

# Request for a Copy of the Decision in *Weeks v. The United States*

Megan Jones

On December 21, 1911, Fremont Weeks, an employee of the Adams Express Company, was arrested while on the job at Union Station in Kansas City, Missouri. Police suspected that Weeks was selling and “transmitting chances” in a lottery, which at the time was considered gambling, an illegal action in Missouri. He was promptly taken to Police Station No. 4 and searched. Police officers found paper, a lead pencil, and lottery tickets. While Weeks was being held at the police station, Officers William Toohey and John Owens drove to his residence, a boarding house located at 1834 Penn Street. Thanks to a helpful neighbor who showed them the location of a key, the officers entered the room and found a leather suitcase that contained mining stocks, a memorandum book, receipts, a wallet, and a tin box. They seized these items, without a search warrant, and turned over the evidence to U.S. Marshal A.J. Martin. Officer Toohey returned to the residence that day with the marshal and Officer Joseph Wolf in hopes that they would find more evidence. After knocking on the front door, they were admitted by a boarder and searched Weeks’s room once again, finding incriminating letters writ-

ten by customers from across Missouri placing orders for lottery tickets. Those items were also seized because the law enforcement officials believed they were proof that Weeks had violated federal law by using the U.S. mail to distribute lottery tickets.

Based on the evidence taken by the law enforcement officials, Weeks was indicted on charges of gambling and using the U.S. Postal Service to distribute chances in a lottery. His trial was held at the U.S. Court for the Western District of Missouri. His attorney, Martin J. O’Donnell, filed a motion requesting that all evidence seized by law enforcement be returned to Weeks. He argued that the police officers and the U.S. marshal had unlawfully, and without a search warrant, entered Weeks’s home and seized property in violation of sections 11 and 23 of the Missouri constitution and the Fourth and Fifth Amendments to the U.S. Constitution. Based on that argument, O’Donnell concluded that the property should immediately be returned to Weeks and that it should not be admissible during the trial. The judge disagreed, ordering that only the evidence that was not a part of the prosecution’s case against Weeks be returned, but that all

incriminating evidence should stay in the custody of the district attorney’s office. As a result of the evidence used during the trial, Weeks was found guilty by the jury of illegal gambling, ordered to pay a \$100 fine, and sentenced to six months in jail. Immediately following sentencing, O’Donnell appealed the decision to the U.S. Supreme Court.

*Weeks v. The United States* was argued before the Supreme Court on December 2–3, 1913. The question of interest to the Court was whether or not the evidence seized from Weeks’s residence without a search warrant was a violation of the Fourth Amendment. The Fourth Amendment provides:

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

*continued on page 58*

LAW OFFICES  
Cogan, Williams & Ragland  
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CINCINNATI

May 30, 1914

Clerk of the Supreme Court  
of the United States of America,  
Washington, D. C.



Dear Sir:

I have been informed that our Supreme court has recently handed down a decision wherein they hold that evidence taken from the person illegally without a search warrant, are not admissible.

Will you be kind enough to let me have a copy of this decision and inform me in what book I can find it?

Thanking you in advance, I remain,

Yours respectfully,



*Edwin W. Grisely*

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Weeks's attorney, Martin J. O'Donnell, argued that the search was a violation of the Fourth Amendment. However, Solicitor General John W. Davis countered by arguing that law enforcement officers behaved logically during the investigation based upon the amount of incriminating evidence against Weeks. The Court decided to overturn Weeks's conviction by a unanimous vote, not because he was innocent of the charges but because the evidence that had been used to convict him had been obtained without a search warrant and was thus a violation of the Fourth Amendment protecting him against unreasonable searches and seizures. In the Court's opinion, delivered on February 24, 1914, Justice William Day further explained,

If letters and private documents can thus be seized and held and used in evidence against a citizen accused of an offense, the protection of the Fourth Amendment, declaring his right to be secure against such searches and seizures, is of no value, and so far as those thus placed are concerned, might as well be stricken from the Constitution.

After the decision in *Weeks v. The United States*, attorneys from across the country wrote letters to the Clerk of the Supreme Court requesting copies of the decision. In a single-page request, featured in this article, Elmer Grisely, from the law offices of Cogan, Williams and Ragland in Cincinnati, Ohio, indicated that he had heard about the decision but

wanted a copy for himself. Prior to the decision, courts operated on the premise that the need for justice was of greater importance than the defendant's protection under the Fourth Amendment, and thus evidence obtained without a warrant was commonplace. But as a result of the *Weeks* decision, the exclusionary rule was created by the Court. It forbids the use of illegally obtained evidence in federal court. Law enforcement officials began to fear that the new rule would make criminal prosecutions more difficult and allow the guilty to go unpunished.

The response to Mr. Grisely's inquiry was more complicated than it first appeared to be in 1914. For instance, according to the Supreme Court, the exclusionary rule applied only to federal courts, which meant that illegally obtained evidence was still admissible in state courts. Also, if state or local police turned over illegally obtained evidence to a federal prosecutor, the evidence could be used in federal court. This rule became known as the "silver platter" exception, and this practice continued until 1961 with the Supreme Court decision *Mapp v. Ohio*, which extended the exclusionary rule to the states. Writing for the majority in this case, Justice Tom Clark noted that allowing states to continue to use illegally obtained evidence in criminal proceedings, "... serves to encourage disobedience of the Federal Constitution which it is bound to uphold."

For 47 years, the exclusionary rule was applied inconsistently in criminal prosecutions due to differing interpretations of the principle of privacy and its relationship to the Fourth Amendment. 🌐

#### Note about the Document

*The letter from Elmer Grisely to the Clerk of the U.S. Supreme Court, May 20, 1914, comes from Case 23551, [Weeks v. U.S.]; Docket 461, OT 1913; Appellate Jurisdiction Files, 1792–2006; Records of the Supreme Court of the United States, Record Group 267; National Archives, Washington, D.C.*

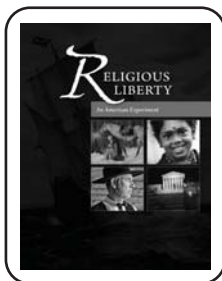
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- As a point of entry into lessons related to the Fourth Amendment, project or provide students with a copy of the featured document. Ask them to read the document closely and lead a class discussion using the following questions:
  - What type of document is this?
  - Who wrote it? Why?
  - When was the document written?
  - What questions does the document prompt?
- Provide students with the first paragraph of the article that explains the facts of the Fremont Weeks case. Instruct students to read the information carefully to predict how they think the district court judge will rule on Martin O'Donnell's motion. Record the students' responses and supporting arguments during a class discussion. After considering all of their arguments, reveal how the district court judge ruled. Next, provide them with the text of the Fourth Amendment, available at [www.archives.gov/exhibits/charters/bill\\_of\\_rights\\_transcript.html](http://www.archives.gov/exhibits/charters/bill_of_rights_transcript.html). Ask students on what grounds they believe the decision could be appealed to a higher court. Then share the second half of the article with the students to determine if student arguments matched the opinion of the Supreme Court.
- Share with students the following quote that is etched on the exterior of the Department of Justice building in Washington, D.C:

No free government can survive that is not based on the supremacy of the law.

Discuss with students the concept of rule of law and the idea that no one is immune to the law. Ask them why the Court ultimately sided with Fremont Weeks in this case and if they agree with the exclusionary rule, which states that illegally obtained evidence is not admissible in federal court. After sharing their responses, ask them to consider a hypothetical case in which Weeks has been found guilty of a more serious offense and whether that would change their opinion of the exclusionary rule. Direct students to conduct a debate over the concept of rule of law versus the severity of a crime; ask them to what extent the quote on the Department of Justice building is true. To prepare for the debate, assign students to research cases wherein evidence was deemed inadmissible based on the exclusionary rule.

- Encourage students to consider the elements of a search warrant and the Fourth Amendment by completing a DocsTeach activity titled "Search Warrants and the Fourth

Amendment" available at: [docsteach.org/activities/2839/detail](http://docsteach.org/activities/2839/detail).

- Divide students into six groups and assign each group one of the following Supreme Court cases:
  - Weeks v. United States* (1914): exclusionary rule
  - Olmstead v. United States* (1928): wiretapping
  - Katz v. United States* (1967): wiretapping
  - Terry v. Ohio* (1968): reasonable suspicion
  - United States v. Leon* (1984): good faith
  - Nix v. Williams* (1984): inevitable discovery

Ask them to answer the following questions based on their group's case. (Students might find websites such as [www.oyez.org](http://www.oyez.org) and [www.findlaw.com](http://www.findlaw.com) to be useful in their research.)

- What are the facts of the case?
- What is the question that the Court had to consider in the case?
- What decision did the Court make? Was it a unanimous decision?

After investigating their assigned case, create new groups using the jigsaw technique. Ask each student to share the group's findings. After sharing information, draw a line on the board with the words "favors law enforcement" on one end and "favors the individual" on the other. Ask students to consider the facts and findings of the court to determine where on the spectrum each case falls. Make sure that the students explain why they chose to place a case on a particular point on the spectrum. Allow time for students to debate placement of cases on the line. Conclude by holding a discussion about how the interpretation of exclusionary rule and the concept of a "right to privacy" have evolved and changed over the course of the last century. Ask students to consider why the interpretation has changed and whether or not the Court has tended to favor law enforcement or the individual. Encourage them to hypothesize issues that new technologies and social media may present in future cases.

**MEGAN JONES** is an education specialist and **LEE ANN POTTER** is the director of education and volunteer programs at the National Archives and Records Administration in Washington, D.C. Potter serves as the editor of "Teaching with Documents," a regular feature in *Social Education*. For more information about the National Archives education program, visit [www.archives.gov/nae](http://www.archives.gov/nae).

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