SUPREME COURT OF THE UNITED STATES

No. 97–1147

MINNESOTA, PETITIONER *v.* WAYNE THOMAS CARTER

MINNESOTA *v.* MELVIN JOHNS

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF MINNESOTA

[December 1, 1998]

CHIEF JUSTICE REHNQUIST delivered the opinion of the Court.

Respondents and the lessee of an apartment were sitting in one of its rooms, bagging cocaine. While so engaged they were observed by a police officer, who looked through a drawn window blind. The Supreme Court of Minnesota held that the officer's viewing was a search which violated respondents' Fourth Amendment rights. We hold that no such violation occurred.

James Thielen, a police officer in the Twin Cities' suburb of Eagan, Minnesota, went to an apartment building to investigate a tip from a confidential informant. The informant said that he had walked by the window of a ground-floor apartment and had seen people putting a white powder into bags. The officer looked in the same window through a gap in the closed blind and observed the bagging operation for several minutes. He then notified headquarters, which began preparing affidavits for a search warrant while he returned to the apartment building. When two men left the building in a previously

identified Cadillac, the police stopped the car. Inside were respondents Carter and Johns. As the police opened the door of the car to let Johns out, they observed a black zippered pouch and a handgun, later determined to be loaded, on the vehicle's floor. Carter and Johns were arrested, and a later police search of the vehicle the next day discovered pagers, a scale, and 47 grams of cocaine in plastic sandwich bags.

After seizing the car, the police returned to Apartment 103 and arrested the occupant, Kimberly Thompson, who is not a party to this appeal. A search of the apartment pursuant to a warrant revealed cocaine residue on the kitchen table and plastic baggies similar to those found in the Cadillac. Thielen identified Carter, Johns, and Thompson as the three people he had observed placing the powder into baggies. The police later learned that while Thompson was the lessee of the apartment, Carter and Johns lived in Chicago and had come to the apartment for the sole purpose of packaging the cocaine. Carter and Johns had never been to the apartment before and were only in the apartment for approximately 2½ hours. In return for the use of the apartment, Carter and Johns had given Thompson one-eighth of an ounce of the cocaine.

Carter and Johns were charged with conspiracy to commit controlled substance crime in the first degree and aiding and abetting in a controlled substance crime in the first degree, in violation of Minn. Stat. § 152.021, subd. 1(1), subd. 3(a) (1996); §609.05. They moved to suppress all evidence obtained from the apartment and the Cadillac, as well as to suppress several post-arrest incriminating statements they had made. They argued that Thielen's initial observation of their drug packaging activities was an unreasonable search in violation of the Fourth Amendment and that all evidence obtained as a result of this unreasonable search was inadmissible as fruit of the poisonous tree. The Minnesota trial court held

that since, unlike the defendant in *Minnesota* v. *Olson*, 495 U. S. 91 (1990), Carter and Johns were not overnight social guests but temporary out-of-state visitors, they were not entitled to claim the protection of the Fourth Amendment against the government intrusion into the apartment. The trial court also concluded that Thielen's observation was not a search within the meaning of the Fourth Amendment. After a trial, Carter and Johns were each convicted of both offenses. The Minnesota Court of Appeals held that the respondent Carter did not have "standing" to object to Thielen's actions because his claim that he was predominantly a social guest was "inconsistent with the only evidence concerning his stay in the apartment, which indicates that he used it for a business purpose— to package drugs." *State* v. *Carter*, 545 N. W. 2d 695, 698 (1996). In a separate appeal, the Court of Appeals also affirmed Johns' conviction, without addressing what it termed the "standing" issue. *State* v. *Johns*, No. C9-95-1765 (Minn. Ct. App., June 11, 1996), App. D-1, D-3 (unpublished).

A divided Minnesota Supreme Court reversed, holding that respondents had "standing" to claim the protection of the Fourth Amendment because they had "'a legitimate expectation of privacy in the invaded place.'" 569 N. W. 2d 169, 174 (1997) (quoting *Rakas* v. *Illinois*, 439 U. S. 128, 143 (1978)). The court noted that even though "society does not recognize as valuable the task of bagging cocaine, we conclude that society does recognize as valuable the right of property owners or leaseholders to invite persons into the privacy of their homes to conduct a common task, be it legal or illegal activity. We, therefore, hold that [respondents] had standing to bring [their] motion to suppress the evidence gathered as a result of Thielen's observations." 569 N. W. 2d, at 176; see also 569 N. W.2d 180, 181. Based upon its conclusion that the respondents had "standing" to raise their Fourth Amendment claims,

the court went on to hold that Thielen's observation constituted a search of the apartment under the Fourth Amendment, and that the search was unreasonable. *Id.*, at 176–179. We granted certiorari, 523 U. S. ___ (1998), and now reverse.

The Minnesota courts analyzed whether respondents had a legitimate expectation of privacy under the rubric of "standing" doctrine, an analysis which this Court expressly rejected 20 years ago in *Rakas*. 439 U. S., at 139-140. In that case, we held that automobile passengers could not assert the protection of the Fourth Amendment against the seizure of incriminating evidence from a vehicle where they owned neither the vehicle nor the evidence. *Ibid*. Central to our analysis was the idea that in determining whether a defendant is able to show the violation of his (and not someone else's) Fourth Amendment rights, the "definition of those rights is more properly placed within the purview of substantive Fourth Amendment law than within that of standing." 439 U. S., at 140. Thus, we held that in order to claim the protection of the Fourth Amendment, a defendant must demonstrate that he personally has an expectation of privacy in the place searched, and that his expectation is reasonable; *i.e.*, one which has "a source outside of the Fourth Amendment, either by reference to concepts of real or personal property law or to understandings that are recognized and permitted by society." *Id.*, at 143–144, and n. 12. See also *Smith* v. *Maryland*, 442 U. S. 735, 740-741 (1979).

The Fourth Amendment guarantees: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." The Amendment protects persons against unreasonable searches of "their persons

[and] houses" and thus indicates that the Fourth Amendment is a personal right that must be invoked by an individual. See *Katz* v. *United States*, 389 U. S. 347, 351 (1967) ("[T]he Fourth Amendment protects people, not places"). But the extent to which the Fourth Amendment protects people may depend upon where those people are. We have held that "capacity to claim the protection of the Fourth Amendment depends . . . upon whether the person who claims the protection of the Amendment has a legitimate expectation of privacy in the invaded place." *Rakas*, *supra*, at 143. See also *Rawlings* v. *Kentucky*, 448 U. S. 98, 106 (1980).

The text of the Amendment suggests that its protections extend only to people in "their" houses. But we have held that in some circumstances a person may have a legitimate expectation of privacy in the house of someone else. In *Minnesota* v. *Olson*, 495 U. S. 91 (1990), for example, we decided that an overnight guest in a house had the sort of expectation of privacy that the Fourth Amendment protects. We said:

> "To hold that an overnight guest has a legitimate expectation of privacy in his host's home merely recognizes the every day expectations of privacy that we all share. Staying overnight in another's home is a long-standing social custom that serves functions recognized as valuable by society. We stay in others' homes when we travel to a strange city for business or pleasure, we visit our parents, children, or more distant relatives out of town, when we are in between jobs, or homes, or when we house-sit for a friend. . . .
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> "From the overnight guest's perspective, he seeks shelter in another's home precisely because it provides him with privacy, a place where he and his possessions will not be disturbed by anyone but his host and those his host allows inside. We are at our most vul-

> nerable when we are asleep because we cannot monitor our own safety or the security of our belongings. It is for this reason that, although we may spend all day in public places, when we cannot sleep in our own home we seek out another private place to sleep, whether it be a hotel room, or the home of a friend." *Id.*, at 98–99.

In *Jones* v. *United States*, 362 U. S. 257, 259 (1960), the defendant seeking to exclude evidence resulting from a search of an apartment had been given the use of the apartment by a friend. He had clothing in the apartment, had slept there "'maybe a night,'" and at the time was the sole occupant of the apartment. But while the holding of *Jones*– that a search of the apartment violated the defendant's Fourth Amendment rights– is still valid, its statement that "anyone legitimately on the premises where a search occurs may challenge its legality," *id.*, at 267, was expressly repudiated in *Rakas* v. *Illinois*, 439 U. S. 128 (1978). Thus an overnight guest in a home may claim the protection of the Fourth Amendment, but one who is merely present with the consent of the householder may not.

Respondents here were obviously not overnight guests, but were essentially present for a business transaction and were only in the home a matter of hours. There is no suggestion that they had a previous relationship with Thompson, or that there was any other purpose to their visit. Nor was there anything similar to the overnight guest relationship in *Olson* to suggest a degree of acceptance into the household.[1] While the apartment was a

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[1] Justice Ginsburg's dissent would render the operative language in *Minnesota* v. *Olson*, *post* p. 5, almost entirely superfluous. There, we explained the justification for extending Fourth Amendment protection to the overnight visitor: "Staying overnight in another's home is a long-

dwelling place for Thompson, it was for these respondents simply a place to do business.

Property used for commercial purposes is treated differently for Fourth Amendment purposes than residential property. "An expectation of privacy in commercial premises, however, is different from, and indeed less than, a similar expectation in an individual's home." *New York* v. *Burger*, 482 U. S. 691, 700 (1987). And while it was a "home" in which respondents were present, it was not their home. Similarly, the Court has held that in some circumstances a worker can claim Fourth Amendment protection over his own workplace. See, *e.g.*, *O'Connor* v. *Ortega*, 480 U. S. 709 (1987). But there is no indication that respondents in this case had nearly as significant a connection to Thompson's apartment as the worker in *O'Connor* had to his own private office. See *id.*, at 716-17.

If we regard the overnight guest in *Minnesota* v. *Olson* as typifying those who may claim the protection of the Fourth Amendment in the home of another, and one merely "legitimately on the premises" as typifying those who may not do so, the present case is obviously somewhere in between. But the purely commercial nature of the transaction engaged in here, the relatively short period of time on the premises, and the lack of any previous connection between respondents and the householder, all lead us to conclude that respondents' situation is closer to that of one simply permitted on the premises. We therefore hold that any search which may have occurred did not

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standing social custom that serves functions recognized as valuable by society. . . . We are at our most vulnerable when we are asleep because we cannot monitor our own safety or the security of our belongings." 495 U. S., at 98-99. If any short-term business visit by a stranger entitles the visitor to share the Fourth Amendment protection of the lease holder's home, the Court's explanation of its holding in *Olson* was quite unnecessary.

violate their Fourth Amendment rights.

Because we conclude that respondents had no legitimate expectation of privacy in the apartment, we need not decide whether the police officer's observation constituted a "search." The judgment of the Supreme Court of Minnesota is accordingly reversed, and the cause is remanded for proceedings not inconsistent with this opinion.

It is so ordered.