

# U.S. Supreme Court to Address Malicious Prosecution

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In [Heck v. Humphrey](#) (1994), the U.S. Supreme Court held that a plaintiff can't bring a civil suit for wrongful conviction unless his or her conviction was "favorably terminated." But what if charges were dropped and the plaintiff was never convicted? In [Thompson v. Clark](#) the U.S. Supreme Court will decide when a plaintiff who was charged but never prosecuted may bring a malicious prosecution case.

The Court will also decide whether in a civil case the plaintiff or defendant (police officer) must prove an exception to the warrant requirement justified a search. Larry Thompson's sister-in-law, Camille, who was living with him, reported to 911 that Thompson was sexually abusing his week-old daughter. Thompson wouldn't let police into his apartment because they didn't have a warrant, blocked their path to entry, and allegedly shoved an officer. Camille's report was false; she suffered from a mental illness which the officers "sensed" when they were in the apartment.

Police arrested Thompson and he was charged with obstructing governmental administration and resisting arrest. The prosecutor dropped charges against him "in the interests of justice." Thompson brought a number of civil claims against police including malicious prosecution and unlawful entry into his home.

The Second Circuit held that Thompson couldn't bring a malicious prosecution claim because he failed to prove that the prosecution against him terminated favorably.

In a 2018 case, *Lanning v. City of Glens Falls*, the Second Circuit held that malicious prosecution claims require "affirmative indications of innocence to establish favorable termination." In this case Thompson's innocence wasn't established because the only reason the prosecutor gave for dismissing charges against him was "in the interests of justice."

The officers sued in this case defend the Second Circuit rule stating: "Courts have long set a high bar for [malicious prosecution] claims, recognizing that our criminal justice system works best when people feel free to come forward with accusations for the protection of victims and the general public—a step that sets in motion a panoply of procedural protections designed to fairly adjudicate guilt." All the federal circuit courts of appeals but one to consider this issue have ruled the same as the Second Circuit. According to the Eleventh Circuit, favorable termination occurs when proceedings end in a manner that "affirmatively indicates . . . innocence." Thompson urges the Supreme Court to adopt the Eleventh Circuit rule. He points out that in *Heck* all a plaintiff had to do to show favorable termination in order to challenge a conviction was to prove the judgment against him or her was invalidated--not that he or she was innocent.

The Fourth Amendment generally requires police officers have a warrant to enter a person's home unless an exception applies. The police officers in this case claimed exigent circumstances justified their warrantless entry. The jury ruled against Thompson's claim the officers violated the Fourth Amendment in this case. Thompson argues that the defendant police officers in this case should

have the burden of proving that an exigency existed, just like they would in a criminal case.

The Second Circuit disagreed holding that Thompson had the burden of proving an exigency didn't exist. The Second Circuit relied on a 1991 Second Circuit case, *Ruggiero v. Krezeminski*. In that case the court held the burden of proof for whether a Fourth Amendment exception applies in a civil case is with the plaintiff because the burden of proof generally rests with the plaintiff in civil cases.

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