



Supreme Court
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Supreme Court Limits Police Power to Detain Incident to a Search

Damon W. Root | Feb. 20, 2013 4:30 pm

Writing at the blog of the Cato Institute Ilya Shapiro highlights the Supreme Court's ruling yesterday in *Bailey v. United States*, a major Fourth Amendment case. [He writes:](#)

In *Bailey*, the Court rejected the argument that police should be able to detain someone anywhere at any time if they see that person exiting a location for which there's a valid search warrant. Instead, by a 6-3 vote in an opinion written by Justice Anthony Kennedy, the Court ruled that the power to detain incident to the execution of a search warrant – established in the 1981 case of *Michigan v. Summers* – is limited to the "immediate vicinity" of the premises to be searched.

The police may want broader detention powers, but none of the justifications for the *Summers* exception to the normal probable cause requirement – officer safety, facilitating the search, preventing flight – remain in cases where police detain someone beyond that immediate vicinity. In *Bailey*, police saw the defendant leave a home they were about to search and, rather than detaining him there and executing the search warrant, followed and subsequently stopped him nearly a mile away.