



The United States Supreme Court holds that the police had probable cause to arrest partygoers in a vacant house



February 2018

For duplication & redistribution of this article, please contact Public Agency Training Council by phone at 1.800.365.0119.
PATC 5235 Decatur Blvd Indianapolis, IN 46241

Article Source : http://www.patc.com/weeklyarticles/2018_columbia_v_wesby_chapman.shtml

In *District of Columbia v. Wesby*, ___ U.S. ___, 2018 WL 491521 (2018), the United States Supreme Court was asked to review and to determine whether the police had probable cause to arrest partygoers whom the officers found at an abandoned house. The Supreme Court found that the police had probable cause to make the arrests, and therefore, the officers were not civilly liable to the partygoers for false arrest. The relevant facts are as follows.

Around 1 a.m. on March 16, 2008, the District of Columbia Police Department received a complaint about loud music and illegal activities at a house in Northeast D.C. The caller, a former neighborhood commissioner, told the police that the house had been vacant for several months. When the officers arrived at the house, several neighbors confirmed that the house should have been empty. The officers approached the house and, consistent with the complaint, heard loud music playing inside.

After the officers knocked on the front door, they saw a man look out the window and, then, run upstairs. One of the partygoers opened the door, and the officers entered. The officers immediately observed that the inside of the house was in disarray and looked like a vacant property. The officers smelled marijuana and saw beer bottles and cups of liquor on the floor. The floor was so dirty that one of the partygoers refused to sit on it while being questioned. Although the house had working electricity and plumbing, it had no furniture downstairs other than a few padded metal chairs. The only other signs of habitation were blinds on the windows, food in the refrigerator, and toiletries in the bathroom.

In the living room, the officers found a makeshift strip club. Several women were wearing only bras and thongs with cash tucked into their garter belts. The women were giving lap dances while other partygoers watched. Most of the on-lookers were holding cash and cups of alcohol. After seeing the uniformed officers, many partygoers scattered into other parts of the house.

The officers found more debauchery upstairs. A naked woman and several men were in the bedroom. A bare mattress—the only one in the house—was on the floor along with some lit candles and multiple open condom wrappers. A used condom was on the windowsill. The officers found one partygoer hiding in an upstairs closet and another who had shut himself in the bathroom and refused to come out.

In all, the officers found a total of twenty-one (21) people in the house. After interviewing all twenty-one (21), the officers did not get a clear or consistent story. Many partygoers said that they were there for a bachelor party, but no one could identify the bachelor. Each of the partygoers claimed that someone had invited them to the house, but no one could say who. Two of the women working the party said that a woman named “Peaches” or “Tasty” was renting the house and had given them permission to be there. One of the women explained that the previous owner had recently passed away, and Peaches had just started renting the house

©2018 Online Article: 800.365.0119

Link to article online: http://www.patc.com/weeklyarticles/2018_columbia_v_wesby_chapman.shtml
<http://www.patc.com>

from the grandson who inherited it. But, the house had no boxes or moving supplies; the partygoer did not know Peaches' real name; and Peaches was not there.

Accordingly, one of the officers asked the woman to call Peaches on her phone so that he could talk to her. Peaches answered and explained that she had just left the party to go to the store. When the officer asked her to return, Peaches refused because she was afraid of being arrested. The sergeant supervising the investigation also spoke with Peaches. At first, Peaches claimed to be renting the house from the owner who was fixing it up for her. Peaches also said that she had given the attendees permission to have the party. When the sergeant again asked her who had given her permission to use the house, Peaches became evasive and hung up. The sergeant called her back, and she began yelling and insisting that she had permission before hanging up a second time. The officers eventually got Peaches on the phone again, and she admitted that she did not have permission to use the house.

Thereafter, the officers contacted the property's owner. The owner told the police that he had been trying to negotiate a lease with Peaches, but they had not reached an agreement. He confirmed that he had not given Peaches (or anyone else) permission to be in the house—let alone permission to use it for a bachelor party. At that point, the officers arrested the twenty-one (21) partygoers for unlawful entry in violation of D.C. law. The officers transported the partygoers to the D.C. police station where the lieutenant decided to charge them with disorderly conduct. The partygoers were subsequently released, and the charges were eventually dropped.

Sometime thereafter, sixteen (16) of the twenty-one (21) partygoers sued the District of Columbia and five of the arresting officers for false arrest in violation of their Fourth Amendment rights. The partygoers' claims were all predicated upon the allegation that the police officers had arrested them without probable cause.

On cross-motions for summary judgment, the District Court awarded partial summary judgment to the partygoers after concluding that the officers lacked probable cause to arrest the partygoers for unlawful entry. The case then proceeded to a trial on damages where a 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.

On appeal, a divided panel of the D.C. Circuit 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. The panel majority asserted that, in the absence of any conflicting information, Peaches' invitation vitiated the necessary element of the partygoers' intent to enter against the will of the lawful owner. And, the panel majority determined that there was no evidence that the partygoers had any reason to think that the invitation was invalid. The United States Supreme Court granted certiorari to resolve two questions: (1) whether the officers had probable cause to arrest the partygoers and (2) whether the officers were entitled to qualified immunity.

The Supreme Court began its analysis by reiterating that a warrantless arrest is reasonable if the officer has probable cause to believe that the suspect committed a crime in the officer's presence. To determine whether an officer had probable cause for an arrest, courts examine the events leading up to the arrest and then decide whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to probable cause. Because probable cause deals with probabilities and depends on the totality of the circumstances, it is a fluid concept that is not readily, or even usefully, reduced to a neat set of legal rules. It requires only a probability or substantial chance of criminal activity, not an actual showing of such activity because probable cause is not a high bar.

In the instant case, the Supreme Court noted that there was no dispute that the partygoers entered the house against the will of the owner, and considering the totality of the circumstances, the Supreme Court determined

that 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. The Supreme Court reached this conclusion based upon several facts: (1) the condition of the house, including the multiple reports from neighbors that the house had been vacant for several months, the fact that the house had no furniture and was empty; (2) the partygoers' conduct, including the fact that the party was still going strong when the officers arrived after 1:00 a.m. with music so loud that it could be heard from outside, the fact that the smell of marijuana permeated the house, the fact that beer bottles and cups of liquor were scattered on the filthy floor, and the existence of a makeshift strip club in the living room; the Supreme Court stated that the officers could infer from these facts that the partygoers knew their party was not authorized; and (3) the partygoers' reaction to the officers gave them further reason to believe that the partygoers knew that they lacked permission to be in the house as many scattered at the sight of the uniformed officers and two hid themselves; so, a reasonable officer could infer that the partygoers' scattering and hiding indicated that they knew that they were not supposed to be there. The reaction of the alleged owner, Peaches, also indicated that she was lying to officers, thereby supporting a finding of probable cause.

Therefore, the Supreme Court found that, viewing these circumstances as a whole, a reasonable officer could conclude that there was probable cause to believe the partygoers knew that they did not have permission to be in the house and thereby could be charged with unlawful entry. As such, the Supreme Court reversed the lower court's decision and found that the officer did not violate the partygoers' Fourth Amendment rights and were not entitled to any monetary damages. The Court concluded by stating that the lower courts also erred in entering summary judgment in the partygoers' favor because the officers were protected from liability in this case based upon the doctrine of qualified immunity.