Syllabus

SUPREME COURT OF THE UNITED STATES

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FERNANDEZ *v.* CALIFORNIA

CERTIORARI TO THE COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT

No. 12–7822.   Argued November 13, 2013—Decided February 25, 2014

Police officers observed a suspect in a violent robbery run into an apartment building, and heard screams coming from one of the apartments. They knocked on the apartment door, which was answered by Roxanne Rojas, who appeared to be battered and bleeding. When the officers asked her to step out of the apartment so that they could conduct a protective sweep, petitioner came to the door and objected. Suspecting that he had assaulted Rojas, the officers removed petitioner from the apartment and placed him under arrest. He was then identified as the perpetrator in the earlier robbery and taken to the police station. An officer later returned to the apartment and, after obtaining Rojas' oral and written consent, searched the premises, where he found several items linking petitioner to the robbery. The trial court denied petitioner's motion to suppress that evidence, and he was convicted. The California Court of Appeal affirmed. It held that because petitioner was not present when Rojas consented to the search, the exception to permissible warrantless consent searches of jointly occupied premises that arises when one of the occupants present objects to the search, *Georgia* v. *Randolph*, 547 U. S. 103, did not apply, and therefore, petitioner's suppression motion had been properly denied.

Held: *Randolph* does not extend to this situation, where Rojas' consent was provided well after petitioner had been removed from their apartment. Pp. 5–15.

   (a) Consent searches are permissible warrantless searches, *Schneckloth* v. *Bustamonte*, 412 U. S. 218, 228, 231–232, and are clearly reasonable when the consent comes from the sole occupant of the premises. When multiple occupants are involved, the rule extends to the search of the premises or effects of an absent, noncon-

senting occupant so long as "the consent of one who possesses com-
mon authority over [the] premises or effects" is obtained. *United
States* v. *Matlock*, 415 U. S. 164, 170. However, when "a physically
present inhabitan[t]" refuses to consent, that refusal "is dispositive as
to him, regardless of the consent of a fellow occupant." *Randolph*,
547 U. S., at 122–123. A controlling factor in *Randolph* was the ob-
jecting occupant's physical presence. See, *e.g., id.*, at 106, 108, 109,
114. Pp. 5–9.

   (b) Petitioner contends that, though he was not present when Rojas
consented, *Randolph* nevertheless controls, but neither of his argu-
ments is sound. Pp. 9–14.

      (1) He first argues that his absence should not matter since it oc-
curred only because the police had taken him away. Dictum in *Ran-
dolph* suggesting that consent by one occupant might not be sufficient
if "there is evidence that the police have removed the potentially ob-
jecting tenant from the entrance for the sake of avoiding a possible
objection," 547 U. S., at 121, is best understood to refer to situations
in which the removal of the potential objector is not objectively rea-
sonable. Petitioner does not contest the fact that the police had rea-
sonable grounds for his removal or the existence of probable cause for
his arrest. He was thus in the same position as an occupant absent
for any other reason. Pp. 9–10.

      (2) Petitioner also argues that the objection he made while at the
threshold remained effective until he changed his mind and withdrew
it. This is inconsistent with *Randolph* in at least two important
ways. It cannot be squared with the "widely shared social expecta-
tions" or "customary social usage" upon which *Randolph*'s holding
was based. 547 U. S., at 111, 121. It also creates the sort of practical
complications that *Randolph* sought to avoid by adopting a "formal-
is[tic]" rule, *id.*, at 121, *e.g.*, requiring that the scope of an objection's
duration and the procedures necessary to register a continuing objec-
tion be defined. Pp. 10–14.

   (c) Petitioner claims that his expansive interpretation of *Randolph*
would not hamper law enforcement because in most cases where of-
ficers have probable cause to arrest a physically present objector they
also have probable cause to obtain a warrant to search the premises
that the objector does not want them to enter. But he misunder-
stands the constitutional status of consent searches, which are per-
missible irrespective of the availability of a warrant. Requiring offic-
ers to obtain a warrant when a warrantless search is justified may
interfere with law enforcement strategies and impose an unmerited
burden on the person willing to consent to an immediate search.
Pp. 14–15.

208 Cal. App. 4th 100, 145 Cal. Rptr. 3d 51, affirmed.

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ALITO, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, THOMAS, and BREYER, JJ., joined. SCALIA, J., and THOMAS, J., filed concurring opinions. GINSBURG, J., filed a dissenting opinion, in which SOTOMAYOR and KAGAN, JJ., joined.

SUPREME COURT OF THE UNITED STATES

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No. 12–7822

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WALTER FERNANDEZ, PETITIONER *v.* CALIFORNIA

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL OF CALIFORNIA FOR THE SECOND APPELLATE DISTRICT

[February 25, 2014]

JUSTICE ALITO delivered the opinion of the Court.

Our cases firmly establish that police officers may search jointly occupied premises if one of the occupants[1] consents. See *United States* v. *Matlock*, 415 U. S. 164 (1974). In *Georgia* v. *Randolph*, 547 U. S. 103 (2006), we recognized a narrow exception to this rule, holding that the consent of one occupant is insufficient when another occupant is present and objects to the search. In this case, we consider whether *Randolph* applies if the objecting occupant is absent when another occupant consents. Our opinion in *Randolph* took great pains to emphasize that its holding was limited to situations in which the objecting occupant is physically present. We therefore refuse to extend *Randolph* to the very different situation in this case, where consent was provided by an abused woman well after her male partner had been removed from the apartment they shared.

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[1] We use the terms "occupant," "resident," and "tenant" interchangeably to refer to persons having "common authority" over premises within the meaning of *Matlock*. See *United States* v. *Matlock*, 415 U. S. 164, 171, n. 7 (1974).

I

A

The events involved in this case occurred in Los Angeles in October 2009. After observing Abel Lopez cash a check, petitioner Walter Fernandez approached Lopez and asked about the neighborhood in which he lived. When Lopez responded that he was from Mexico, Fernandez laughed and told Lopez that he was in territory ruled by the "D.F.S.," *i.e.,* the "Drifters" gang. App. 4–5. Petitioner then pulled out a knife and pointed it at Lopez' chest. Lopez raised his hand in self-defense, and petitioner cut him on the wrist.

Lopez ran from the scene and called 911 for help, but petitioner whistled, and four men emerged from a nearby apartment building and attacked Lopez. After knocking him to the ground, they hit and kicked him and took his cell phone and his wallet, which contained $400 in cash.

A police dispatch reported the incident and mentioned the possibility of gang involvement, and two Los Angeles police officers, Detective Clark and Officer Cirrito, drove to an alley frequented by members of the Drifters. A man who appeared scared walked by the officers and said: "'[T]he guy is in the apartment.'" *Id.,* at 5. The officers then observed a man run through the alley and into the building to which the man was pointing. A minute or two later, the officers heard sounds of screaming and fighting coming from that building.

After backup arrived, the officers knocked on the door of the apartment unit from which the screams had been heard. Roxanne Rojas answered the door. She was holding a baby and appeared to be crying. Her face was red, and she had a large bump on her nose. The officers also saw blood on her shirt and hand from what appeared to be a fresh injury. Rojas told the police that she had been in a fight. Officer Cirrito asked if anyone else was in the apartment, and Rojas said that her 4-year-old son was the

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