NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

JOHNSON ET AL. *v.* JONES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 94–455. Argued April 18, 1995—Decided June 12, 1995

Respondent Jones brought this "constitutional tort" action under 42 U. S. C. §1983 against five named policemen, claiming that they used excessive force when they arrested him and that they beat him at the police station. As government officials, the officers were entitled to assert a qualified immunity defense. Three of them (the petitioners here) moved for summary judgment arguing that, whatever evidence Jones might have about the *other* two officers, he could point to no evidence that *these three* had beaten him or had been present during beatings. Holding that there was sufficient circumstantial evidence supporting Jones's theory of the case, the District Court denied the motion. Petitioners sought an immediate appeal, arguing that the denial was wrong because the evidence in the pretrial record was not sufficient to show a ``genuine'' issue of fact for trial, Fed. Rule Civ. Proc. 56(c). The Seventh Circuit held that it lacked appellate jurisdiction over this contention and dismissed the appeal.

Held: A defendant, entitled to invoke a qualified immunity defense, may not appeal a district court's summary judgment order insofar as that order determines whether or not the pretrial record sets forth a "genuine" issue of fact for trial. Pp. 3–14.

(a) Three background principles guide the Court. *First,* 28 U. S. C. §1291 grants appellate courts jurisdiction to hear appeals only from district courts' "final decisions." *Second,* under *Cohen* v. *Beneficial Industrial Loan Corp.,* 337 U. S. 541, and subsequent decisions, a so-called ``collateral order'' amounts to an immediately appealable "final decisio[n]" under §1291, even though the district court may have entered it long before the case has ended, if the order (1) conclusively

determines the disputed question, (2) resolves an important issue completely separate from the merits of the action, and (3) will be effectively unreviewable on appeal from the final judgment. *Third,* in *Mitchell* v. *Forsyth,* 472 U. S. 511, 528, this Court held that a district court's order denying a defendant's summary judgment motion was an immediately appealable "collateral order" (*i.e.*, a "final decision") under *Cohen,* where (1) the defendant was a public official asserting a qualified immunity defense, and (2) the issue appealed concerned, not which facts the parties might be able to prove, but, rather, whether or not certain given facts show a violation of "clearly established" law. Pp. 3–7.

Syllabus

(b) Orders of the kind here at issue are not appealable for three reasons. *First,* considered purely as precedent, *Mitchell* itself does not support appealability because the underlying dispute therein involved the application of "clearly established" law to a given (for appellate purposes undisputed) set of facts, and the Court explicitly limited its holding to appeals challenging, not a district court's determination about what factual issues are "genuine," but the purely legal issue what law was "clearly established." *Second,* although *Cohen*'s conceptual theory of appealability finds a "final" district court decision in part because the immediately appealable decision involves issues significantly different from those that underlie the plaintiff's basic case, it will often prove difficult to find any such "separate" question where a defendant simply wants to appeal a district court's determination that the evidence is sufficient to permit a particular finding of fact after trial. *Finally,* the competing considerations underlying questions of finality—the inconvenience and costs of piecemeal review, the danger of denying justice by delay, the comparative expertise of trial and appellate courts, and the wise use of appellate resources—argue against extending *Mitchell* to encompass orders of the kind at issue and in favor of limiting interlocutory appeals of "qualified immunity" matters to cases presenting more abstract issues of law. Pp. 7–12.

(c) Neither of petitioners' arguments as to why the Court's effort to separate reviewable from unreviewable summary judgment determinations will prove unworkable—that the parties can easily manipulate the Court's holding and that appellate courts will have great difficulty in accomplishing such separation—presents a problem serious enough to require a different conclusion. Pp. 12–14.

26 F. 3d 727, affirmed.

BREYER, J., delivered the opinion for a unanimous Court.