121 S.Ct. 1536
Supreme Court of the United States

Gail ATWATER, et al., Petitioners,
v.
CITY OF LAGO VISTA et al.

No. 99–1408.
|
Argued Dec. 4, 2000.
|
Decided April 24, 2001.

Synopsis
Motorist brought § 1983 action against city, police chief and arresting officer, after motorist was arrested, handcuffed, and taken to jail for failing to wear her seat belt, failing to fasten her children in seat belts, driving without license, and failing to provide proof of insurance. The United States District Court for the Western District of Texas, Sam Sparks, J., granted summary judgment for defendants, and motorist appealed. A panel of the United States Court of Appeals for the Fifth Circuit, 165 F.3d 380, reversed. On rehearing en banc, the United States Court of Appeals for the Fifth Circuit, 195 F.3d 242,vacated panel's decision and affirmed the District Court. Certiorari was granted. The Supreme Court, Justice Souter, held that: (1) officer's authority to make warrantless arrest for misdemeanors was not restricted at common law to cases of "breach of the peace," and (2) arrest did not violate motorist's Fourth Amendment rights.

Affirmed.

Justice O'Connor dissented and filed opinion in which Justices Stevens, Ginsburg, and Breyer joined.

Opinion

Justice SOUTER delivered the opinion of the Court.

The question is whether the Fourth Amendment forbids a warrantless arrest for a minor criminal offense, such as a misdemeanor seatbelt violation punishable only by a fine. We hold that it does not.

[Edited Facts: Petitioner Gail Atwater was pulled over by police while driving with her children. No one in the car was wearing seatbelts, which is a "a misdemeanor punishable by a fine not less than $25 or more than $50."]

The Fourth Amendment safeguards "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." In reading the Amendment, we are guided by "the traditional protections against unreasonable searches and seizures afforded by the common law at the time of the framing," *Wilson v. Arkansas*, 514 U.S. 927, 931, 115 S.Ct. 1914, 131 L.Ed.2d 976 (1995), since "[a]n examination of the common-law understanding of an officer's authority to arrest sheds light on the obviously relevant, if not entirely dispositive, consideration of what the Framers of the Amendment might have thought to be reasonable," *Payton v. New York*, 445 U.S. 573, 591, 100 S.Ct. 1371, 63 L.Ed.2d 639 (1980) (footnote omitted). Thus, the first step here is to assess [Petitioner's] claim that peace officers' authority to make warrantless arrests for misdemeanors was restricted at common law (whether "common law" is understood strictly as law judicially derived or, instead, as the whole body of law extant at the time of the framing). Atwater's specific contention is that "founding-era common-law rules" forbade peace officers to make warrantless misdemeanor arrests except in cases of "breach of the peace," a category she claims was then understood narrowly as covering only those non-felony offenses "involving or tending toward violence." Brief for Petitioners 13. Although her historical argument is by no means insubstantial, it ultimately fails….

Neither the history of the framing era nor subsequent legal development indicates that the Fourth Amendment was originally understood, or has traditionally been read, to embrace Atwater's position.

[Furthermore the case reports] may well contain early American cases more favorable to [Petitioner's] position than the ones she has herself invoked. But more to the point, we think, are the numerous early- and mid-19th–century decisions expressly sustaining (often against constitutional challenge) state and local laws authorizing peace officers to make warrantless arrests for misdemeanors not involving any breach of the peace. See, *e.g.*, *Mayo v. Wilson*, 1 N.H. 53 (1817) (upholding statute authorizing warrantless arrests of those unnecessarily traveling on Sunday against challenge based on state due process and search-and-seizure provisions); *Holcomb v. Cornish*, 8 Conn. 375 (1831) (upholding statute permitting warrantless arrests for "drunkenness, profane swearing, cursing or sabbath-breaking," against argument that "[t]he power of a justice of the peace to arrest and detain a citizen without complaint or warrant against him, is surely not given by the common law"); *Jones v. Root*, 72 Mass. 435 (1856) (rebuffing constitutional challenge to statute authorizing officers "without a warrant [to] arrest any person or persons whom they may find in the act of

illegally selling, transporting, or distributing intoxicating liquors"); *Main v. McCarty,* 15 Ill. 441, 442 (1854) (concluding that a law expressly authorizing arrests for city-ordinance violations was "not repugnant to the constitution or the general provisions of law"); *White v. Kent,* 11 Ohio St. 550 (1860) (upholding municipal ordinance permitting warrantless arrest of any person found violating any city ordinance or state law); *Davis v. American Soc. for Prevention of Cruelty to Animals,* 75 N.Y. 362 (1878) (upholding statute permitting warrantless arrest for misdemeanor violation of cruelty-to-animals prohibition). See generally Wilgus, Arrest Without a Warrant, 22 Mich. L.Rev. 541, 550, and n. 54 (1924) (collecting cases and observing that "[t]he states may, by statute, enlarge the common law right to arrest without a warrant, and have quite generally done so or authorized municipalities to do so, as for example, an officer may be authorized by statute or ordinance to arrest without a warrant for various misdemeanors and violations of ordinances, other than breaches of the peace, if committed in his presence"); *id.*, at 706, nn. 570, 571 (collecting cases); 1 J. Bishop, New Criminal Procedure §§ 181, 183, pp. 101, n. 2, 103, n. 5 (4th ed. 1895) (same); W. Clark, Handbook of Criminal Procedure § 12, p. 50, n. 8 (2d ed.1918) (same).

Finally, both the legislative tradition of granting warrantless misdemeanor arrest authority and the judicial tradition of sustaining such statutes against constitutional attack are buttressed by legal commentary that, for more than a century now, has almost uniformly recognized the constitutionality of extending warrantless arrest power to misdemeanors without limitation to breaches of the peace…..

Small wonder, then, that today statutes in all 50 States and the District of Columbia permit warrantless misdemeanor arrests by at least some (if not all) peace officers without requiring any breach of the peace,[12] as do a host of congressional enactments.

[Petitioner also] asks us to mint a new rule of constitutional law on the understanding that when historical practice fails to speak conclusively to a claim grounded on the Fourth Amendment, courts are left to strike a current balance between individual and societal interests by subjecting particular contemporary circumstances to traditional standards of reasonableness. See *Wyoming v. Houghton,* 526 U.S. 295, 299–300, 119 S.Ct. 1297, 143 L.Ed.2d 408 (1999); *Vernonia School Dist. 47J v. Acton,* 515 U.S. 646, 652–653, 115 S.Ct. 2386, 132 L.Ed.2d 564 (1995). [Petitioner] accordingly argues for a modern arrest rule, one not necessarily requiring violent breach of the peace, but nonetheless forbidding custodial arrest, even upon probable cause, when conviction could not ultimately carry any jail time and when the government shows no compelling need for immediate detention….

At first glance, Atwater's argument may seem to respect the values of clarity and simplicity, so far as she claims that the Fourth Amendment generally forbids warrantless arrests for minor crimes not accompanied by violence or some demonstrable threat of it (whether "minor crime" be defined as a fine-only traffic offense, a fine-only offense more generally, or a misdemeanor17)….

One line, she suggests, might be between "jailable" and "fine-only" offenses, between those for which conviction could result in commitment and those for which it could not. The trouble with this distinction, of course, is that an officer on the street might not be able to tell. It is not merely that we cannot expect every police officer to know the details of frequently complex penalty schemes, (citation omitted), but that penalties for ostensibly identical conduct can vary on account of facts difficult (if not impossible) to know at the scene of an arrest. Is this the first offense or is the suspect a repeat offender? Is the weight of the marijuana a gram above or a gram below the fine-only line? Where conduct could implicate more than one criminal prohibition, which one will the district attorney ultimately decide to charge? And so on….

Accordingly, we confirm today what our prior cases have intimated: the standard of probable cause "applie[s] to all arrests, without the need to 'balance' the interests and circumstances involved in particular situations." *Dunaway v. New York,* 442 U.S. 200, 208, 99 S.Ct. 2248, 60 L.Ed.2d 824 (1979). If an officer has probable cause to believe that an individual has committed even a very minor criminal offense in his presence, he may, without violating the Fourth Amendment, arrest the offender.

Atwater's arrest satisfied constitutional requirements. There is no dispute that Officer Turek had probable cause to believe that Atwater had committed a crime in his presence. She admits that neither she nor her children were wearing seatbelts, as required by Tex. Transp.Code Ann. § 545.413 (1999). Turek was accordingly authorized (not required, but authorized) to make a custodial arrest without balancing costs and benefits or determining whether or not Atwater's arrest was in some sense necessary….

The Court of Appeals's en banc judgment is affirmed.

