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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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DEVENPECK ET AL. *v.* ALFORD

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 03–710. Argued November 8, 2004—Decided December 13, 2004

Believing that respondent was impersonating a police officer, petitioner Haner, a Washington State Patrol officer, pursued and pulled over respondent's vehicle. While questioning respondent at the scene, petitioner Devenpeck, Haner's supervisor, discovered that respondent was taping their conversation and arrested him for violating the State's Privacy Act. The state trial court subsequently dismissed the charge. Respondent then filed this suit in federal court, claiming, among other things, that his arrest violated the Fourth and Fourteenth Amendments. The District Court denied petitioners qualified immunity, and the case went to trial. The jury was instructed, *inter alia,* that respondent had to establish lack of probable cause to arrest, and that taping police at a traffic stop was not a crime in Washington. The jury found for petitioners. The Ninth Circuit reversed, based in part on its conclusion that petitioners could not have had probable cause to arrest. It rejected petitioners' claim that there was probable cause to arrest for impersonating and for obstructing a law enforcement officer, because those offenses were not "closely related" to the offense invoked by Devenpeck at the time of arrest.

Held:

1. A warrantless arrest by a law officer is reasonable under the Fourth Amendment if, given the facts known to the officer, there is probable cause to believe that a crime has been or is being committed. The Ninth Circuit's additional limitation—that the offense establishing probable cause must be "closely related" to, and based on the same conduct as, the offense the arresting officer identifies at the time of arrest—is inconsistent with this Court's precedent, which holds that an arresting officer's state of mind (except for facts that he knows) is irrelevant to probable cause, see *Whren* v. *United States,*

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517 U. S. 806, 812–815. The "closely related offense" rule is also condemned by its perverse consequences: it will not eliminate sham arrests but will cause officers to cease providing reasons for arrest, or to cite every class of offense for which probable cause could conceivably exist. Pp. 5–9.

2. This Court will not decide in the first instance whether petitioners lacked probable cause to arrest respondent for either obstructing or impersonating an officer because the Ninth Circuit, having found those offenses legally irrelevant, did not decide that question. Pp. 9–10.

333 F. 3d 972, reversed and remanded.

SCALIA, J., delivered the opinion of the Court, in which all other Members joined, except REHNQUIST, C. J., who took no part in the decision of the case.