

# SUPREME COURT OF THE UNITED STATES

Mapp v. Ohio

Docket Number: 61-236

Petitioner's Summary Response to Respondent

Advocates for the petitioner (Dolree Mapp):

Scott Jones  
A.L. Kearns  
Gertrude Maho

## Constitutional Question

Were the “privileges and immunities” guaranteed to Dolree Mapp under the Fourteenth Amendment violated by the police of Cincinnati’s unreasonable search of her place of residence?

The respondents in this case do not seem to understand the role of constitutional protection as it has developed throughout the course of our great country’s history. They base their argument on the fact the State of Ohio has passed this law and that the Supreme Court of the United States has already dealt with this issue only twelve short years ago. Both of these arguments are flawed.

The respondents seem to believe the legislature and people of the State of Ohio have mastered infallibility. Of course, no people in history, especially any legislature, have been able to accomplish this. It is this reason why the judiciary of the United States of America exists. While the Constitution does not directly give the Court the power to overturn laws passed by a legislature, *Marbury v. Madison* established this power, which has been the traditional power of the court system since 1803. Unless the this Court is willing to overturn the landmark opinion of the Founding Father and great Chief Justice John Marshall, the Court reserves the right to protect the people from the constitutional abuses of government, whether that government was popularly elected or not. If the State of Ohio’s legislature had passed a law returning the nation back to its days of de facto racial segregation, would the Court refuse to intervene because a popularly elected body so ordained de facto segregation back into existence? Since the passage of the Fourteenth

Amendment, states are required to abide by the rights and privileges guaranteed to the people in the Bill of Rights. When the State of Ohio abuses this, it is the Court's responsibility to correct the situation when democracy cannot.

The respondents also seem to believe that a Court decision from twelve years ago should not be revisited. This again is a violation of the spirit of the Court's power. The Supreme Court has continually revisited cases from the past, sometimes upholding them and sometimes overturning them. Just a few short years ago, this Court overturned *Plessy v. Ferguson* with its decision in *Brown v. Board of Education*. This was done 46 years after the original decision. Was 46 years too soon to revisit? Should the Court have waited 75 years to correct its previous wrong? Would it have been okay to reverse *Plessy* just four years after the decision? The idea that the Court must wait a certain amount of time before revisiting important Constitutional questions violates the spirit of the power granted to the Court. Just as no legislature is infallible, no Supreme Court is infallible either. The decision by the 1949 Supreme Court in *Wolf v. Colorado* is not infallible and, therefore, a revisit of the decision at any time as declared by this Court is acceptable and right.

The arguments to tradition by the respondents are not valid in this case. Miss Mapp's fundamental freedom from unreasonable search and seizure guaranteed by the Fourth Amendment and applicable to the State of Ohio through the Fourteenth Amendment has been violated. It is within the realm of the Supreme Court's power to correct this wrong because it is, according to the Constitution of the United States, the only thing to do.