a home has been authorized by a valid warrant. The existence of a search warrant, however, also provides an objective justification for the detention. A judicial officer has determined that police have probable cause to believe that someone in the home is committing a crime. Thus a neutral magistrate rather than an officer in the field has made the critical determination that the police should be given a special authorization to thrust themselves into the privacy of a home.[17] The connection of an occupant to that home

[17] Justice Jackson recognized the significance of this determination in *Johnson* v. *United States*, 333 U. S. 10, 13–14:

"The point of the Fourth Amendment, which often is not grasped by zealous officers, is not that it denies law enforcement the support of the usual inferences which reasonable men draw from evidence. Its protection consists in requiring that those inferences be drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the often competitive enterprise of ferreting out crime. Any assumption that evidence sufficient to support a magistrate's disinterested determination to issue a search warrant will justify the officers in making a search without a warrant would reduce the Amendment to a nullity and leave the people's homes secure only in the discretion of police officers. Crime, even in the privacy of one's own quarters is, of course, of grave concern to society, and the law allows such crime to be reached on proper showing. The right of officers to thrust themselves into a home is also a grave concern, not only to the individual but to a society which chooses to dwell

gives the police officer an easily identifiable and certain basis for determining that suspicion of criminal activity justifies a detention of that occupant.

In *Payton* v. *New York*, 445 U. S. 573, we held that police officers may not enter a private residence to make a routine felony arrest without first obtaining a warrant. In that case we rejected the suggestion that only a search warrant could adequately protect the privacy interests at stake, noting that the distinction between a search warrant and an arrest warrant was far less significant than the interposition of the magistrate's determination of probable cause between the zealous officer and the citizen:

> "It is true that an arrest warrant requirement may afford less protection than a search warrant requirement, but it will suffice to interpose the magistrate's determination of probable cause between the zealous officer and the citizen. If there is sufficient evidence of a citizen's participation in a felony to persuade a judicial officer that his arrest is justified, it is constitutionally reasonable to require him to open his doors to the officers of the law. Thus, for Fourth Amendment purposes, an arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within." 445 U. S., at 602-603.

That holding is relevant today. If the evidence that a citizen's residence is harboring contraband is sufficient to persuade a judicial officer that an invasion of the citizen's privacy is justified, it is constitutionally reasonable to require that citizen to remain while officers of the law execute a valid

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in reasonable security and freedom from surveillance. When the right of privacy must reasonably yield to the right of search is, as a rule, to be decided by a judicial officer, not by a policeman or government enforcement agent." (Footnotes omitted.)

warrant to search his home.[18] Thus, for Fourth Amendment purposes, we hold that a warrant to search for contraband [19] founded on probable cause implicitly carries with it the limited authority to detain the occupants of the premises while a proper search is conducted.[20]

Because it was lawful to require respondent to re-enter and to remain in the house until evidence establishing probable cause to arrest him was found, his arrest and the search incident thereto were constitutionally permissible. The judgment of the Supreme Court of Michigan must therefore be reversed.

It is so ordered.

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[18] In refusing to approve seizures based on less than probable cause, the *Dunaway* court declined to adopt a "multifactor balancing test of 'reasonable police conduct under the circumstances' to cover all seizures that do not amount to technical arrests." The Court noted:

"The protections intended by the Framers could all too easily disappear in the consideration and balancing of the multifarious circumstances presented by different cases, especially when that balancing may be done in the first instance by police officers engaged in the 'often competitive enterprise of ferreting out crime.' " 442 U. S., at 213.

As JUSTICE WHITE noted in his concurrence in *Dunaway*, if police are to have workable rules, the balancing of the competing interests inherent in the *Terry* principle "must in large part be done on a categorical basis—not in an ad hoc, case-by-case fashion by individual police officers." 442 U. S., at 219–220 (WHITE, J., concurring). The rule we adopt today does not depend upon such an ad hoc determination, because the officer is not required to evaluate either the quantum of proof justifying detention or the extent of the intrusion to be imposed by the seizure.

[19] We do not decide whether the same result would be justified if the search warrant merely authorized a search for evidence. Cf. *Zurcher* v. *Stanford Daily*, 436 U. S. 547, 560. See also *id.*, at 581 (STEVENS, J., dissenting).

[20] Although special circumstances, or possibly a prolonged detention, might lead to a different conclusion in an unusual case, we are persuaded that this routine detention of residents of a house while it was being searched for contraband pursuant to a valid warrant is not such a case.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

May 18, 1981

Re: 79-1794 - Michigan v. Summers

Dear John:

In due course I expect to circulate a dissenting opinion.

Sincerely yours,

P.S.

Justice Stevens

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 19, 1981

Re: 79-1794 - Michigan v. Summers

Dear Bill:

Thank you for your letter commenting on Part III of my proposed opinion. I would agree, of course, that either consent or exigent circumstances might justify the detention of the occupants of a house that is being searched without a warrant, but in this case I do not believe either of those justifications would be sufficient. Since the result in other cases may well turn on the specific facts, I am inclined to think it would be unwise to try to predict when the justification would be adequate and when not. For example, if a homeowner answers the door and consents to an entry by the police, would it necessarily follow that they could detain other residents of the house while they conducted a search within the limits to which the consent applied? Or, if they were in hot pursuit of a fleeing felon who took refuge in a house, is it clear that they could detain other occupants who might have no connection with that person? In sum, I would rather wait for cases of that kind before trying to say too much about either exigent circumstances or consent.

Respectfully,

JPS

Justice Rehnquist

Copies to the Conference

on the existence of the warrant not precluding other bases for the action. Perhaps your clarification would help. Paul C.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 19, 1981

Re: No. 79-1794 Michigan v. Summers

Dear John:

I am certainly in general agreement with the printed opinion you circulated on May 18th, and my concerns reflect more those of "omission" than "commission". In Part III of your opinion, beginning on page 9, although you do not make it in terms the exclusive basis for detaining the occupant of the premises, I think that part could be read as virtually requiring a warrant issued by a "neutral magistrate" as the necessary basis for any detention. It seems to me that exigent circumstances, which have always been an exception to the warrant requirement and some of which are mentioned in that part of your opinion, as well as consent of the type found in Schneckloth v. Bustamonte, 412 U.S. 218 (1972), would each justify the police conduct here. It may be that I am simply misinterpreting Part III of your opinion, but from my first reading of it it seems to be an unduly narrow justification of the police authority to temporarily "freeze" the status quo under the circumstances present here.

Sincerely,

WM

Justice Stevens

Copies to the Conference

Could simply say there is no need to consider whether exigent circumstances may also have justified detention

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

Great.
Paul C.

May 20, 1981

Re: 79-1794 - Michigan v. Summers

Dear Lewis:

Pursuant to our conversation, which was prompted by Bill Rehnquist's letter and my response, I should think the addition of the following footnote on page 10 should take care of the problem:

> "17/ The fact that our holding today does not rest on any special circumstances does not, of course, preclude the possibility that comparable police conduct may be justified by exigent circumstances in a proper case. No such question, however, is presented by this case."

Respectfully,

JPS

Justice Powell

cc: Justice Rehnquist

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 20, 1981

Re: 79-1794 - Michigan v. Summers

Dear Lewis:

Pursuant to our conversation, which was prompted by Bill Rehnquist's letter and my response, I should think the addition of the following footnote on page 10 should take care of the problem:

> "17/ The fact that our holding today does not rest on any special circumstances does not, of course, preclude the possibility that comparable police conduct may be justified by exigent circumstances in a proper case. No such question, however, is presented by this case."

Respectfully,

JPS

Justice Powell

cc: Justice Rehnquist

I've Joined

May 20, 1981

79-1794 Michigan v. Summers

Dear John:

Please join me.

Sincerely,

Mr. Justice Stevens

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 21, 1981

Re: 79-1794 - Michigan v. Summers

Dear John,

Please join me.

Sincerely yours,

Justice Stevens

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 21, 1981

Re: No. 79-1794 Michigan v. Summers

Dear John:

Please join me in your opinion of the Court.

Sincerely,

WHR.

Justice Stevens

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

June 3, 1981

79-1794, Michigan v. Summers

Dear John:

I join.

Regards,

WEB

Justice Stevens

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 11, 1981

RE: No.79-1794 Michigan v. Summers

Dear Potter:

Please join me.

Sincerely,

Bill

Justice Stewart

cc: The Conference

THE C. J.	W. J. B.	P. S.	B. R. W.	T. M.	H. A. B.	L. F. P.	W. H. R.	J. P. S.
								3/9/81
Join J PS 6/3/81	await dissent 5/19/81	will dissent 5/18/81	join JPS 5/21/81	await dissent 5/19/81	join JPS 5/20/81	Join JPS 5/20/81	Join JPS 5/21/81	1st draft 5/18/81 2nd draft 5/21/81
	Join PS 6/11/81	1st draft 6/10/81		Join PS 6/17/81				
				79-1794 Michigan v. Summers				