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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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WILSON ET AL. v. LAYNE, DEPUTY UNITED STATES
MARSHAL, ET AL.

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

No. 98–83. Argued March 24, 1999– Decided May 24, 1999

While executing a warrant to arrest petitioners' son in their home, respondents, deputy federal marshals and local sheriff's deputies, invited a newspaper reporter and a photographer to accompany them. The warrant made no mention of such a media "ride-along." The officers' early morning entry into the home prompted a confrontation with petitioners, and a protective sweep revealed that the son was not in the house. The reporters observed and photographed the incident but were not involved in the execution of the warrant. Their newspaper never published the photographs they took of the incident. Petitioners sued the officers in their personal capacities for money damages under *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U. S. 388 (the federal marshals) and 42 U. S. C. §1983 (the sheriff's deputies), contending that the officers' actions in bringing the media to observe and record the attempted execution of the arrest warrant violated their Fourth Amendment rights. The District Court denied respondents' motion for summary judgment on the basis of qualified immunity. In reversing, the Court of Appeals declined to decide whether the officers' actions violated the Fourth Amendment, but concluded that because no court had held at the time of the search that media presence during a police entry into a residence constituted such a violation, the right allegedly violated was not "clearly established" and thus respondents were entitled to qualified immunity.

Held: A media "ride-along" in a home violates the Fourth Amendment, but because the state of the law was not clearly established at the time the entry in this case took place, respondent officers are entitled to qualified immunity. Pp. 4–10.

(a) The qualified immunity analysis is identical in suits under

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§1983 and *Bivens*. See, e.g., *Graham v. Connor*, 490 U. S. 386, 394, n. 9. A court evaluating a qualified immunity claim must first determine whether the plaintiff has alleged the deprivation of a constitutional right, and, if so, proceed to determine whether that right was clearly established at the time of the violation. *Conn v. Gabbert*, 526 U. S. ___, ___. Pp. 4–5.

(b) It violates the Fourth Amendment rights of homeowners for police to bring members of the media or other third parties into their home during the execution of a warrant when the presence of the third parties in the home was not in aid of the warrant's execution. The Amendment embodies centuries-old principles of respect for the privacy of the home, which apply where, as here, police enter a home under the authority of an arrest warrant in order to take into custody the suspect named in the warrant, *Payton v. New York*, 445 U. S. 573, 602–604. It does not necessarily follow from the fact that the officers were entitled to enter petitioners' home that they were entitled to bring a reporter and a photographer with them. The Fourth Amendment requires that police actions in execution of a warrant be related to the objectives of the authorized intrusion. See, e.g., *Arizona v. Hicks*, 480 U. S. 321, 325. Certainly the presence of the reporters, who did not engage in the execution of the warrant or assist the police in their task, was not related to the objective of the authorized intrusion, the apprehension of petitioners' son. Taken in their entirety, the reasons advanced by respondents to support the reporters' presence—publicizing the government's efforts to combat crime, facilitating accurate reporting on law enforcement activities, minimizing police abuses, and protecting suspects and the officers—fall short of justifying media ride-alongs. Although the presence of third parties during the execution of a warrant may in some circumstances be constitutionally permissible, the presence of *these* third parties was not. Pp. 5–10.

(c) Petitioners' Fourth Amendment right was not clearly established at the time of the search. "Clearly established" for qualified immunity purposes means that the contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right. His very action need not previously have been held unlawful, but in the light of pre-existing law its unlawfulness must be apparent. E.g., *Anderson v. Creighton*, 483 U. S. 635, 640. It was not unreasonable for a police officer at the time at issue to have believed that bringing media observers along during the execution of an arrest warrant (even in a home) was lawful. First, the constitutional question presented by this case is by no means open and shut. Accurate media coverage of police activities serves an important public purpose, and it is not obvious from the Fourth

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Amendment's general principles that the officers' conduct in this case violated the Amendment. Second, petitioners have not cited any cases of controlling authority in their jurisdiction at the time in question which clearly established the rule on which they seek to rely, nor have they identified a consensus of cases of persuasive authority such that a reasonable officer could not have believed that his actions were lawful. Finally, the federal marshals in this case relied on a Marshal's Service ride-along policy which explicitly contemplated media entry into private homes, and the sheriff's deputies had a ride-along program that did not expressly prohibit such entries. The state of the law was at best undeveloped at the relevant time, and the officers cannot have been expected to predict the future course of constitutional law. *E.g.*, *Procunier v. Navarette*, 434 U. S. 555, 561. Pp. 10–14.

141 F. 3d 111, affirmed.

REHNQUIST, C. J., delivered the opinion for a unanimous Court with respect to Parts I and II, and the opinion of the Court with respect to Part III, in which O'CONNOR, SCALIA, KENNEDY, SOUTER, THOMAS, GINSBURG, and BREYER, JJ., joined. STEVENS, J., filed an opinion concurring in part and dissenting in part.