

Case Brief: *Mapp v. Ohio*, 467 U.S. 643 (1961)

On May 23, 1957, three officers of the Cleveland Police Department arrived at the home of Dollree Mapp and her daughter. The officers claimed that they were searching for a suspect wanted for questioning about a recent bombing. Miss Mapp refused to allow the officers to enter her home because they lacked a search warrant. The officers proceeded to watch Miss Mapp's home for approximately three hours, until other officers arrived on the scene. This group of officers then forced entry into Miss Mapp's home. When confronted by Miss Mapp, who requested to see their warrant, a struggle ensued. Miss Mapp was arrested for being "belligerent", and the officers continued to search her home. During the course of the search, "obscene" materials were discovered. Miss Mapp was charged and convicted of the offense of possession of obscene materials, based on the items discovered during the search.

Miss Mapp appealed to the Ohio Court of Appeals, which upheld the conviction. Miss Mapp then appealed to the Supreme Court of the State of Ohio, which also upheld her conviction. Miss Mapp then appealed her conviction to the United States Supreme Court.

The case was argued on several grounds. Miss Mapp's attorneys challenged the constitutionality of the statute she was convicted under, claiming that it violated the First Amendment. However, the key issue that the Supreme Court dealt with in this case was whether the evidence seized by the Cleveland Police Department was admissible in court. Previously, the Supreme Court had held (in *Weeks v. United States*) that evidence seized by federal authorities, in violation of the Constitution, must not be admitted at trial. (This became known as the "exclusionary rule".) Until *Mapp*, the court had not applied the *Weeks* doctrine to the actions of state and local authorities; the court only applied the *Weeks* standard to the actions of federal employees. Miss Mapp's lawyers argued that the protections of the Fourteenth Amendment meant that *Weeks* applied to both state and federal authority. The State of Ohio argued that the Court had specifically held, in *Wolf v. Colorado*, that "in a prosecution in a State court for a State crime the Fourteenth Amendment does not forbid the admission of evidence obtained by an unreasonable search and seizure".

The majority opinion of the Court was written by Justice Clark, with Justices Warren, Black, Douglass, and Brennan concurring. In this opinion, the Court held in a 6-3 decision that the protections of the Fourteenth Amendment did apply in this case to the State of Ohio, and that the search by police officers of the Mapp home was illegal. Therefore the evidence obtained from the search was legally required to be excluded at trial, and Miss Mapp's conviction was reversed.

The majority opinion is divided into five sections. In the first section, the Court reviewed the previous case law on the Fourth Amendment, with special emphasis on *Weeks v. United States* and the exclusionary rule. The Court referred to the exclusionary rule as "a clear, specific, and constitutionally required - even if judicially implied - deterrent safeguard without insistence upon which the Fourth Amendment would have been reduced to 'a form of words.'" In the second section, the Court reviewed the previous ruling in *Wolf v. Colorado*; the majority believed that facts had changed since *Wolf v. Colorado* was decided, and thus the original ruling no longer applied. In the third section, the Court expressly stated the finding that "all evidence obtained by searches and seizures in violation of the Constitution is, by that same authority, inadmissible in a state court". In section four, the Court holds that the Fourteenth Amendment requires the

application of the same exclusionary rule to both the state and federal governments. Finally, in section five, the Court holds that the application of the same rule for both federal and state governments is simply logical. As the Court stated, "There is no war between the Constitution and common sense."

Justice Black wrote a separate concurring opinion, in which he argued that the Fourth and Fifth Amendments, taken together, required the exclusionary rule. Justice Black also rejected the "shock the conscience" test that the Court had previously used to determine the constitutionality of a search. Justice Douglass also wrote a separate concurring opinion, in which he expressed the opinion that the exclusionary rule was not only constitutionally justified, but also the only effective way to punish illegal searches and seizures. Finally, Justice Stewart wrote a separate concurring opinion, in which he stated that he agreed with the first portion of the dissenting opinion in the case; however, he would still vote to reverse Miss Mapp's conviction because the law she was convicted under violated the First Amendment.

Justice Harlan wrote the dissenting opinion, in which he was joined by Justices Frankfurter and Whittaker. According to Justice Harlan, the issue the Court was asked to decide had nothing to do with the exclusionary rule, but whether the statute under which Miss Mapp was convicted was constitutional. Miss Mapp's lawyers argued that the statute in question violated the First Amendment. Justice Harlan argued that it was inappropriate to use this particular case as grounds to overturn the Court's previous ruling in *Wolf v. Colorado*; he felt this particular aspect of the case was not sufficiently argued before the Court, and that the Court was overstepping by using this case to revisit *Wolf*. Additionally, Justice Harlan argued that the logic of the majority decision in extending *Weeks* to the state level "does not follow at all". Justice Harlan felt that it was more appropriate to leave the decision about whether or not to follow the exclusionary rule to the states, and that imposing a national standard was unreasonable; he went on to argue that the Court was overstepping its bounds by imposing such a standard.

In my opinion, the majority decision of the Court in this case was correct. I believe Justice Harlan's argument that the Supreme Court does not have the authority to impose a national standard for criminal prosecutions upon state courts to be misguided. On what rational basis can anyone support a court system in which standards of evidence and practice differ radically among the 50 states? How can anyone argue, as Justice Harlan does, that evidence may be deemed admissible in one state, and thrown out of court in a neighboring state? Or, for that matter, that evidence collected by a federal authority without a search warrant should not be admissible in court; but if that same person walks down the street to a state authority, that very same evidence may be used in court? Further, I find Justice Black's argument in his concurring opinion that the exclusionary rule is the only effective sanction against police misconduct persuasive. Even if one could sue, or expect disciplinary action, against police officers who engage in such misconduct, such actions still leave the wronged individual facing trial and imprisonment. Finally, precedent supports this decision. As Justice Clark states in the majority opinion

...nothing could be more certain than that when a coerced confession is involved, "the relevant rules of evidence" are overridden without regard to "the incidence of such conduct by the police," slight or frequent. Why should not the same rule apply to what is tantamount to coerced testimony by way of unconstitutional seizure of goods, papers, effects, documents, etc.?