

No. _____

**In the
Supreme Court of the United States**



RYAN MORRISON,

Petitioner,

v.

ALVARO RAMOS, IN HIS INDIVIDUAL CAPACITY, ET AL.

Respondents.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit**

PETITION FOR A WRIT OF CERTIORARI

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February 15, 2024

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QUESTION PRESENTED

Whether a federal court deciding a civil rights claim under 42 U.S.C. § 1983 for deprivation of rights can find that the Officers were entitled to qualified immunity because there were no violation of the Fourth Amendment right to protection from unreasonable searches and seizures as a matter of law because adult children residing in the same household with a parent do not have a clearly established right to privacy in their home.

PARTIES TO THE PROCEEDINGS

Petitioner and Plaintiff-Appellant below

- Ryan Morrison

Respondents and Defendants-Appellees below

Each of the following respondents are police officers brought to suit in their official capacity:

- Alvaro Ramos
- David Mirzoyan
- Ricardo Acosta
- Michael Boylls

LIST OF PROCEEDINGS

U.S. District Court, Central District of California

No. CV-19-1961-JGB

Ryan Morrison, *Plaintiff* v.

Alvaro Ramos, Et Al., *Respondents*

Date of Judgment: June 21, 2022

U.S. Court of Appeals for the Ninth Circuit

No. 22-55684

Ryan Morrison, *Plaintiff-Appellant* v.

Alvaro Ramos, Et Al., *Respondents-Appellees*

Date of Judgment: October 16, 2023

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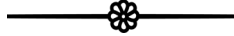
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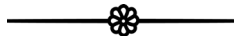
PETITION FOR A WRIT OF CERTIORARI

Ryan Morrison respectfully prays a writ of certiorari issue for review of the judgment below.



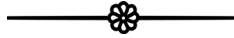
OPINIONS BELOW

The Memorandum of the United States Court of Appeals for the Ninth Circuit is unreported. *See* October 16, 2023 Memorandum, *attached hereto* at Appendix (“App.”) at 1a. On April 18, 2022, a magistrate judge recommended that the District Court grant the officers’ motion for summary judgment. *See* April 18, 2022 Report and Recommendation, *attached hereto* at App.13a. The District Court accepted the Magistrate’s report and recommendation and granted the motion for summary judgment. *See* June 21, 2022 Order, *attached hereto* at App.5a. The District Court’s decision was not reported.



JURISDICTION

The Memorandum of the United States Court of Appeals for the Ninth District denying the appeal was issued on October 16, 2023. Justice Kagan granted an extension to file through February 15, 2023. Sup. Ct. No. 23A691. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).



CONSTITUTIONAL AND STATUTORY PROVISIONS

The Fourth Amendment of the United States Constitution protects individuals from unreasonable searches and seizures. It states:

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.

U.S. Const. Amend. IV.

Under 42 U.S.C. § 1983 an individual has a right to bring a civil action for deprivation of rights. Section 1983 states:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken

in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

42 U.S.C. § 1983.



STATEMENT OF THE CASE

At the time of the incident, Mr. Morrison was 30 years old and resided in an apartment he shared with his mother Margaret Morrison (Margaret). Both Mr. Morrison and Margaret had signed the lease to the apartment, they both paid rent, and were co-tenants. *See* June 21, 2022 Order, *attached hereto* at App.5a at 3.

On November 26, 2016, Margaret reported an alleged assault by Mr. Morrison to the local police. The police took a report but could not locate Mr. Morrison. *See* April 18, 2022 Report and Recommendation, *attached hereto* at App.13a. The following day, Margaret went to the police station to provide further details of the assault. Following Margaret's report, police officers Ramos and Mirzoyan¹ followed Margaret to the apartment to conduct further investigation. *Id.* at 22-23. Once there, Margaret used a key to unlock the door and the Officers entered. The Officers did not announce their presence in the home. *Id.* at 23. When the officers entered the home, everything looked

¹ When mentioned collectively, the Respondents will be called the Officers. When mentioned individually, they will be referred to by their last name. No disrespect is intended.

clean and organized, there was no damage to be seen. Margaret also told the Officers which bedroom belonged to Mr. Morrison.

Prior to entering the home, the Officers were aware that Mr. Morrison was in the home alone and that he and Margaret resided in the apartment together. They were also aware that Mr. Morrison was an adult and that he had resided in the apartment for approximately six months, since May 2016. *See* April 18, 2022 Report and Recommendation, *attached hereto* at App.13a. The Officers never asked whether Margaret signed a lease, paid rent, contributed to any of the bills or had ever used, accessed or had control over Mr. Morrison's bedroom. They did not inquire if Mr. Morrison was on the lease to the apartment, if he paid rent, or contributed to bills. Nevertheless, the Officers went straight to Mr. Morrison's bedroom, opened his closed door, entered without knocking or announcing their presence, and directed him to come out. *Id.* at 24.

Mr. Morrison immediately informed the Officers that the apartment belonged to him and that his bedroom was his private bedroom. He demanded to be informed of the purpose for their intrusion and demanded they leave. The Officers refused to comply with Mr. Morrison's demands, and Mr. Morrison told the Officers for a second time that the apartment belonged to him, and his bedroom was his private bedroom. He again demanded the officers leave, and again they refused. *See* April 18, 2022 Report and Recommendation, *attached hereto* at App.13a. Instead, the Officers grabbed Mr. Morrison, pulled him out of his bedroom and into the living room where he was kicked in the legs, thrown against a chair, knocking

his glasses off. The Officers threw handcuffs on him, and dragged him out of his home. Mr. Morrison repeatedly objected to being removed from his bedroom, being handcuffed and being removed from his home. *Id*

Mr. Morrison proceeded to trial on assault charges and a jury acquitted him. *See* April 18, 2022 Report and Recommendation, *attached hereto* at App.13a. On September 13, 2018, Mr. Morrison filed a complaint with the City of Los Angeles. *Id*. On March 15, 2019, as a pro se litigant, Mr. Morrison filed a civil rights action in District Court under 42 U.S.C. § 1983 for, among other things, false arrest, and unlawful seizure. *Id*. On June 21, 2022, the District Court dismissed these claims after granting summary judgment in favor of the Officers. *See* June 21, 2022 Order, *attached hereto* at App.5a. The District Court reasoned that probable cause acts as a complete defense to a claim of false arrest and qualified immunity shielded the Defendants from liability for unlawful seizure. *See* June 21, 2022 Order, *attached hereto* at App.5a.

The Ninth Circuit Court of Appeals upheld the District Court's ruling on October 16, 2023. *See* October 16, 2023 Memorandum, *attached hereto* at App.1a. The Ninth Circuit noted that warrantless searches and seizures are generally unreasonable if one occupant grants permission for the search but a co-occupant objects to the search. *Id*. at 3. The Ninth Circuit also noted that this Court has previously held "that children may have less authority over a shared home than their parents." *Id*. Because there was no "controlling authority or consensus of persuasive authority that a warrant was required to enter a residence shared by

a consenting parent and an objecting adult child, or an adult child's bedroom within it" the Ninth Circuit found that the Officers were "entitled to qualified immunity". *Id.* at 3-4.



REASONS FOR GRANTING THE PETITION

This Court should grant this petition because the Ninth Circuit's ruling denied adult children who reside with a parent the ability to object to a warrantless search of their home. This ruling gives adult children residing with a parent less rights than an adult residing with a spouse or roommates. This ruling creates a second class of citizens who lack the ability to enjoy the protections others have enjoyed for centuries simply because they reside with a parent. This is an important question of constitutional and federal law that this Court has not but should address.

This Court has noted that,

The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition.

Wisconsin v. Yoder, 406 U.S. 203, 232 (1972).

However, this parental authority should only apply when the children in question are minors, and the parents have the legal responsibility for their

upbringing.² Once a person reaches the age of majority,³ they have the rights and responsibilities of an adult and should be treated as so. An adult can vote in elections, serve in the military, enter legally binding contracts, own property, and be sued in their own name. These rights do not disappear simply because the adult resides in the same home as their parents.

It should be noted that the term adult children may be an oxymoron, but that is why the term best describes this situation. Mr. Morrison is Margaret's child; this is their relationship with each other within the family structure. However, he is also an adult. Both things are true. Familial relationships should not determine the rights an adult is entitled to.

According to the U.S. Census Bureau, in 2020, there were 6 million multigenerational households in the US. A multigenerational household is defined as three or more generations living in one house. This is an increase from 5.1 million households in 2010. U.S. Census Bureau, *Several Generations Under One Roof* (June 13, 2023) <https://www.census.gov/library/stories/2023/06/several-generations-under-one-roof.html>.

² “But youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage. Our history is replete with laws and judicial recognition that minors, especially in their earlier years, generally are less mature and responsible than adults. Particularly ‘during the formative years of childhood and adolescence, minors often lack the experience, perspective, and judgment’ expected of adults. *Bellotti v. Baird*, 443 U.S. 622, 635 (1979).” *Eddings v. Oklahoma*, 455 U.S. 104, 115-116, (1982) (footnotes omitted).

³ In California, an adult is defined as “an individual who is 18 years of age or older.” Cal. Family Code § 6501.

In July 2020, 52% of young adults (ages 18-29) lived with one or both of their parents. Approximately, 88% of those adults lived in their parents' home with the remainder living in their own homes with their parents. Pew Research Center, *A Majority of Young Adults in the U.S. Live with Their Parents for the First Time since the Great Depression* (September 4, 2020) <https://www.pewresearch.org/short-reads/2020/09/04/a-majority-of-young-adults-in-the-u-s-live-with-their-parents-for-the-first-time-since-the-great-depression/>.

The traditional parent/child dynamics, “my house, my rules”, is not applicable when both parties are adults and are contributing to the running of the household. This is especially true where the parent and child may be co-owners or co-tenants, or the adult child may own the home in which the parent resides. What may be a reasonable view of the relationship hierarchy between a parent and a child, when the child is under the age of 18, cannot be considered reasonable in a familial relationship between adults. Changes in household demographics away from a traditional nuclear family should come with changes in shared social expectations, including expectations of privacy within the home.

I. THE OFFICERS ARE NOT ENTITLED TO QUALIFIED IMMUNITY BECAUSE THE FOURTH AMENDMENT PROTECTS CITIZENS FROM UNREASONABLE SEARCH AND SEIZURE.

By entering Mr. Morrison’s home, with knowledge that he was in his private bedroom and did not consent to the entrance, and conducting a warrantless arrest absent exigent circumstances, the Officers infringed on his clearly established Fourth Amendment rights.

Therefore, qualified immunity should not apply. The Ninth Circuit erred in upholding the District Court’s granting of summary judgment on the unlawful seizure claim.

Qualified immunity shields government officials from liability for civil damages only if their conduct does not violate clearly established statutory or constitutional rights. *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). Qualified immunity applies “regardless of whether the government official’s error is ‘a mistake of law, a mistake of fact, or a mistake based on mixed questions of law and fact.’” *Id.*

In addressing qualified immunity, a court must determine whether the facts alleged, taken in the light most favorable to the party asserting the injury, show that the defendant’s conduct violated a constitutional or statutory right and whether that right was “clearly established.” *Pearson v. Callahan*, 555 U.S. 223, 231-232 (2009). A right is “clearly established” when “any reasonable official in the defendant’s shoes would have understood that he was violating it.” *Kisela v. Hughes*, 138 S. Ct. 1148, 1153 (2018).

The Fourth Amendment protects an individual from unreasonable searches and seizures. Searches and seizures must be done with a warrant issued based on probable cause. U.S. Const. Amend. IV. The Fourth Amendment protects the physical integrity of the home. *See New York v. Harris*, 495 U.S. 14, 17 (1990). As Justice Stevens noted in his concurrence in *Georgia v. Randolph*, “Every occupant of the home has a right-protected by the common law for centuries and by the Fourth Amendment since 1791—to refuse

entry.” *Georgia v. Randolph*, 547 U.S. 103, 123-124 (2006) (Stevens, J. concurring).

This right means that “a suspect should not be arrested in his house without an arrest warrant, even though there is probable cause to arrest him. The purpose of the decision was not to protect the person of the suspect but to protect his home from entry in the absence of a magistrate’s finding of probable cause.” *Minnesota v. Olson*, 495 U.S. 91, 96 (1990). This right is clearly established, and arrests made in violation of that right have been deemed to be illegal. *See Id.*, at 94-95. Police officers should be held to know the standards of the Fourth Amendment and qualified immunity should not apply to officers who violate it.

A. The Right to Protection from a Warrantless Search and Seizure in One’s Own Home Is Clearly Established and Based on a Legitimate Expectation of Privacy.

This Court has held that Fourth Amendment protections can be claimed if the individual “has a legitimate expectation of privacy in the invaded place.” *Rakas v. Illinois*, 439 U.S. 128, 143 (1978). Individuals residing in a home have a reasonable expectation of privacy in their home and can claim Fourth Amendment protections. *Payton v. New York*, 445 U.S. 573 (1980). This reasonable expectation of privacy in one’s home is a clearly established right and should be known by police officers to avoid violating the constitutional rights of the citizens they protect.

This Court has held that determinations of Fourth Amendment rights for protection from unlaw-

ful search and seizure are based on reasonableness and widely held social expectations of privacy. *Randolph*, 547 U.S. at 111. Fourth Amendment rights have been granted to overnight guests with no claim to the residence other than the permission to visit. *Olson*, 495 U.S. at 98 (“To hold that an overnight guest has a legitimate expectation of privacy in his host’s home merely recognizes the everyday expectations of privacy that we all share.”). Similarly, the privacy right has also been extended to hotel guests and tenants with landlords. *See Randolph*, 547 U.S. at 112.

It also has been clearly established by this Court that an occupant of a residence may object to the search of the home even if a co-occupant has given their permission. *Georgia v. Randolph*, 547 U.S. 103 (2006). “This case invites a straightforward application of the rule that a physically present inhabitant’s express refusal of consent to a police search is dispositive as to him, regardless of the consent of a fellow occupant.” *Id.* at 122-123 (emphasis added).

However, the Officers here ignored the clearly established authority of *Randolph*. As far as they were concerned, Mr. Morrison’s objections did not matter because Margaret had given them permission. Officer Mirzoyan’s deposition testimony is demonstrative:

Q. And if you do not have a warrant and a person requests that you leave their home, when are you allowed to remain inside?

A. If there is another resident that allows us access and grants us consent to be in there.

Q. So it does not have to be unanimous. As long as one person gives consent, you are allowed to remain?

A. As far—as far as I’m concerned, sir, if there’s a homeowner inside that gives us consent to be in there, then we’re allowed to be in there.

February 23, 2021 Transcripts, *attached hereto* at App.125a.

According to this testimony, the officers believed that Margaret’s consent was all that mattered. Officer Mirzoyan did not state it was because of Margaret’s status as Mr. Morrison’s mother. Officer Mirzoyan believed that the consent of a co-occupant was dispositive to the whole home not only to common areas. Under the law articulated in *Randolph*, that is clearly an erroneous belief.

Officers continuing to search a residence or seize an individual after his or her objection to the search and seizure should be a violation of that occupant’s Fourth Amendment rights and qualified immunity should not apply.

B. Under The Ruling of The Ninth Circuit, Adult Children Living with Their Parents are not Entitled to the Same Fourth Amendment Protections as any Other Adult Citizen of the United States.

The ruling of the Ninth Circuit ignored the clear law as established in *Randolph* and placed an unnecessary and uncalled for exception to its holding. The ruling interpreted *Randolph* to hold that Margaret's status as Mr. Morrison's mother gave her the right to authorize the search and seizure over his objections. See June 21, 2022 Order, *attached hereto* at App.5a, See October 16, 2023 Memorandum, *attached hereto* at App.1a. This reliance on the "recognized hierarchy" between parents and children (even adult children) meant that the Officers were free to ignore Mr. Morrison's objection and he was not to be afforded the protections of the Fourth Amendment that any other objecting adult occupant would enjoy.

Based on this reasoning, a parent will always have greater control over a home than a "child," whether that child is eight years old or eighty years old. Under this argument an adult "child" will never have control over their own space if they reside with a parent, even if, as in this case, the "child" pays rent and is listed on the lease as a tenant. This decision creates two categories of people, adults who are entitled to the protections of the Fourth Amendment and those who are not simply because they reside with a parent⁴.

⁴ Mr. Morrison's objection to the Officers' search and seizure of him in his home would clearly have been dispositive if he resided with a wife or roommate. *Randolph*, 547 U.S. at 122-

**C. Under the Ruling of the Ninth Circuit,
Law Enforcement Officers are Relieved
of the Requirement to Conduct a
Reasonableness Inquiry to Determine if a
Co-Occupant Has Authority to Consent to
a Search and Seizure if That Co-Occupant
as a Parent of an Adult Child.**

The key to determining whether the Officers violated Mr. Morrison's Fourth Amendment's right against unreasonable search and seizure is determining whether the Officers' actions were reasonable under the circumstances known to the Officers at the time. The Officers were aware that there was an alleged physical assault by Mr. Morrison on Margaret at a home they shared. They were aware that Mr. Morrison was Margaret's adult son. They were aware that Mr. Morrison had resided with Margaret since May 2016 (approximately six months prior to the assault). Margaret had informed the Officers that Mr. Morrison had moved in with her while he attended school.⁵

123. Similarly, Margaret's consent would not be enough to overcome the objection of a husband or roommate for Fourth Amendment purposes.

⁵ Margaret allegedly told the Officers that Mr. Morrison was residing with her temporarily. However, the alleged temporary nature of Mr. Morrison's residence was clearly belied by the fact that he had been residing with her for six months. Furthermore, the qualifier of attending school calls into question the temporary nature of his residence. School in this case could mean trade school, community college, university or graduate school. The time frame could range from a few months to several years.

The Officers could not call their reliance on this statement reasonable without further questioning.

Based on this information, the Officers could have formed an understanding of Margaret's relationship to the apartment and her ability to consent to the search of the common areas of the home. However, that is the limit of their knowledge. They did not conduct any further inquiry as to Mr. Morrison's relationship to the apartment. They did not ask if Mr. Morrison paid rent or was on the lease of the apartment. They did not ask Margaret if she had access to Mr. Morrison's room. Had they asked these simple questions, they would have known Mr. Morrison had authority over the premises and could deny them access to the apartment.

United States v. Whitfield demonstrates that officers cannot reasonably assume that a parent has greater control over a residence than an adult child. *U.S. v. Whitfield*, 939 F.2d 1071 (D.C. Cir. 1991). In *Whitfield*, the court examined whether an adult suspect's mother could consent to a search of his room while he was away. *Id.* at 1073. Rather than engaging in a hyper-technical analysis, the *Whitfield* court focused on the "reasonableness of the officer's determination" and the "facts available to the officer at the moment." *Id.* at 1074. Invalidating the warrantless search, the court reasoned:

When a minor child's room is involved, agents might reasonably assume that the child's mother, in the performance of her parental duties, would not only be able to enter her child's bedroom but also would regularly do so. But we are aware of no basis for such an assumption when the child is, as here, 29 years old. The agents in this case had no way of knowing whether parents

usually do not permit their adult sons and daughters to have exclusive use of the rooms they occupy and they made no effort to find out whether Mrs. Whitfield had this or some other arrangement with her son.

Whitfield at 1075.

In addition to making an unreasonable assumption, the officers in *Whitfield* also failed to gather sufficient information regarding the use of the suspect's room. *Id.* If officers face vague circumstances, or fail to gather sufficient information, "then warrantless entry is unlawful without further inquiry." *Id.* at 1075 (citing *Illinois v. Rodriguez*, 497 U.S. 177 (1990).)

While *Whitfield* deals with an absent co-occupant, it highlights the process officers must deal with to determine if the third party has the authority to consent to searches. In *Whitfield*, the agents attempted to ascertain information about Whitfield's relationship to the apartment. They asked his mother if he paid rent. They also asked if his room was open or locked in an attempt "to determine whether Mrs. Whitfield had 'free access' to her son's room." *Whitfield*, 939 F.2d at 1073. Despite these questions, the court found that the agents did not have enough information to determine whether Mrs. Whitfield could consent to the search of her son's room. *Id.* at 1074. The questions asked could not determine whether she, in fact, had mutual access to the room to consent to the search. "If the information gleaned from those inquiries is insufficient to establish apparent authority, the Fourth Amendment demands that the agents procure a warrant. The agents did not do so here, and the search violated the Fourth Amendment." *Id.*

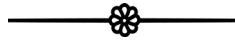
The Officers in the instant case did not do any type of inquiry regarding Mr. Morrison's relationship with the apartment. They could not know that Margaret possessed the necessary authority to authorize a seizure of Mr. Morrison in his bedroom. Their conclusions on whether the search and seizure was valid were based on purposely incomplete information.

An officer's conclusion should be based upon reliable information, not assumptions or impressions. A parent who fails to demonstrate common authority or mutual use of the specific area to be searched should not be considered to have provided legally valid consent. This rule is not too onerous and could be easily understood by police, as well as protects the privacy interests of all occupants of the home. Adult children living with their parents should not have a lesser expectation of privacy than if they lived with anyone other than their parent.

Hillary B. Farber, *A Parent's Apparent Authority: Why Intergenerational Coresidence Requires a Reassessment of Parental Consent to Search Adult Children's Bedrooms*, 21 CORNELL J. L. & PUB. POL., Iss. 1, Art. 2 (2011).

It is reasonable for officers desiring to conduct a warrantless search and seizure in a home shared between a parent and an adult child to ask questions regarding the occupants' authority to consent. If the officers fail to do so, that warrantless search and seizure is unlawful and violates the Fourth Amendment. Qualified immunity should not apply in that circumstance.

Taking the facts in the light most favorable to Mr. Morrison, the Ninth Circuit should not have found the Officers were entitled to qualified immunity as a matter of law. Given the prevalence of multi-generational households in this country, this Court should clearly state that adult children, who reside in the same household as their parents, are entitled to the same protections of the Fourth Amendment as all other adults. This right is envisioned by the Constitution and should be formalized.



CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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