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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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GROH *v.* RAMIREZ ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 02–811. Argued November 4, 2003—Decided February 24, 2004

Petitioner, a Bureau of Alcohol, Tobacco and Firearms agent, prepared and signed an application for a warrant to search respondents' Montana ranch, which stated that the search was for specified weapons, explosives, and records. The application was supported by petitioner's detailed affidavit setting forth his basis for believing that such items were on the ranch and was accompanied by a warrant form that he completed. The Magistrate Judge (Magistrate) signed the warrant form even though it did not identify any of the items that petitioner intended to seize. The portion calling for a description of the "person or property" described respondents' house, not the alleged weapons; the warrant did not incorporate by reference the application's itemized list. Petitioner led federal and local law enforcement officers to the ranch the next day but found no illegal weapons or explosives. Petitioner left a copy of the warrant, but not the application, with respondents. Respondents sued petitioner and others under *Bivens* v. *Six Unknown Fed. Narcotics Agents,* 403 U. S. 388, and 42 U. S. C. §1983, claiming, *inter alia,* a Fourth Amendment violation. The District Court granted the defendants summary judgment, finding no Fourth Amendment violation, and finding that even if such a violation occurred, the defendants were entitled to qualified immunity. The Ninth Circuit affirmed except as to the Fourth Amendment claim against petitioner, holding that the warrant was invalid because it did not describe with particularity the place to be searched and the items to be seized. The court also concluded that *United States* v. *Leon,* 468 U. S. 897, precluded qualified immunity for petitioner because he was the leader of a search who did not read the warrant and satisfy himself that he understood its scope and limitations and that it was not obviously defective.

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Held:

1. The search was clearly "unreasonable" under the Fourth Amendment. Pp. 5–11.

(a) The warrant was plainly invalid. It did not meet the Fourth Amendment's unambiguous requirement that a warrant "particularly describ[e] . . . the persons or things to be seized." The fact that the application adequately described those things does not save the warrant; Fourth Amendment interests are not necessarily vindicated when another document says something about the objects of the search, but that document's contents are neither known to the person whose home is being searched nor available for her inspection. It is not necessary to decide whether the Amendment permits a warrant to cross-reference other documents, because such incorporation did not occur here. Pp. 5–6.

(b) Petitioner's argument that the search was nonetheless reasonable is rejected. Because the warrant did not describe the items *at all,* it was so obviously deficient that the search must be regarded as warrantless, and thus presumptively unreasonable. This presumptive rule applies to searches whose only defect is a lack of particularity in the warrant. Petitioner errs in arguing that such searches should be exempt from the presumption if they otherwise satisfy the particularity requirement's goals. Unless items in the affidavit are set forth in the warrant, there is no written assurance that the Magistrate actually found probable cause for a search as broad as the affiant requested. The restraint petitioner showed in conducting the instant search was imposed by the agent himself, not a judicial officer. Moreover, the particularity requirement's purpose is not limited to preventing general searches; it also assures the individual whose property is searched and seized of the executing officer's legal authority, his need to search, and the limits of his power to do so. This case presents no occasion to reach petitioner's argument that the particularity requirements' goals were served when he orally described the items to respondents, because respondents dispute his account. Pp. 6–11.

2. Petitioner is not entitled to qualified immunity despite the constitutional violation because "it would be clear to a reasonable officer that his conduct was unlawful in the situation he confronted," *Saucier* v. *Katz,* 533 U. S. 194, 202. Given that the particularity requirement is stated in the Constitution's text, no reasonable officer could believe that a warrant that did not comply with that requirement was valid. Moreover, because petitioner prepared the warrant, he may not argue that he reasonably relied on the Magistrate's assurance that it contained an adequate description and was valid. Nor could a reasonable officer claim to be unaware of the basic rule that, absent consent or exigency, a

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warrantless search of a home is presumptively unconstitutional. "[A] warrant may be so facially deficient . . . that the executing officers cannot reasonably presume it to be valid." *Leon,* 468 U. S., at 923. This is such a case. Pp. 11–14.

298 F. 3d 1022, affirmed.

STEVENS, J., delivered the opinion of the Court, in which O'CONNOR, SOUTER, GINSBURG, and BREYER, JJ., joined. KENNEDY, J., filed a dissenting opinion, in which REHNQUIST, C. J., joined. THOMAS, J., filed a dissenting opinion, in which SCALIA, J., joined, and in which REHNQUIST, C. J., joined as to Part III.