



## **CMPD LEGAL ALERT**

**1/23/2018**

Yesterday, the United States Supreme Court in *District of Columbia v Wesby* ([https://www.supremecourt.gov/opinions/17pdf/15-1485\\_1qm2.pdf](https://www.supremecourt.gov/opinions/17pdf/15-1485_1qm2.pdf)) reviewed a false arrest case. In this case, the Supreme Court overturned a divided panel of the United States Court of Appeals for the District of Columbia and held that the officers had probable cause to arrest partygoers for unlawful entry. The Court reasoned that the totality of the circumstances indicated that the partygoers either knew or should have known that they did not have permission to enter the house.

In this case, officers responded to a residence on a complaint of loud music and illegal activity. The caller advised police that the house had been vacant for several months. Upon arrival, officers heard loud music coming from inside the residence. Officers knocked and the door was opened by a partygoer whereupon officers observed that the residence “was in disarray and looked like a vacant property.” Beer bottles and cups of liquor were strewn throughout the residence and the smell of marijuana permeated the air. There was no furniture other than some folding chairs and the living room had been converted to a makeshift strip club with exotic dancers providing lap dances to paying clients. The upstairs had been converted to what appeared to be a brothel with a bare mattress on the floor along with condom wrappers. The partygoers provided inconsistent information but each claimed they were invited to the house. Officers spoke by phone with the purported tenant who eventually admitted she did not have permission to use the house. Officers eventually reached the owner who advised no one had permission to be in the house. All 21 partygoers were arrested for unlawful entry. Charges were eventually dropped and 16 of the partygoers sued the arresting officers for false arrest. The District Court ruled that the officers lacked probable cause to arrest the partygoers for unlawful entry because there was insufficient evidence to establish they “knew or should have known” their “entry was against the will of the owner,” and a divided panel of the Court of Appeals affirmed.

The United States Supreme Court disagreed and concluded that officers had probable cause to arrest the partygoers. “Considering the totality of the circumstances, the officers made an entirely reasonable inference that the partygoers were knowingly taking advantage of a vacant house as a venue for their late night party.” The Court reasoned that the condition of the house and the behavior of the occupants were sufficient circumstances that would allow a reasonable officer to infer the partygoers knew or should have known they lacked permission to enter the house.

The case will be discussed further in the next Police Law Bulletin.