

Opinion of the Court

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**SUPREME COURT OF THE UNITED STATES**

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No. 99–1132

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ILLINOIS, PETITIONER *v.* CHARLES MCARTHUR

ON WRIT OF CERTIORARI TO THE APPELLATE COURT OF  
ILLINOIS, FOURTH DISTRICT

[February 20, 2001]

JUSTICE BREYER delivered the opinion of the Court.

Police officers, with probable cause to believe that a man had hidden marijuana in his home, prevented that man from entering the home for about two hours while they obtained a search warrant. We must decide whether those officers violated the Fourth Amendment. We conclude that the officers acted reasonably. They did not violate the Amendment’s requirements. And we reverse an Illinois court’s holding to the contrary.

I

A

On April 2, 1997, Tera McArthur asked two police officers to accompany her to the trailer where she lived with her husband, Charles, so that they could keep the peace while she removed her belongings. The two officers, Assistant Chief John Love and Officer Richard Skidis, arrived with Tera at the trailer at about 3:15 p.m. Tera went inside, where Charles was present. The officers remained outside.

When Tera emerged after collecting her possessions, she spoke to Chief Love, who was then on the porch. She suggested he check the trailer because “Chuck had dope in

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there.” App. 15. She added (in Love’s words) that she had seen Chuck “slid[e] some dope underneath the couch.” *Id.*, at 19.

Love knocked on the trailer door, told Charles what Tera had said, and asked for permission to search the trailer, which Charles denied. Love then sent Officer Skidis with Tera to get a search warrant.

Love told Charles, who by this time was also on the porch, that he could not reenter the trailer unless a police officer accompanied him. Charles subsequently reentered the trailer two or three times (to get cigarettes and to make phone calls), and each time Love stood just inside the door to observe what Charles did.

Officer Skidis obtained the warrant by about 5 p.m. He returned to the trailer and, along with other officers, searched it. The officers found under the sofa a marijuana pipe, a box for marijuana (called a “one-hitter” box), and a small amount of marijuana. They then arrested Charles.

## B

Illinois subsequently charged Charles McArthur with unlawfully possessing drug paraphernalia and marijuana (less than 2.5 grams), both misdemeanors. See Ill. Comp. Stat., ch. 720, §§550/4(a), 600/3.5(a) (1998). McArthur moved to suppress the pipe, box, and marijuana on the ground that they were the “fruit” of an unlawful police seizure, namely, the refusal to let him reenter the trailer unaccompanied, which would have permitted him, he said, to “have destroyed the marijuana.” App. 27.

The trial court granted McArthur’s suppression motion. The Appellate Court of Illinois affirmed, 304 Ill. App. 3d 395, 713 N. E. 2d 93 (1999), and the Illinois Supreme Court denied the State’s petition for leave to appeal, 185 Ill. 2d 651, 720 N. E. 2d 1101 (1999). We granted certiorari to determine whether the Fourth Amendment prohibits the kind of temporary seizure at issue here.

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## II

## A

The Fourth Amendment says that the “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated.” U. S. Const., Amdt. 4. Its “central requirement” is one of reasonableness. See *Texas v. Brown*, 460 U. S. 730, 739 (1983). In order to enforce that requirement, this Court has interpreted the Amendment as establishing rules and presumptions designed to control conduct of law enforcement officers that may significantly intrude upon privacy interests. Sometimes those rules require warrants. We have said, for example, that in “the ordinary case,” seizures of personal property are “unreasonable within the meaning of the Fourth Amendment,” without more, “unless . . . accomplished pursuant to a judicial warrant,” issued by a neutral magistrate after finding probable cause. *United States v. Place*, 462 U. S. 696, 701 (1983).

We nonetheless have made it clear that there are exceptions to the warrant requirement. When faced with special law enforcement needs, diminished expectations of privacy, minimal intrusions, or the like, the Court has found that certain general, or individual, circumstances may render a warrantless search or seizure reasonable. See, e.g., *Pennsylvania v. Labron*, 518 U. S. 938, 940–941 (1996) (*per curiam*) (search of automobile supported by probable cause); *Michigan Dept. of State Police v. Sitz*, 496 U. S. 444, 455 (1990) (suspicionless stops at drunk driver checkpoint); *United States v. Place*, *supra*, at 706 (temporary seizure of luggage based on reasonable suspicion); *Michigan v. Summers*, 452 U. S. 692, 702–705 (1981) (temporary detention of suspect without arrest warrant to prevent flight and protect officers while executing search warrant); *Terry v. Ohio*, 392 U. S. 1, 27 (1968) (temporary stop and limited search for weapons based on reasonable

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suspicion).

In the circumstances of the case before us, we cannot say that the warrantless seizure was *per se* unreasonable. It involves a plausible claim of specially pressing or urgent law enforcement need, *i.e.*, “exigent circumstances.” Cf., *e.g.*, *United States v. Place*, *supra*, at 701 (“[T]he exigencies of the circumstances” may permit temporary seizure without warrant); *Warden, Md. Penitentiary v. Hayden*, 387 U. S. 294, 298–299 (1967) (warrantless search for suspect and weapons reasonable where delay posed grave danger); *Schmerber v. California*, 384 U. S. 757, 770–771 (1966) (warrantless blood test for alcohol reasonable where delay would have led to loss of evidence). Moreover, the restraint at issue was tailored to that need, being limited in time and scope, cf. *Terry v. Ohio*, *supra*, at 29–30, and avoiding significant intrusion into the home itself, cf. *Payton v. New York*, 445 U. S. 573, 585 (1980) (“[T]he chief evil against which the . . . Fourth Amendment is directed” is warrantless entry and search of home) (quoting *United States v. United States Dist. Court for Eastern Dist. of Mich.*, 407 U. S. 297, 313 (1972)). Consequently, rather than employing a *per se* rule of unreasonableness, we balance the privacy-related and law enforcement-related concerns to determine if the intrusion was reasonable. Cf. *Delaware v. Prouse*, 440 U. S. 648, 654 (1979) (determining lawfulness by balancing privacy and law enforcement interests); *United States v. Brignoni-Ponce*, 422 U. S. 873, 878 (1975) (same).

We conclude that the restriction at issue was reasonable, and hence lawful, in light of the following circumstances, which we consider in combination. First, the police had probable cause to believe that McArthur’s trailer home contained evidence of a crime and contraband, namely, unlawful drugs. The police had had an opportunity to speak with Tera McArthur and make at least a very rough assessment of her reliability. They

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knew she had had a firsthand opportunity to observe her husband's behavior, in particular with respect to the drugs at issue. And they thought, with good reason, that her report to them reflected that opportunity. Cf. *Massachusetts v. Upton*, 466 U. S. 727, 732–734 (1984) (*per curiam*) (upholding search warrant issued in similar circumstances).

Second, the police had good reason to fear that, unless restrained, McArthur would destroy the drugs before they could return with a warrant. They reasonably might have thought that McArthur realized that his wife knew about his marijuana stash; observed that she was angry or frightened enough to ask the police to accompany her; saw that after leaving the trailer she had spoken with the police; and noticed that she had walked off with one policeman while leaving the other outside to observe the trailer. They reasonably could have concluded that McArthur, consequently suspecting an imminent search, would, if given the chance, get rid of the drugs fast.

Third, the police made reasonable efforts to reconcile their law enforcement needs with the demands of personal privacy. They neither searched the trailer nor arrested McArthur before obtaining a warrant. Rather, they imposed a significantly less restrictive restraint, preventing McArthur only from entering the trailer unaccompanied. They left his home and his belongings intact— until a neutral Magistrate, finding probable cause, issued a warrant.

Fourth, the police imposed the restraint for a limited period of time, namely, two hours. Cf. *Terry v. Ohio*, *supra*, at 28 (manner in which police act is “vital . . . part of . . . inquiry”). As far as the record reveals, this time period was no longer than reasonably necessary for the police, acting with diligence, to obtain the warrant. Compare *United States v. Place*, *supra*, at 709–710 (holding 90-minute detention of luggage unreasonable based on nature of interference with person's travels and lack of diligence of

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police), with *United States v. Van Leeuwen*, 397 U. S. 249, 253 (1970) (holding 29-hour detention of mailed package reasonable given unavoidable delay in obtaining warrant and minimal nature of intrusion). Given the nature of the intrusion and the law enforcement interest at stake, this brief seizure of the premises was permissible.

## B

Our conclusion that the restriction was lawful finds significant support in this Court's case law. In *Segura v. United States*, 468 U. S. 796 (1984), the Court considered the admissibility of drugs which the police had found in a lawful, warrant-based search of an apartment, but only after unlawfully entering the apartment and occupying it for 19 hours. The majority held that the drugs were admissible because, had the police acted lawfully throughout, they could have discovered and seized the drugs pursuant to the validly issued warrant. See *id.*, at 799, 814–815 (citing *Silverthorne Lumber Co. v. United States*, 251 U. S. 385 (1920)). The minority disagreed. However, when describing alternative lawful search and seizure methods, both majority and minority assumed, at least for argument's sake, that the police, armed with reliable information that the apartment contained drugs, might lawfully have sealed the apartment from the outside, restricting entry into the apartment while waiting for the warrant. Compare *Segura v. United States*, 468 U. S., at 814 (“Had police never entered the apartment, but instead conducted a perimeter stakeout to prevent anyone from entering . . . and destroying evidence, the contraband . . . would have been . . . seized precisely as it was here”), with *id.*, at 824, n. 15 (STEVENS, J., dissenting) (“I assume impoundment would be permissible even absent exigent circumstances when it occurs ‘from the outside’— when the authorities merely seal off premises pending the issuance of a warrant but do not enter”); see also *Mincey v. Arizona*,

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437 U. S. 385, 394 (1978) (exigent circumstances do not justify search where police guard at door could prevent loss of evidence); *United States v. Jeffers*, 342 U. S. 48, 52 (1951) (same).

In various other circumstances, this Court has upheld temporary restraints where needed to preserve evidence until police could obtain a warrant. See, e.g., *United States v. Place*, 462 U. S., at 706 (reasonable suspicion justifies brief detention of luggage pending further investigation); *United States v. Van Leeuwen*, *supra*, at 253 (reasonable suspicion justifies detaining package delivered for mailing). Cf. *Richards v. Wisconsin*, 520 U. S. 385, 395 (1997) (no need to “knock and announce” when executing a search warrant where officers reasonably suspect that evidence might be destroyed); *Carroll v. United States*, 267 U. S. 132, 153 (1925) (warrantless search of automobile constitutionally permissible).

We have found no case in which this Court has held unlawful a temporary seizure that was supported by probable cause and was designed to prevent the loss of evidence while the police diligently obtained a warrant in a reasonable period of time. But cf. *Welsh v. Wisconsin*, 466 U. S. 740, 754 (1984) (holding warrantless entry into and arrest in home unreasonable despite possibility that evidence of noncriminal offense would be lost while warrant was being obtained).

## C

Nor are we persuaded by the countervailing considerations that the parties or lower courts have raised. McArthur argues that the police proceeded without probable cause. But McArthur has waived this argument. See 304 Ill. App. 3d, at 397, 713 N. E. 2d, at 95 (stating that McArthur does not contest existence of probable cause); Brief in Opposition 7 (acknowledging probable cause). And, in any event, it is without merit. See *supra*, at 4–5.

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The Appellate Court of Illinois concluded that the police could not order McArthur to stay outside his home because McArthur's porch, where he stood at the time, was part of his home; hence the order "amounted to a constructive eviction" of McArthur from his residence. 304 Ill. App. 3d, at 402, 713 N. E. 2d, at 98. This Court has held, however, that a person standing in the doorway of a house is "in a 'public' place," and hence subject to arrest without a warrant permitting entry of the home. *United States v. Santana*, 427 U. S. 38, 42 (1976). Regardless, we do not believe the difference to which the Appellate Court points— porch versus, *e.g.*, front walk— could make a significant difference here as to the reasonableness of the police restraint; and that, from the Fourth Amendment's perspective, is what matters.

The Appellate Court also found negatively significant the fact that Chief Love, with McArthur's consent, stepped inside the trailer's doorway to observe McArthur when McArthur reentered the trailer on two or three occasions. 304 Ill. App. 3d, at 402–403, 713 N. E. 2d, at 98. McArthur, however, reentered simply for his own convenience, to make phone calls and to obtain cigarettes. Under these circumstances, the reasonableness of the greater restriction (preventing reentry) implies the reasonableness of the lesser (permitting reentry conditioned on observation).

Finally, McArthur points to a case (and we believe it is the only case) that he believes offers direct support, namely, *Welsh v. Wisconsin*, *supra*. In *Welsh*, this Court held that police could not enter a home without a warrant in order to prevent the loss of evidence (namely, the defendant's blood alcohol level) of the "nonjailable traffic offense" of driving while intoxicated. 466 U. S., at 742, 754. McArthur notes that his two convictions are for misdemeanors, which, he says, are as minor, and he adds that the restraint, keeping him out of his home, was

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nearly as serious.

We nonetheless find significant distinctions. The evidence at issue here was of crimes that were “jailable,” not “nonjailable.” See Ill. Comp. Stat., ch. 720, §550/4(a) (1998); ch. 730, §5/5–8–3(3) (possession of less than 2.5 grams of marijuana punishable by up to 30 days in jail); ch. 720, §600/3.5; ch. 730, §5/5–8–3(1) (possession of drug paraphernalia punishable by up to one year in jail). In *Welsh*, we noted that, “[g]iven that the classification of state crimes differs widely among the States, the penalty that may attach to any particular offense seems to provide the clearest and most consistent indication of the State’s interest in arresting individuals suspected of committing that offense.” 466 U. S., at 754, n. 14. The same reasoning applies here, where class C misdemeanors include such widely diverse offenses as drag racing, drinking alcohol in a railroad car or on a railroad platform, bribery by a candidate for public office, and assault. See, e.g., Ill. Comp. Stat., ch. 65, §5/4–8–2 (1998); ch. 610, §90/1; ch. 625, §5/11–504; ch. 720, §5/12–1.

And the restriction at issue here is less serious. Temporarily keeping a person from entering his home, a consequence whenever police stop a person on the street, is considerably less intrusive than police entry into the home itself in order to make a warrantless arrest or conduct a search. Cf. *Payton v. New York*, 445 U. S., at 585 (the Fourth Amendment’s central concern is the warrantless entry and search of the home).

We have explained above why we believe that the need to preserve evidence of a “jailable” offense was sufficiently urgent or pressing to justify the restriction upon entry that the police imposed. We need not decide whether the circumstances before us would have justified a greater restriction for this type of offense or the same restriction were only a “nonjailable” offense at issue.

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## III

In sum, the police officers in this case had probable cause to believe that a home contained contraband, which was evidence of a crime. They reasonably believed that the home's resident, if left free of any restraint, would destroy that evidence. And they imposed a restraint that was both limited and tailored reasonably to secure law enforcement needs while protecting privacy interests. In our view, the restraint met the Fourth Amendment's demands.

The judgment of the Illinois Appellate Court is reversed, and the case is remanded for further proceedings not inconsistent with this opinion.

*It is so ordered.*