SUPREME COURT OF THE UNITED STATES

No. 98–184

WYOMING, PETITIONER *v.* SANDRA HOUGHTON

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF WYOMING

[April 5, 1999]

JUSTICE BREYER, concurring.

I join the Court's opinion with the understanding that history is meant to inform, but not automatically to determine, the answer to a Fourth Amendment question. *Ante*, at 3. I also agree with the Court that when a police officer has probable cause to search a car, say, for drugs, it is reasonable for that officer also to search containers within the car. If the police must establish a container's ownership prior to the search of that container (whenever, for example, a passenger says "that's mine"), the resulting uncertainty will destroy the workability of the bright-line rule set forth in *United States* v. *Ross*, 456 U. S. 798 (1982). At the same time, police officers with probable cause to search a car for drugs would often have probable cause to search containers regardless. Hence a bright-line rule will authorize only a limited number of searches that the law would not otherwise justify.

At the same time, I would point out certain limitations upon the scope of the bright-line rule that the Court describes. Obviously, the rule applies only to automobile searches. Equally obviously, the rule applies only to containers found within automobiles. And it does not extend to the search of a person found in that automobile. As the Court notes, and as *United States* v. *Di Re*, 332 U. S. 581, 586-587 (1948), relied on heavily by JUSTICE STEVENS' dissent, makes clear, the search of a person,

including even "'a limited search of the outer clothing,'" *ante,* at 7, (quoting *Terry* v. *Ohio,* 392 U. S. 1, 24–25 (1968)), is a very different matter in respect to which the law provides "significantly heightened protection." *Ibid*; cf. *Ybarra* v. *Illinois,* 444 U. S. 85, 91 (1979); *Sibron* v. *New York*, 392 U. S. 40, 62–64 (1968).

Less obviously, but in my view also important, is the fact that the container here at issue, a woman's purse, was found at a considerable distance from its owner, who did not claim ownership until the officer discovered her identification while looking through it. Purses are special containers. They are repositories of especially personal items that people generally like to keep with them at all times. So I am tempted to say that a search of a purse involves an intrusion so similar to a search of one's person that the same rule should govern both. However, given this Court's prior cases, I cannot argue that the fact that the container was a purse *automatically* makes a legal difference, for the Court has warned against trying to make that kind of distinction. *United States* v. *Ross, supra,* at 822. But I can say that it would matter if a woman's purse, like a man's billfold, were attached to her person. It might then amount to a kind of "outer clothing," *Terry* v. *Ohio, supra,* at 24, which under the Court's cases would properly receive increased protection. See *post,* at 4–5 (STEVENS, J., dissenting) (quoting *United States* v. *Di Re, supra,* at 587). In this case, the purse was separate from the person, and no one has claimed that, under those circumstances, the type of container makes a difference. For that reason, I join the Court's opinion.