No. 99536-2

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

Court of Appeals No. 367886

EDWIN ESPEJO,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

PETITION FOR REVIEW

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INTRODUCTION

David Dillsworth, a young Caucasian, volunteered to help the Pasco Police Department; Volunteers have been helping the Pasco Police for over thirty years. They help out at ball games, parades and other events. On September 16, 2017, Mr. Dillsworth entered the home of a young Hispanic male named Edwin Espejo. Mr. Dillsworth pushed a uniformed police officer out of the way and fired fourteen bullets at Mr. Espejo. Six of the bullets reached their mark and Mr. Espejo lied on the ground in critical condition. Because this was a police shooting, a variety of officers from various jurisdictions were called to the scene to conduct a detailed investigation. The investigation determined that the shooting was not only justified but indicated that Edwin Espejo had a plan to kill police officers.

IDENTITY OF THE PETIONER

The petitioner in this case is Edwin Espejo. Mr. Espejo was convicted of three counts of attempted murder in the first degree and one count of of illegal possession of a firearm. The court of appeals in Division Three upheld his conviction.

DECISION OF THE COURT OF APPEALS

The court of appeals decided that Mr. Espejo had time to create a plan to murder not only Volunteer Dillsworth but two other officers-Officer Griffith and Officer D'Aquino. The court of appeals justified their conclusion because Mr. Espejo raised up his hand and fired a gun after he had been shot. This action indicated a pattern which to the court showed a plan in effect prior to the reaction which justified a finding by the jury of premeditation. (*See Appendix A*).

The court also decided that the. police officers and their volunteer were justified in entering Mr. Espejo's home without a warrant because there were allegations that somebody was hitting a woman. The court also decided the officers and the volunteers acted reasonably because Mr. Espejo

was contemplating suicide and as caretakers, they had a right to help. (See *Appendix A*).

ISSUES PRESENTED FOR REVIEW

Can police enter a person's home at any time if there is an allegation of domestic violence?

Can police remain in a person's home when there is no indication that domestic violence has taken place in order to investigate a crime for which police have no probable cause to believe took place?

Can police behave in a belligerent manner in order to entice a suicidal person to act recklessly?

Can the state justify its behavior by invoking the caretaker exception to the warrant requirement in order to justify compliance with the fourth amendment?

Does due process allow the state to charge, try and condemn a man for premediated attempted murder when the victim of an unjustifiable shooting reacts to the police attack by raising a pistol?

Does due process tie a net around a man when a man acts instinctively to protect himself after he has been gunned down by a police department volunteer and or one of its officers.

Is the government's conduct so outrageous that it violates the due process clause of the United States Constitution?

STATEMENT OF THE CASE

Officer Matt Griffin arrived outside a two-family house because of a dispatch report of domestic violence. Upon arrival, Officer Griffin heard a teenager say a woman was reportedly being hit inside the basement home. Officer Griffin waited at the bottom of the stairs. He heard no woman's voice. Two other officers joined Mr. Griffin and the three police entered the apartment with their guns drawn. There was no woman; there were no signs of violence. Officer Griffin never talked to or saw a victim of domestic violence. *Trial Transcript P. 693.*

Another officer, Officer Aquino and his volunteer ride along entered the basement with their guns pointed at a man in his bed. The man in the bed was the petitioner, Edwin Espejo. Officer Griffin said: "Hey man you need to come over... Crawl to me" *Trial Transcript P. 619 lines 16-20.* Edwin Espejo stood up with his hands raised. *Trial Transcript P. 686 lines 1-3*. Officer Aquino shot his taser at Mr. Espejo. Mr. Espejo fell backward. *Trial Transcript P. 689 Lines 1-25*. At rial the following dialogue occurred between defense counsel and the volunteer shooter.

Defense Counsel: "So after the taser struck him, he fired the weapon within a second."

Mr. Dillwoorth: "Yes."

Defense Counsel: "You are certain of that."

Mr. Dillworth: "It was very quick. I do not know. One second, two seconds. It was very quick." *Trial transcript. P. 650*

Sargent Allen entered the scene at the same time the shots were fired. He was surprised to hear that the police shooter was a reserve. Sargent Allan described reserve officers as follows:

"So, reserve officer, that's a volunteer position. You get a limited amount of police training. Then you are supervised by a regular officer when you come out to volunteer your time on ride-alongs. They normally work like parade events or high school games." *Trial Transcript P. 568 lines 22-25. P. 569 Lines 1-2.*

Sargent Allan also pointed out that David Dillsworth was the first and only Pasco Volunteer to shoot another human being. *Trial Transcript P. 592.* Here, Dillsworth was the first person to fire a lethal weapon at Mr. Espejo. If he had not fired his weapon, Mr. Espejo would have fallen to the ground without injury. There would have been no investigation to

try to explain a shooting that never should have occurred. There would have been no charges of attempted murder.

At the close of the prosecution's case, defense counsel moved the court for a directed verdict. Defense counsel argued that that the three counts of attempted murder should be dismissed because the defendant did not have enough time to deliberate about his actions when hegrabbed his gun. The court denied the defendant's motion and reasoned as follows:

"In considering your motion for a directed verdict the court has in mind *State versus Price,* which is 103 Wn App 845, a division II case from 2000. There the discharge of two rounds into the cab of a vehicle that contained individuals was deemed by the court of appeals sufficient information from which a reasonable juror could infer not only intent but premeditation for the same charge. *"Trial Transcript P. 1155 Lines 10-17.*

The court went on to say "In dealing with the issue about whether or not a premeditation can occur within a period of time the court is advised that based on existing case law no particular period of time is required. The court then looks more specifically at Price. And the

relevant period of time here is the two plus seconds because the taser is on for two seconds. The testimony is that Mr. Espejo fell backwards and the testimony to date is that he reached for the firearm brought it up and fired." *Trial Transcript P. 1164 Lines 22-25, P. 1165 Lines 1-6.*

On appeal, the court of appeals decided as follows:

"Our focus is not limited to the moments between when Mr. Espejo was hit with the stun gun and when he fired at officers. We take a broader approach…Mr. Espejo's actions and words suggest he was deliberating on using his gun against offices in order to create a lethal encounter. Mr. Espejo's ultimate goal may have been to get himself killed. Regardless, there was sufficient evidence to support the jury's finding of premeditation. *Court of Appeals Decision P. 5 (Exhibit A*)

Before trial, petitioner brought a motion to suppress based on the police's search and seizure of his home and person without a warrant. The petitioner motion was denied on appeal, the court also ruled that the motion to suppress was properly denied. The court held that the record supported all of the components of the community caretaking exception. (*Court of Appeals Decision P. 6 Exhibit A. The*

court's opinion is contrary to a recently expressed opinion by the United States Supreme Court in *Caniglia v. Srom* (attached herein as exhibit B)

ARGUMENT

In the recently decided case of *Caniglia v. Strom et al,* the United States Supreme Court made it clear that there are limitations to the community caretaking rule especially when the exception is applied to warrantless searches and seizures of a person home. The "Fourth Amendment protects the right of the people to be secure in their persons, houses against unreasonable searches and seizures. The very core of this guarantee is the right of a man to retreat into his own home and there be free from unreasonable government intrusion." *Florida v. Jardines, 569 U.S. 1, 6 (2013*).

Justice Kavanaugh succinctly expresses the constitutional limitations of the caretaker exception when he writes in Caniglia v. Srom "the Fourth Amendment allows officers to enter a home if they have "an objectively reasonable basis for believing that such help is needed **and if the officers' actions inside the home are reasonable**

under the circumstance" emphasis added court citing *Brigham City,* 547 U.S. at 406, see also *Michigan v. Fisher, 558 U.S. 47-48*. Here, there may have been reason for the police officers to enter Mr. Espejo's home to determine if there was a person being victimized by domestic violence but once the police established there was no one in danger, the police had a duty to retreat from the house. The failure to leave the house was unreasonable and is contrary to the law of the United States as it is interpreted by the United States Supreme Court in the cases cited above. The Washington State Supreme Court has an obligation to determine if the law as expressed by its court of appeals is consistent with the law of the United States. For this reason, and this reason alone, the Supreme Court should grant review.

The court of appeals in its opinion expresses a unique interpretation of premeditation. As defined by our state legislature, premeditation must "involve more than a moment in a point of time. " **RCW 9A.32.020(1)**. "To establish premeditation the State must show the deliberate formation of reflection upon the intent to take a human life and involves the mental process before hand of thinking, deliberation, reflection, weighing or reasoning for a period time however short." *State v. Hufffman 116 Wn 2d 82-83*. In the present

case, the court of appeals writes as follows: ". We take a broader approach…Mr. Espejo's actions and words suggest he was deliberating on using his gun against offices in order to create a lethal encounter. Mr. Espejo's ultimate goal may have been to get himself killed. Regardless, there was sufficient evidence to support the jury's finding of premeditation. *Court of Appeals Decision P. 5 (Exhibit A)* The court is ascribing a period of meditation to a time, place, and circumstance which would cause any person be subjected to extreme emotional distress and actions by police officers which arouse the most primitive fears of a human being and would make any period of premeditation impossible, The court of appeals appears to be saying that a person has free will when he faces five people with pistols pointed at him. The court of appeals appears to be saying that person is responsible for his actions when he is threatened by an overwhelming authority in his own house. The court of appeals appears to be saying that a person is responsible for his reactions two seconds after being shot.

The court's opinion on premeditation is a substantial question of law under the Constitution of the United States and the State of Washington. On its face it appears to affect a substantial public

interest to be free of unreasonable government actions which gives justification for Supreme Court review. *RAP 13.4(b)*

Here the police are responsible for the following action (1) they threatened a man in his home with guns (2) they allowed an untrained volunteer to enter the man's home and point a lethal weapon at him (3) Concerned the man might commit suicide they proceeded to humiliate the man by telling him to crawl to them (4) when he did not crawl but stood up they tazed him and then shot him six times. These actions do not appear to be reasonable. Police negligence was/is responsible for shooting Mr. Espejo. To charge and convict him of murder shocks the conscience.

Many people in the United States believe that members of minority groups especially young males are subject to abusive police behavior. Here, the police's behavior is closer to abusive than reasonable. The Supreme Court should hear this case and subject the court of appeals analysis to strict scrutiny especially when the court of appeal's analysis seems to suggest that police goading can support a finding of premeditation. No reasonable person would believe that Mr. Espejo would have been charged with premeditation murder but

for the police and its volunteers goading into action.

The Court of Appeals analysis is directly contrary to the due process clause of the United States Constitution. The analysis justifies police and prosecutorial misconduct and acts to inflame long smoldering hostilities which minority groups hold against the police, the prosecutors and the courts.

CONCLUSION

The Supreme Court of the State of Washington is obligated by law and morality to review this case. The result as it stands now is contrary to the holding and rationale expressed by the United States Supreme Court on May 17, 2021, in the case of Caniglia v. Robert Strom. The result as it stands now appears to be contrary to common sense, law, logic, and morality. To Mr. Espejo, his children, and his community the result is a horror.

Dated: June 4, 2021

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Exhibit

A

ALS OF THE STATE OF WASHINGTON
VISION THREE

STATE OF WASHINGTON, Respondent, v. EDWIN ESPEJO, Appellant.	)	No. 36788-6-III UNPUBLISHED OPINION

PENNELL, C.J. — Edwin Espejo appeals his convictions for attempted first degree murder and unlawful possession of a firearm. We affirm.

FACTS

Law enforcement officers were dispatched to Mr. Espejo's home in response to a domestic violence call. When the first officer arrived, he encountered several children outside. The children were crying and yelling "'he is hitting her'" while motioning their fists to their eyes. 4 Report of Proceedings (Feb. 25, 2019) at 612. The children said the incident was taking place inside the house. The officer called for backup and asked to be taken into the home. A child took the officer inside to the top of the basement stairs and told the officer that the assailant, named "Edwin," was downstairs. The officer waited at the top of the stairs for backup to arrive. While waiting, the officer could hear the sounds of children downstairs, whimpering and crying.

Once backup arrived, the initial officer called for Edwin to come upstairs. He did not. The officers then headed downstairs. About halfway down the stairs the officers noticed a child walking back and forth and crying, and helped him to get upstairs. Once in the basement, officers saw Edwin Espejo sitting on a bed with two young children in his lap. The children were crying and upset. The officers convinced Mr. Espejo to let the children go.

As soon as all the children were gone, Mr. Espejo moved his hands to his pants pockets. The outline of a firearm could be seen in Mr. Espejo's left pocket. Mr. Espejo was ordered to show his hands. He did not immediately comply. Instead, he removed a handgun from his pocket and slid it under a pillow on the bed. Mr. Espejo began to cry and writhe on the bed while the officers unsuccessfully ordered him to move away from the gun. Mr. Espejo told the officers to get out of his house. He insisted he was not going back to jail and kept saying, "'I am going to grab it; I am going to grab it.'" *Id.* at 620.

Additional officers arrived and entered the basement area. Several officers drew firearms, keeping them at a low ready position. At one point, an officer drew a stun gun.

Officers went back and forth with Mr. Espejo for a few minutes, ordering him to stay away from the gun and to come toward them. At one point, Mr. Espejo picked up the gun. Officers ordered Mr. Espejo to drop the gun on the bed, which he did. Mr. Espejo

then clenched his fists and began to stand up while removing his shirt. It appeared to the officers Mr. Espejo was preparing to fight. The stun gun was deployed on Mr. Espejo in an effort to get him detained.

The stun gun was only partially effective. After being hit, Mr. Espejo fell onto the bed and then reached for the gun. Officers told Mr. Espejo, "'Don't grab it; don't grab it; don't grab it.'" *Id.* at 623. Mr. Espejo grabbed the gun and began firing at the officers. Officers returned fire, hitting Mr. Espejo multiple times. After the shooting, bullet holes were found in the washing machine and staircase behind the officers. One of the officers found a bullet hole through his pants.

Mr. Espejo survived the shooting with several injuries. He was taken into custody and charged with three counts of attempted first degree murder, second degree unlawful possession of a firearm, fourth degree domestic violence assault, and interfering with the reporting of domestic violence. Before trial, Mr. Espejo moved under CrR 3.6 to suppress the evidence collected from his home, arguing the officers unlawfully searched the home without a warrant. The trial court denied the motion.

At the close of the State's evidence at trial, Mr. Espejo unsuccessfully moved for a directed verdict. Mr. Espejo then called one of the officers back as a witness in the defense case-in-chief. The jury found Mr. Espejo guilty of three counts of attempted first

degree murder and one count of second degree unlawful possession of a firearm.

Mr. Espejo now appeals.

ANALYSIS

Sufficiency of the evidence

Due process requires the State to prove all elements of a charged crime beyond a reasonable doubt. *State v. Chacon*, 192 Wn.2d 545, 549, 431 P.3d 477 (2018). Our review of whether the State has met its burden requires substantial deference to the jury. When assessing the sufficiency of the State's proof, we view the evidence in the light most favorable to the State. *State v. Crowder*, 196 Wn. App. 861, 868, 385 P.3d 275 (2016). "Evidence is sufficient to support a conviction where . . . any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *Id.*[1]

Attempted first degree murder requires proof of premediated intent. *State v. Barajas*, 143 Wn. App. 24, 36, 177 P.3d 106 (2007). "Premeditation is 'the deliberate formation of and reflection upon the intent to take a human life and involves the mental

[1] Mr. Espejo contends the trial court should have granted his motion for a directed verdict because the State failed to present sufficient evidence of premeditation during its case-in-chief. However, because Mr. Espejo presented evidence during his case-in-chief, his assignment of error is properly treated as a challenge to the sufficiency of the evidence presented at the entire trial. *State v. Allen*, 116 Wn. App. 454, 465 n.6, 66 P.3d 653 (2003).

process of thinking beforehand, deliberation, reflection, weighing or reasoning for a period of time, however short.'" *Id.* (*quoting State v. Hoffman*, 116 Wn.2d 51, 82-83, 804 P.2d 577 (1991)). Factors relevant to premeditation include "[m]otive, procurement of a weapon, stealth, and the manner of killing." *Id.* "The defendant's statements may be considered when determining whether the defendant acted with premeditation." *Id.*

The evidence here amply supports premeditation. Our focus is not limited to the moments between when Mr. Espejo was hit with the stun gun and when he fired at the officers. We take a broader perspective. Testimony from law enforcement showed Mr. Espejo began thinking of using his gun against the police when he reached into his pockets and moved his hands around. Throughout the encounter in the basement, Mr. Espejo refused orders to distance himself from the firearm. Prior to being hit with the stun gun, Mr. Espejo twice accessed his gun and put it down. During the entire process, Mr. Espejo was emotional and angry. He told the officers to get out of his house, that he was going to grab his firearm, and that he would not go back to jail. Viewed in the light most favorable to the State, Mr. Espejo's actions and words suggest he was deliberating on using his gun against the officers in order to create a lethal encounter. Mr. Espejo's ultimate objective may have been to get himself killed. Regardless, there was sufficient evidence to support the jury's finding of premeditation.

Suppression motion

In addition to challenging the jury's verdict, Mr. Espejo appeals the trial court's denial of his suppression motion. Because Mr. Espejo has not disputed any of the trial court's factual findings, our review is limited to a de novo assessment of the law. *See State v. Griffith*, 11 Wn. App. 2d 661, 670, 455 P.3d 152 (2019).

Law enforcement officers generally need a warrant to enter a private residence; however, an exception exists for emergency actions taken as part of the officers' community caretaking responsibilities. The community caretaking exception applies when officers are not acting under an investigative pretext and three factors are met:

> (1) the officer[s] subjectively believed that an emergency existed requiring that [they] provide immediate assistance to protect or preserve life or property, or to prevent serious injury, (2) a reasonable person in the same situation would similarly believe that there was a need for assistance, and (3) there was a reasonable basis to associate the need for assistance with the place searched.

State v. Boisselle, 194 Wn.2d 1, 14, 448 P.3d 19 (2019).

The record here supports all components of the community caretaking exception. There was no evidence of pretext; at the time of entry, the sole objective was to respond to an ongoing domestic disturbance. In addition: (1) officers made plain their subjective concern was to protect the individuals in Mr. Espejo's home from further injuries, (2) this concern was reasonable, particularly given the dangers posed by domestic violence, and

(3) it was abundantly clear the ongoing danger was occurring in Mr. Espejo's basement. Given the information available to law enforcement, it would have been irresponsible for officers to ignore the cries and distress of the children and decline entry into Mr. Espejo's home. Once inside, the officers appropriately continued their response to the ongoing emergency. No warrant was necessary under these circumstances.[2]

CONCLUSION

The judgment of conviction is affirmed.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Pennell, C.J.

WE CONCUR:

Fearing, J.

Korsmo, J.P.T.[3]

[2] Even if the emergency exception did not apply, Mr. Espejo's arguments would fail because the exclusionary rule does not apply to evidence of an assault against law enforcement officers. *State v. Mierz*, 127 Wn.2d 460, 473-74, 901 P.2d 286 (1995).

[3] Judge Kevin M. Korsmo was a member of the Court of Appeals at the time argument was held on this matter. He is now serving as a judge pro tempore of the court pursuant to RCW 2.06.150.

Exhibit B

Syllabus

SUPREME COURT OF THE UNITED STATES

Syllabus

CANIGLIA *v.* STROM ET AL.

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

No. 20–157. Argued March 24, 2021—Decided May 17, 2021

During an argument with his wife, petitioner Edward Caniglia placed a handgun on the dining room table and asked his wife to "shoot [him] and get it over with." His wife instead left the home and spent the night at a hotel. The next morning, she was unable to reach her husband by phone, so she called the police to request a welfare check. The responding officers accompanied Caniglia's wife to the home, where they encountered Caniglia on the porch. The officers called an ambulance based on the belief that Caniglia posed a risk to himself or others. Caniglia agreed to go to the hospital for a psychiatric evaluation on the condition that the officers not confiscate his firearms. But once Caniglia left, the officers located and seized his weapons. Caniglia sued, claiming that the officers had entered his home and seized him and his firearms without a warrant in violation of the Fourth Amendment. The District Court granted summary judgment to the officers. The First Circuit affirmed, extrapolating from the Court's decision in *Cady* v. *Dombrowski*, 413 U. S. 433, a theory that the officers' removal of Caniglia and his firearms from his home was justified by a "community caretaking exception" to the warrant requirement.

Held: Neither the holding nor logic of *Cady* justifies such warrantless searches and seizures in the home. *Cady* held that a warrantless search of an impounded vehicle for an unsecured firearm did not violate the Fourth Amendment. In reaching this conclusion, the Court noted that the officers who patrol the "public highways" are often called to discharge noncriminal "community caretaking functions," such as responding to disabled vehicles or investigating accidents. 413 U. S., at 441. But searches of vehicles and homes are constitutionally different, as the *Cady* opinion repeatedly stressed. *Id.*, at 439, 440–442. The very core of the Fourth Amendment's guarantee is the right

Syllabus

of a person to retreat into his or her home and "there be free from unreasonable governmental intrusion." *Florida* v. *Jardines*, 569 U. S. 1, 6. A recognition of the existence of "community caretaking" tasks, like rendering aid to motorists in disabled vehicles, is not an open-ended license to perform them anywhere. Pp. 3–4.

953 F. 3d 112, vacated and remanded.

THOMAS, J., delivered the opinion for a unanimous Court. ROBERTS, C. J., filed a concurring opinion, in which BREYER, J., joined. ALITO, J., and KAVANAUGH, J., filed concurring opinions.

SUPREME COURT OF THE UNITED STATES

No. 20–157

EDWARD A. CANIGLIA, PETITIONER *v.*
ROBERT F. STROM, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

[May 17, 2021]

JUSTICE THOMAS delivered the opinion of the Court.

Decades ago, this Court held that a warrantless search of an impounded vehicle for an unsecured firearm did not violate the Fourth Amendment. *Cady* v. *Dombrowski*, 413 U. S. 433 (1973). In reaching this conclusion, the Court observed that police officers who patrol the "public highways" are often called to discharge noncriminal "community caretaking functions," such as responding to disabled vehicles or investigating accidents. *Id.*, at 441. The question today is whether *Cady*'s acknowledgment of these "caretaking" duties creates a standalone doctrine that justifies warrantless searches and seizures in the home. It does not.

I

During an argument with his wife at their Rhode Island home, Edward Caniglia (petitioner) retrieved a handgun from the bedroom, put it on the dining room table, and asked his wife to "shoot [him] now and get it over with." She declined, and instead left to spend the night at a hotel. The next morning, when petitioner's wife discovered that she could not reach him by telephone, she called the police (respondents) to request a welfare check.

Respondents accompanied petitioner's wife to the home, where they encountered petitioner on the porch. Petitioner spoke with respondents and confirmed his wife's account of the argument, but denied that he was suicidal. Respondents, however, thought that petitioner posed a risk to himself or others. They called an ambulance, and petitioner agreed to go to the hospital for a psychiatric evaluation—but only after respondents allegedly promised not to confiscate his firearms. Once the ambulance had taken petitioner away, however, respondents seized the weapons. Guided by petitioner's wife—whom they allegedly misinformed about his wishes—respondents entered the home and took two handguns.

Petitioner sued, claiming that respondents violated the Fourth Amendment when they entered his home and seized him and his firearms without a warrant. The District Court granted summary judgment to respondents, and the First Circuit affirmed solely on the ground that the decision to remove petitioner and his firearms from the premises fell within a "community caretaking exception" to the warrant requirement. 953 F. 3d 112, 121–123, 131 and nn. 5, 9 (2020). Citing this Court's statement in *Cady* that police officers often have noncriminal reasons to interact with motorists on "public highways," 413 U. S., at 441, the First Circuit extrapolated a freestanding community-caretaking exception that applies to both cars and homes. 953 F. 3d, at 124 ("Threats to individual and community safety are not confined to the highways"). Accordingly, the First Circuit saw no need to consider whether anyone had consented to respondents' actions; whether these actions were justified by "exigent circumstances"; or whether any state law permitted this kind of mental-health intervention. *Id.*, at 122–123. All that mattered was that respondents' efforts to protect petitioner and those around him were "distinct from 'the normal work of criminal investigation,'" fell "within the realm of reason," and generally tracked what the court

viewed to be "sound police procedure." *Id.*, at 123–128, 132–133. We granted certiorari. 592 U. S. ___ (2020).

II

The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." The "'very core'" of this guarantee is "'the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.'" *Florida* v. *Jardines*, 569 U. S. 1, 6 (2013).

To be sure, the Fourth Amendment does not prohibit all unwelcome intrusions "on private property," *ibid.*—only "unreasonable" ones. We have thus recognized a few permissible invasions of the home and its curtilage. Perhaps most familiar, for example, are searches and seizures pursuant to a valid warrant. See *Collins* v. *Virginia*, 584 U. S. ___, ___–___ (2018) (slip op., at 5–6). We have also held that law enforcement officers may enter private property without a warrant when certain exigent circumstances exist, including the need to "'render emergency assistance to an injured occupant or to protect an occupant from imminent injury.'" *Kentucky* v. *King*, 563 U. S. 452, 460, 470 (2011); see also *Brigham City* v. *Stuart*, 547 U. S. 398, 403–404 (2006) (listing other examples of exigent circumstances). And, of course, officers may generally take actions that "'any private citizen might do'" without fear of liability. *E.g.*, *Jardines*, 569 U. S., at 8 (approaching a home and knocking on the front door).

The First Circuit's "community caretaking" rule, however, goes beyond anything this Court has recognized. The decision below assumed that respondents lacked a warrant or consent, and it expressly disclaimed the possibility that they were reacting to a crime. The court also declined to consider whether any recognized exigent circumstances were present because respondents had forfeited the point.

Nor did it find that respondents' actions were akin to what a private citizen might have had authority to do if petitioner's wife had approached a neighbor for assistance instead of the police.

Neither the holding nor logic of *Cady* justified that approach. True, *Cady* also involved a warrantless search for a firearm. But the location of that search was an impounded vehicle—not a home—"'a constitutional difference'" that the opinion repeatedly stressed. 413 U. S., at 439; see also *id.*, at 440–442. In fact, *Cady* expressly contrasted its treatment of a vehicle already under police control with a search of a car "parked adjacent to the dwelling place of the owner." *Id.*, at 446–448 (citing *Coolidge* v. *New Hampshire*, 403 U. S. 443 (1971)).

Cady's unmistakable distinction between vehicles and homes also places into proper context its reference to "community caretaking." This quote comes from a portion of the opinion explaining that the "frequency with which . . . vehicle[s] can become disabled or involved in . . . accident[s] on public highways" often requires police to perform noncriminal "community caretaking functions," such as providing aid to motorists. 413 U. S., at 441. But, this recognition that police officers perform many civic tasks in modern society was just that—a recognition that these tasks exist, and not an open-ended license to perform them anywhere.

* * *

What is reasonable for vehicles is different from what is reasonable for homes. *Cady* acknowledged as much, and this Court has repeatedly "declined to expand the scope of . . . exceptions to the warrant requirement to permit warrantless entry into the home." *Collins*, 584 U. S., at ___ (slip op., at 8). We thus vacate the judgment below and remand for further proceedings consistent with this opinion.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

No. 20–157

EDWARD A. CANIGLIA, PETITIONER *v.*
ROBERT F. STROM, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

[May 17, 2021]

CHIEF JUSTICE ROBERTS, with whom JUSTICE BREYER joins, concurring.

Fifteen years ago, this Court unanimously recognized that "[t]he role of a peace officer includes preventing violence and restoring order, not simply rendering first aid to casualties." *Brigham City* v. *Stuart*, 547 U. S. 398, 406 (2006). A warrant to enter a home is not required, we explained, when there is a "need to assist persons who are seriously injured or threatened with such injury." *Id.*, at 403; see also *Michigan* v. *Fisher*, 558 U. S. 45, 49 (2009) (*per curiam*) (warrantless entry justified where "there was an objectively reasonable basis for believing that medical assistance was needed, or persons were in danger" (internal quotation marks omitted)). Nothing in today's opinion is to the contrary, and I join it on that basis.

SUPREME COURT OF THE UNITED STATES

No. 20–157

EDWARD A. CANIGLIA, PETITIONER *v.*
ROBERT F. STROM, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

[May 17, 2021]

JUSTICE ALITO, concurring.

I join the opinion of the Court but write separately to explain my understanding of the Court's holding and to highlight some important questions that the Court does not decide.

1. The Court holds—and I entirely agree—that there is no special Fourth Amendment rule for a broad category of cases involving "community caretaking." As I understand the term, it describes the many police tasks that go beyond criminal law enforcement. These tasks vary widely, and there is no clear limit on how far they might extend in the future. The category potentially includes any non-law-enforcement work that a community chooses to assign, and because of the breadth of activities that may be described as community caretaking, we should not assume that the Fourth Amendment's command of reasonableness applies in the same way to everything that might be viewed as falling into this broad category.

The Court's decision in *Cady* v. *Dombrowski*, 413 U. S. 433 (1973), did not recognize any such "freestanding" Fourth Amendment category. See *ante*, at 2, 4. The opinion merely used the phrase "community caretaking" in passing. 413 U. S., at 441.

2. While there is no overarching "community caretaking" doctrine, it does not follow that all searches and seizures

conducted for non-law-enforcement purposes must be analyzed under precisely the same Fourth Amendment rules developed in criminal cases. Those rules may or may not be appropriate for use in various non-criminal-law-enforcement contexts. We do not decide that issue today.

3. This case falls within one important category of cases that could be viewed as involving community caretaking: conducting a search or seizure for the purpose of preventing a person from committing suicide. Assuming that petitioner did not voluntarily consent to go with the officers for a psychological assessment,[1] he was seized and thus subjected to a serious deprivation of liberty. But was this warrantless seizure "reasonable"? We have addressed the standards required by due process for involuntary commitment to a mental treatment facility, see *Addington* v. *Texas*, 441 U. S. 418, 427 (1979); see also *O'Connor* v. *Donaldson*, 422 U. S. 563, 574–576 (1975); *Foucha* v. *Louisiana*, 504 U. S. 71, 75–77, 83 (1992), but we have not addressed Fourth Amendment restrictions on seizures like the one that we must assume occurred here, *i.e.*, a short-term seizure conducted for the purpose of ascertaining whether a person presents an imminent risk of suicide. Every State has laws allowing emergency seizures for psychiatric treatment, observation, or stabilization, but these laws vary in many respects, including the categories of persons who may request the emergency action, the reasons that can justify the action, the necessity of a judicial proceeding, and the nature of the proceeding.[2] Mentioning these laws only in passing, petitioner asked us to render a decision that could

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[1] The Court of Appeals assumed petitioner's consent was not voluntary because the police allegedly promised that they would not seize his guns if he went for a psychological evaluation. 953 F. 3d 112, 121 (CA1 2020). The Court does not decide whether this assumption was justified.

[2] See Brief for Petitioner 38–39, n. 4 (gathering state authorities); L. Hedman et al., State Laws on Emergency Holds for Mental Health Stabilization, 67 Psychiatric Servs. 579 (2016).

call features of these laws into question. The Court appropriately refrains from doing so.

4. This case also implicates another body of law that petitioner glossed over: the so-called "red flag" laws that some States are now enacting. These laws enable the police to seize guns pursuant to a court order to prevent their use for suicide or the infliction of harm on innocent persons. See, *e.g.*, Cal. Penal Code Ann. §§18125–18148 (West Cum. Supp. 2021); Fla. Stat. §790.401(4) (Cum. Supp. 2021); Mass. Gen. Laws Ann., ch. 140, §131T (2021). They typically specify the standard that must be met and the procedures that must be followed before firearms may be seized. Provisions of red flag laws may be challenged under the Fourth Amendment, and those cases may come before us. Our decision today does not address those issues.

5. One additional category of cases should be noted: those involving warrantless, nonconsensual searches of a home for the purpose of ascertaining whether a resident is in urgent need of medical attention and cannot summon help. At oral argument, THE CHIEF JUSTICE posed a question that highlighted this problem. He imagined a situation in which neighbors of an elderly woman call the police and express concern because the woman had agreed to come over for dinner at 6 p.m., but by 8 p.m., had not appeared or called even though she was never late for anything. The woman had not been seen leaving her home, and she was not answering the phone. Nor could the neighbors reach her relatives by phone. If the police entered the home without a warrant to see if she needed help, would that violate the Fourth Amendment? Tr. of Oral Arg. 6–8.

Petitioner's answer was that it would. Indeed, he argued, even if 24 hours went by, the police still could not lawfully enter without a warrant. If the situation remained unchanged for several days, he suggested, the police might be able to enter after obtaining "a warrant for a missing person." *Id.*, at 9.

THE CHIEF JUSTICE's question concerns an important real-world problem. Today, more than ever, many people, including many elderly persons, live alone.[3] Many elderly men and women fall in their homes,[4] or become incapacitated for other reasons, and unfortunately, there are many cases in which such persons cannot call for assistance. In those cases, the chances for a good recovery may fade with each passing hour.[5] So in THE CHIEF JUSTICE's imaginary case, if the elderly woman was seriously hurt or sick and the police heeded petitioner's suggestion about what the Fourth Amendment demands, there is a fair chance she would not be found alive. This imaginary woman may have regarded her house as her castle, but it is doubtful that she would have wanted it to be the place where she died alone and in agony.

Our current precedents do not address situations like this. We have held that the police may enter a home without a warrant when there are "exigent circumstances." *Payton* v. *New York*, 445 U. S. 573, 590 (1980). But circumstances are exigent only when there is not enough time to get a warrant, see *Missouri* v. *McNeely*, 569 U. S. 141, 149 (2013); *Michigan* v. *Tyler*, 436 U. S. 499, 509 (1978), and warrants are not typically granted for the purpose of checking on a person's medical condition. Perhaps States should institute procedures for the issuance of such warrants, but

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[3] Dept. of Commerce, Bureau of Census, The Rise of Living Alone, Fig. HH–4 (2020), https://www.census.gov/content/dam/Census/library/visualizations/time-series/demo/families-and-households/hh-4.pdf; Ortiz-Ospina, The Rise of Living Alone (Dec. 10, 2019), https://ourworldindata.org/living-alone; Smith, Cities With the Most Adults Living Alone (May 4, 2020), https://www.self.inc/blog/adults-living-alone.

[4] See B. Moreland, R. Kakara, & A. Henry, Trends in Nonfatal Falls and Fall-Related Injuries Among Adults Aged ≥65 Years—United States, 2012–2018, 69 Morbidity and Mortality Weekly Rep. 875 (2020).

[5] See, *e.g.*, J. Gurley, N. Lum, M. Sande, B. Lo, & M. Katz, Persons Found in Their Homes Helpless or Dead, 334 New Eng. J. Med. 1710 (1996).

in the meantime, courts may be required to grapple with the basic Fourth Amendment question of reasonableness.

6. The three categories of cases discussed above are simply illustrative. Searches and seizures conducted for other non-law-enforcement purposes may arise and may present their own Fourth Amendment issues. Today's decision does not settle those questions.

* * *

In sum, the Court properly rejects the broad "community caretaking" theory on which the decision below was based. The Court's decision goes no further, and on that understanding, I join the opinion in full.

SUPREME COURT OF THE UNITED STATES

No. 20–157

EDWARD A. CANIGLIA, PETITIONER *v.*
ROBERT F. STROM, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

[May 17, 2021]

JUSTICE KAVANAUGH, concurring.

I join the Court's opinion in full. I write separately to underscore and elaborate on THE CHIEF JUSTICE's point that the Court's decision does not prevent police officers from taking reasonable steps to assist those who are inside a home and in need of aid. See *ante,* at 1 (ROBERTS, C. J., concurring). For example, as I will explain, police officers may enter a home without a warrant in circumstances where they are reasonably trying to prevent a potential suicide or to help an elderly person who has been out of contact and may have fallen and suffered a serious injury.

Ratified in 1791 and made applicable to the States in 1868, the Fourth Amendment protects the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." As the constitutional text establishes, the "ultimate touchstone of the Fourth Amendment is reasonableness." *Riley* v. *California*, 573 U. S. 373, 381 (2014) (internal quotation marks omitted). The Court has said that a warrant supported by probable cause is ordinarily required for law enforcement officers to enter a home. See U. S. Const., Amdt. 4. But drawing on common-law analogies and a commonsense appraisal of what is "reasonable," the Court has recognized various situations where a warrant is not required. For example, the exigent circumstances doctrine allows officers to enter a

home without a warrant in certain situations, including: to fight a fire and investigate its cause; to prevent the imminent destruction of evidence; to engage in hot pursuit of a fleeing felon or prevent a suspect's escape; to address a threat to the safety of law enforcement officers or the general public; to render emergency assistance to an injured occupant; or to protect an occupant who is threatened with serious injury. See *Mitchell* v. *Wisconsin*, 588 U. S. ___, ___ (2019) (plurality opinion) (slip op., at 6); *City and County of San Francisco* v. *Sheehan*, 575 U. S. 600, 612 (2015); *Kentucky* v. *King*, 563 U. S. 452, 460, 462 (2011); *Michigan* v. *Fisher*, 558 U. S. 45, 47 (2009) (*per curiam*); *Brigham City* v. *Stuart*, 547 U. S. 398, 403 (2006); *Minnesota* v. *Olson*, 495 U. S. 91, 100 (1990); *Michigan* v. *Clifford*, 464 U. S. 287, 293, and n. 4 (1984) (plurality opinion); *Mincey* v. *Arizona*, 437 U. S. 385, 392–394 (1978); *Michigan* v. *Tyler*, 436 U. S. 499, 509–510 (1978); *United States* v. *Santana*, 427 U. S. 38, 42–43 (1976); *Warden, Md. Penitentiary* v. *Hayden*, 387 U. S. 294, 298–299 (1967); *Ker* v. *California*, 374 U. S. 23, 40–41 (1963) (plurality opinion).

Over the years, many courts, like the First Circuit in this case, have relied on what they have labeled a "community caretaking" doctrine to allow warrantless entries into the home for a non-investigatory purpose, such as to prevent a suicide or to conduct a welfare check on an older individual who has been out of contact. But as the Court today explains, any such standalone community caretaking doctrine was primarily devised for searches of cars, not homes. *Ante*, at 3–4; see *Cady* v. *Dombrowski*, 413 U. S. 433, 447–448 (1973).

That said, this Fourth Amendment issue is more labeling than substance. The Court's Fourth Amendment case law already recognizes the exigent circumstances doctrine, which allows an officer to enter a home without a warrant if the "exigencies of the situation make the needs of law en-

forcement so compelling that the warrantless search is objectively reasonable under the Fourth Amendment." *Brigham City*, 547 U. S., at 403 (internal quotation marks omitted); see also *ante,* at 3. As relevant here, one such recognized "exigency" is the "need to assist persons who are seriously injured or threatened with such injury." *Brigham City*, 547 U. S., at 403; see also *ante,* at 1 (ROBERTS, C. J., concurring). The Fourth Amendment allows officers to enter a home if they have "an objectively reasonable basis for believing" that such help is needed, and if the officers' actions inside the home are reasonable under the circumstances. *Brigham City*, 547 U. S., at 406; see also *Michigan* v. *Fisher*, 558 U. S., at 47–48.

This case does not require us to explore all the contours of the exigent circumstances doctrine as applied to emergency-aid situations because the officers here disclaimed reliance on that doctrine. But to avoid any confusion going forward, I think it important to briefly describe how the doctrine applies to some heartland emergency-aid situations.

As Chief Judge Livingston has cogently explained, although this doctrinal area does not draw much attention from courts or scholars, "municipal police spend a good deal of time responding to calls about missing persons, sick neighbors, and premises left open at night." Livingston, Police, Community Caretaking, and the Fourth Amendment, 1998 U. Chi. Leg. Forum 261, 263 (1998). And as she aptly noted, "the responsibility of police officers to search for missing persons, to mediate disputes, and to aid the ill or injured has never been the subject of serious debate; nor has" the "responsibility of police to provide services in an emergency." *Id.,* at 302.

Consistent with that reality, the Court's exigency precedents, as I read them, permit warrantless entries when police officers have an objectively reasonable basis to believe that there is a current, ongoing crisis for which it is reason-

able to act now. See, *e.g.*, *Sheehan*, 575 U. S., at 612; *Michigan* v. *Fisher*, 558 U. S., at 48–49; *Brigham City*, 547 U. S., at 406–407. The officers do not need to show that the harm has already occurred or is mere moments away, because knowing that will often be difficult if not impossible in cases involving, for example, a person who is currently suicidal or an elderly person who has been out of contact and may have fallen. If someone is at risk of serious harm and it is reasonable for officers to intervene now, that is enough for the officers to enter.

A few (non-exhaustive) examples illustrate the point.

Suppose that a woman calls a healthcare hotline or 911 and says that she is contemplating suicide, that she has firearms in her home, and that she might as well die. The operator alerts the police, and two officers respond by driving to the woman's home. They knock on the door but do not receive a response. May the officers enter the home? Of course.

The exigent circumstances doctrine applies because the officers have an "objectively reasonable basis" for believing that an occupant is "seriously injured or threatened with such injury." *Id.*, at 400, 403; cf. *Sheehan*, 575 U. S., at 612 (officers could enter the room of a mentally ill person who had locked herself inside with a knife). After all, a suicidal individual in such a scenario could kill herself at any moment. The Fourth Amendment does not require officers to stand idly outside as the suicide takes place.[1]

Consider another example. Suppose that an elderly man is uncharacteristically absent from Sunday church services

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[1] In 2019 in the United States, 47,511 people committed suicide. That number is more than double the number of annual homicides. See Dept. of Health and Human Servs., Centers for Disease Control and Prevention, D. Stone, C. Jones, & K. Mack, Changes in Suicide Rates—United States, 2018–2019, 70 Morbidity and Mortality Weekly Rep. 261, 263 (2021) (MMWR); Dept. of Justice, Federal Bureau of Investigation, Uniform Crime Report, Crime in the United States, 2019, p. 2 (2020).

and repeatedly fails to answer his phone throughout the day and night. A concerned relative calls the police and asks the officers to perform a wellness check. Two officers drive to the man's home. They knock but receive no response. May the officers enter the home? Of course.

Again, the officers have an "objectively reasonable basis" for believing that an occupant is "seriously injured or threatened with such injury." *Brigham City*, 547 U. S., at 400, 403. Among other possibilities, the elderly man may have fallen and hurt himself, a common cause of death or serious injury for older individuals. The Fourth Amendment does not prevent the officers from entering the home and checking on the man's well-being.[2]

To be sure, courts, police departments, and police officers alike must take care that officers' actions in those kinds of cases are reasonable under the circumstances. But both of those examples and others as well, such as cases involving unattended young children inside a home, illustrate the kinds of warrantless entries that are perfectly constitutional under the exigent circumstances doctrine, in my view.

With those observations, I join the Court's opinion in full.

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[2]In 2018 in the United States, approximately 32,000 older adults died from falls. Falls are also the leading cause of injury for older adults. B. Moreland, R. Kakara, & A. Henry, Trends in Nonfatal Falls and Fall-Related Injuries Among Adults Aged ≥ 65 Years—United States, 2012–2018, 69 MMWR 875 (2020).

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