

Syllabus

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

Syllabus

ATWATER ET AL. *v.* CITY OF LAGO VISTA ET AL.CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT

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

Texas law makes it a misdemeanor, punishable only by a fine, either for a front-seat passenger in a car equipped with safety belts not to wear one or for the driver to fail to secure any small child riding in front. The warrantless arrest of anyone violating these provisions is expressly authorized by statute, but the police may issue citations in lieu of arrest. Petitioner Atwater drove her truck in Lago Vista, Texas, with her small children in the front seat. None of them was wearing a seatbelt. Respondent Turek, then a Lago Vista policeman, observed the seatbelt violations, pulled Atwater over, verbally berated her, handcuffed her, placed her in his squad car, and drove her to the local police station, where she was made to remove her shoes, jewelry, and eyeglasses, and empty her pockets. Officers took her “mug shot” and placed her, alone, in a jail cell for about an hour, after which she was taken before a magistrate and released on bond. She was charged with, among other things, violating the seatbelt law. She pleaded no contest to the seatbelt misdemeanors and paid a \$50 fine. She and her husband (collectively Atwater) filed suit under 42 U. S. C. §1983, alleging, *inter alia*, that the actions of respondents (collectively City) had violated her Fourth Amendment right to be free from unreasonable seizure. Given her admission that she had violated the law and the absence of any allegation that she was harmed or detained in any way inconsistent with the law, the District Court ruled the Fourth Amendment claim meritless and granted the City summary judgment. Sitting en banc, the Fifth Circuit affirmed. Relying on *Whren v. United States*, 517 U. S. 806, 817–818, the court observed that, although the Fourth Amendment generally requires a balancing of individual and governmental interests, the result is rarely in doubt where an arrest is based on probable cause. Because

Syllabus

no one disputed that Turek had probable cause to arrest Atwater, and there was no evidence the arrest was conducted in an extraordinary manner, unusually harmful to Atwater's privacy interests, the court held the arrest not unreasonable for Fourth Amendment purposes.

Held: The Fourth Amendment does not forbid a warrantless arrest for a minor criminal offense, such as a misdemeanor seatbelt violation punishable only by a fine. Pp. 4–33.

(a) In reading the Fourth Amendment, the Court is guided by the traditional protections against unreasonable searches and seizures afforded by the common law at the time of the framing. *E.g.*, *Wilson v. Arkansas*, 514 U. S. 927, 931. Atwater contends that founding-era common-law rules forbade 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 nonfelony offenses involving or tending toward violence. Although this argument is not insubstantial, it ultimately fails. Pp. 4–24.

(1) Even after making some allowance for variations in the pre-founding English common-law usage of “breach of the peace,” the founding-era common-law rules were not nearly as clear as Atwater claims. Pp. 5–14.

(i) A review of the relevant English decisions, as well as English and colonial American legal treatises, legal dictionaries, and procedure manuals, demonstrates disagreement, not unanimity, with respect to officers' warrantless misdemeanor arrest power. On one side, eminent authorities support Atwater's position that the common law confined warrantless misdemeanor arrests to actual breaches of the peace. See, *e.g.*, *Queen v. Tooley*, 2 Ld. Raym. 1296, 1301, 92 Eng. Rep. 349, 352. However, there is also considerable evidence of a broader conception of common-law misdemeanor arrest authority unlimited by any breach-of-the-peace condition. See, *e.g.*, *Holyday v. Oxenbridge*, Cro. Car. 234, 79 Eng. Rep. 805, 805–806; 2 M. Hale, *The History of the Pleas of the Crown* 88. Thus, the Court is not convinced that Atwater's is the correct, or even necessarily the better, reading of the common-law history. Pp. 6–11.

(ii) A second, and equally serious, problem for Atwater's historical argument is posed by various statutes enacted by Parliament well before this Republic's founding that authorized peace officers (and even private persons) to make warrantless arrests for all sorts of relatively minor offenses unaccompanied by violence, including, among others, nightwalking, unlawful game-playing, profane cursing, and negligent carriage-driving. Pp. 11–14.

(2) An examination of specifically American evidence is to the same effect. Neither the history of the framing era nor subsequent

Syllabus

legal development indicates that the Fourth Amendment was originally understood, or has traditionally been read, to embrace Atwater's position. Pp. 14–24.

(i) Atwater has cited no particular evidence that those who framed and ratified the Fourth Amendment sought to limit peace officers' warrantless misdemeanor arrest authority to instances of actual breach of the peace, and the Court's review of framing-era documentary history has likewise failed to reveal any such design. Nor is there in any of the modern historical accounts of the Fourth Amendment's adoption any substantial indication that the Framers intended such a restriction. Indeed, to the extent the modern histories address the issue, their conclusions are to the contrary. The evidence of actual practice also counsels against Atwater's position. During the period leading up to and surrounding the framing of the Bill of Rights, colonial and state legislatures, like Parliament before them, regularly authorized local officers to make warrantless misdemeanor arrests without a breach of the peace condition. That the Fourth Amendment did not originally apply to the States does not make state practice irrelevant in unearthing the Amendment's original meaning. A number of state constitutional search-and-seizure provisions served as models for the Fourth Amendment, and the fact that many of the original States with such constitutional limitations continued to grant their officers broad warrantless misdemeanor arrest authority undermines Atwater's position. Given the early state practice, it is likewise troublesome for Atwater's view that one year after the Fourth Amendment's ratification, Congress gave federal marshals the same powers to execute federal law as sheriffs had to execute state law. Pp. 14–18.

(ii) Nor is Atwater's argument from tradition aided by the historical record as it has unfolded since the framing, there being no indication that her claimed rule has ever become "woven . . . into the fabric" of American law. *E.g., Wilson, supra*, at 933. The story, in fact, is to the contrary. First, what little this Court has said about warrantless misdemeanor arrest authority tends to cut against Atwater's argument. See, *e.g., United States v. Watson*, 423 U. S. 411, 418. Second, this is not a case in which early American courts embraced an accepted common-law rule with anything approaching unanimity. See *Wilson, supra*, at 933. None of the 19th-century state-court decisions cited by Atwater is ultimately availing. More to the point are the numerous 19th-century state 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. Finally, legal commentary, for more than a century, has almost uniformly recog-

Syllabus

nized 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 such arrests by at least some (if not all) peace officers, as do a host of congressional enactments. Pp. 18–24.

(b) The Court rejects Atwater’s request to mint a new rule of constitutional law forbidding custodial arrest, even upon probable cause, when conviction could not ultimately carry any jail time and the government can show no compelling need for immediate detention. She reasons that, when historical practice fails to speak conclusively to a Fourth Amendment claim, courts must strike a current balance between individual and societal interests by subjecting particular contemporary circumstances to traditional standards of reasonableness. See, e.g., *Wyoming v. Houghton*, 526 U. S. 295, 299–300. Atwater might well prevail under a rule derived exclusively to address the uncontested facts of her case, since her claim to live free of pointless indignity and confinement clearly outweighs anything the City can raise against it specific to her. However, the Court has traditionally recognized that a responsible Fourth Amendment balance is not well served by standards requiring sensitive, case-by-case determinations of government need, lest every discretionary judgment in the field be converted into an occasion for constitutional review. See, e.g., *United States v. Robinson*, 414 U. S. 218, 234–235. Complications arise the moment consideration is given the possible applications of the several criteria Atwater proposes for drawing a line between minor crimes with limited arrest authority and others not so restricted. The assertion that these difficulties could be alleviated simply by requiring police in doubt not to arrest is unavailing because, first, such a tie breaker would in practice amount to a constitutionally inappropriate least-restrictive-alternative limitation, see, e.g., *Skinner v. Railway Labor Executives’ Assn.*, 489 U. S. 602, 629, n. 9, and, second, whatever guidance the tie breaker might give would come at the price of a systematic disincentive to arrest in situations where even Atwater concedes arresting would serve an important societal interest. That warrantless misdemeanor arrests do not demand the constitutional attention Atwater seeks is indicated by a number of factors, including that the law has never jelled the way Atwater would have it; that anyone arrested without formal process is entitled to a magistrate’s review of probable cause within 48 hours, *County of Riverside v. McLaughlin*, 500 U. S. 44, 55–58; that many jurisdictions have chosen to impose more restrictive safeguards through statutes limiting warrantless arrests for minor offenses; that it is in the police’s interest to limit such arrests, which carry costs too great to incur without good reason; and that, under current doctrine, the preference for categori-

Syllabus

cal treatment of Fourth Amendment claims gives way to individualized review when a defendant makes a colorable argument that an arrest, with or without a warrant, was conducted in an extraordinary manner, unusually harmful to his privacy or physical interests, *e.g.*, *Whren*, 517 U. S., at 818. The upshot of all these influences, combined with the good sense (and, failing that, the political accountability) of most local lawmakers and peace officers, is a dearth of horrors demanding redress. Thus, the probable cause standard applies 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. An officer may arrest an individual without violating the Fourth Amendment if there is probable cause to believe that the offender has committed even a very minor criminal offense in the officer's presence. Pp. 24–33.

(c) Atwater's arrest satisfied constitutional requirements. It is undisputed that Turek had probable cause to believe that Atwater committed a crime in his presence. Because she admits that neither she nor her children were wearing seat belts, Turek was authorized (though not required) to make a custodial arrest without balancing costs and benefits or determining whether Atwater's arrest was in some sense necessary. Nor was the arrest made in an extraordinary manner, unusually harmful to her privacy or physical interests. See *Whren*, 517 U. S., at 818. Whether a search or seizure is "extraordinary" turns, above all else, on the manner in which it is executed. See, *e.g.*, *ibid.* Atwater's arrest and subsequent booking, though surely humiliating, were no more harmful to her interests than the normal custodial arrest. Pp. 33–34.

195 F. 3d 242, affirmed.

SOUTER, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and SCALIA, KENNEDY, and THOMAS, JJ., joined. O'CONNOR, J., filed a dissenting opinion, in which STEVENS, GINSBURG, and BREYER, JJ., joined.