

## Supreme Court Probable Cause and Qualified Immunity Ruling Supports Police Officers' Actions

*District of Columbia v. Wesby*, 138 S.Ct. 626 (2018) (Jan. 22, 2018)

The Supreme Court of the United States reversed the D.C. Circuit in a case involving probable cause and qualified immunity.

The civil lawsuit was brought by 16 individuals arrested for holding a late-night party in a house they did not have permission to enter against the District of Columbia and five of its police officers. The District Court and the United States Court of Appeals for the District of Columbia ruled that there was no probable cause to arrest the partygoers, and that the officers were not entitled to qualified immunity. The Supreme Court reversed.

Justice Thomas, in an opinion joined by six other justices, found:

**Fourth Amendment Probable Cause:** the Circuit Court viewed each fact “in isolation, rather than as a factor in the totality of the circumstances” and “viewing these circumstances as a whole, a reasonable officer could conclude that there was probable cause.”

**Qualified Immunity:** the officers were entitled to qualified immunity because “a reasonable officer, looking at the entire legal landscape at the time of the arrests, could have interpreted the law as permitting the arrests here. There was no controlling case holding that a bona fide belief of a right to enter defeats probable cause, that officers cannot infer a suspect’s guilty state of mind based on his conduct alone, or that officers must accept a suspect’s innocent explanation at face value. Indeed, several precedents suggested the opposite.”

Justice Sotomayor, in a separate opinion, states that she agrees on qualified immunity and would not reach the probable-cause question. Justice Ginsburg also filed a concurrence questioning whether the Court’s precedent “sets the balance too heavily in favor of police unaccountability to the detriment of Fourth Amendment protection.”

You can read excerpts of the opinion below and the full opinion here: *District of Columbia v. Wesby*

### Summary of the Case:

District of Columbia police officers responded to a complaint about loud music and illegal activities in a vacant house. Inside, they found the house nearly barren and in disarray. The officers smelled marijuana and observed beer bottles and cups of liquor on the floor. They found a make-shift strip club in the living room, and a naked woman and several men in an upstairs bedroom. Many partygoers scattered when they saw the uniformed officers, and some hid. The officers questioned everyone and got inconsistent stories. Two women identified “Peaches” as the house’s tenant and said that she had given the partygoers permission to have the party. But Peaches was not there. When the officers spoke by phone to Peaches, she was nervous, agitated, and evasive. At first, she claimed that she was renting the house and had given the partygoers permission to have the party, but she eventually admitted that she did not have permission to use the house. The owner confirmed that he had not given anyone permission to be there. The officers then arrested the partygoers for unlawful entry. The charges were eventually dropped.

Several partygoers sued for false arrest under the Fourth Amendment and District law. The District Court concluded that the officers lacked probable cause to arrest the partygoers for unlawful entry and that two of the officers, petitioners here, were not entitled to qualified immunity.

With liability resolved, the case proceeded to trial on damages. The jury awarded the partygoers a total of \$680,000 in compensatory damages. After the District Court awarded attorney's fees, the total award was nearly \$1 million.

## D.C. Circuit Affirmed

On appeal, a divided panel of the District of Columbia, Court of Appeals affirmed. On the question of probable cause, the panel majority made Peaches' invitation "central" to its determination that the officers lacked probable cause to arrest the partygoers for unlawful entry. 765 F. 3d 13, 21 (2014). The panel majority asserted that, "in the absence of any conflicting information, Peaches' invitation vitiates the necessary element of [the partygoers'] intent to enter against the will of the lawful owner." *Ibid.* And the panel majority determined that "there is simply no evidence in the record that [the partygoers] had any reason to think the invitation was invalid." *Ibid.*

On the question of qualified immunity, the panel majority determined that it was "perfectly clear" that a person with "a good purpose and bona fide belief of her right to enter" lacks the necessary intent for unlawful entry. *Id.*, at 27. In other words, the officers needed "some evidence" that the partygoers "knew or should have known they were entering against the will of the lawful owner." *Ibid.* And here, the panel majority asserted, the officers must "have known that uncontroverted evidence of an invitation to enter the premises would vitiate probable cause for unlawful entry." *Ibid.*

## Supreme Court Decision

The Supreme Court granted certiorari to resolve two questions: whether the officers had probable cause to arrest the partygoers, and whether the officers were entitled to qualified immunity.

At the outset, the Court observed that there is no dispute that the partygoers entered the house against the will of the owner. Nonetheless, the partygoers contend that the officers lacked probable cause to arrest them because the officers had no reason to believe that they "knew or should have known" their "entry was unwanted." The Court found otherwise. Considering "the totality of the circumstances," the Court held the officers made an "entirely reasonable inference" that the partygoers were knowingly taking advantage of a vacant house as a venue for their late-night party. Later, the Court turned to the issue of the officers' qualified immunity. Here the Court held that,

"Even assuming the officers lacked actual probable cause to arrest the partygoers, the officers are entitled to qualified immunity because they reasonably but mistakenly conclude[d] that probable cause [wa]s present." *Id.*, at 641. Justice Thomas observed, "Tellingly, neither the panel majority nor the partygoers have identified a single precedent—much less a controlling case or robust consensus of cases—finding a Fourth Amendment violation 'under similar circumstances.' And it should go without saying that this is not an 'obvious case' where 'a body of relevant case law' is not needed."

Accordingly, the Court held the officers were entitled to qualified immunity.

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