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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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VIRGINIA *v.* MOORE

CERTIORARI TO THE SUPREME COURT VIRGINIA

No. 06–1082. Argued January 14, 2008—Decided April 23, 2008

Rather than issuing the summons required by Virginia law, police arrested respondent Moore for the misdemeanor of driving on a suspended license. A search incident to the arrest yielded crack cocaine, and Moore was tried on drug charges. The trial court declined to suppress the evidence on Fourth Amendment grounds. Moore was convicted. Ultimately, the Virginia Supreme Court reversed, reasoning that the search violated the Fourth Amendment because the arresting officers should have issued a citation under state law, and the Fourth Amendment does not permit search incident to citation.

Held: The police did not violate the Fourth Amendment when they made an arrest that was based on probable cause but prohibited by state law, or when they performed a search incident to the arrest. Pp. 3–13.

(a) Because the founding era's statutes and common law do not support Moore's view that the Fourth Amendment was intended to incorporate statutes, this is "not a case in which the claimant can point to a 'clear answer [that] existed in 1791 and has been generally adhered to by the traditions of our society ever since,'" *Atwater* v. *Lago Vista,* 532 U. S. 318, 345. Pp. 3–5.

(b) Where history provides no conclusive answer, this Court has analyzed a search or seizure in light of traditional reasonableness standards "by assessing, on the one hand, the degree to which it intrudes upon an individual's privacy and, on the other, the degree to which it is needed for the promotion of legitimate governmental interests." *Wyoming* v. *Houghton*, 526 U. S. 295, 300. Applying that methodology, this Court has held that when an officer has probable cause to believe a person committed even a minor crime, the arrest is constitutionally reasonable. *Atwater, supra,* at 354. This Court's decisions counsel against changing the calculus when a State chooses to

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protect privacy beyond the level required by the Fourth Amendment. See, *e.g., Whren* v. *United States*, 517 U. S. 35. *United States* v. *Di Re*, 332 U. S. 581, distinguished. Pp. 6–8.

(c) The Court adheres to this approach because an arrest based on probable cause serves interests that justify seizure. Arrest ensures that a suspect appears to answer charges and does not continue a crime, and it safeguards evidence and enables officers to conduct an in-custody investigation. A State's choice of a more restrictive search-and-seizure policy does not render less restrictive ones unreasonable, and hence unconstitutional. While States are free to require their officers to engage in nuanced determinations of the need for arrest as a matter of their own law, the Fourth Amendment should reflect administrable bright-line rules. Incorporating state arrest rules into the Constitution would make Fourth Amendment protections as complex as the underlying state law, and variable from place to place and time to time. Pp. 8–11.

(d) The Court rejects Moore's argument that even if the Constitution allowed his arrest, it did not allow the arresting officers to search him. Officers may perform searches incident to constitutionally permissible arrests in order to ensure their safety and safeguard evidence. *United States* v. *Robinson*, 414 U. S. 218. While officers issuing citations do not face the same danger, and thus do not have the same authority to search, *Knowles* v. *Iowa*, 525 U. S. 113, the officers arrested Moore, and therefore faced the risks that are "an adequate basis for treating all custodial arrests alike for purposes of search justification," *Robinson, supra,* at 235. Pp. 11–13.

272 Va. 717, 636 S. E. 2d 395, reversed and remanded.

SCALIA, J., delivered the opinion of the Court, in which ROBERTS, C. J., and STEVENS, KENNEDY, SOUTER, THOMAS, BREYER, and ALITO, JJ., joined. GINSBURG, J., filed an opinion concurring in the judgment.