SUPREME COURT COPY

Case No. S247235

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PEOPLE OF THE STATE OF CALIFORNIA,
Petitioners,

v.

WILLIE OVIEDA,
Respondent,

SUPREME COURT
FILED

FEB 26 2019

Jorge Navarrete Clerk

Deputy

After a Decision by the Court of Appeal,
Second Appellate District, Division Three, Case No. B277860
Santa Barbara County Superior Court, Case No. 1476460
(Hon. Jean Dandona)

REQUEST FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF SOUTHERN CALIFORNIA IN SUPPORT OF WILLIE OVIEDA
AND
AMICUS CURIAE BRIEF OF AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF SOUTHERN CALIFORNIA IN SUPPORT OF REAL PARTY IN INTEREST WILLIE OVIEDA

PETER BIBRING (SBN 22398)
PBibring@aclusocal.org
IAN M. KYSEL (SBN 316059)
IKysel@aclusocal.org
ACLU FOUNDATION
OF SOUTHERN CALIFORNIA
1313 West Eighth Street
Los Angeles, California 90017
1851 East First Street
Santa Ana, California 92705
Telephone: (213) 977-5295
Facsimile: (213) 977-5297

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Pursuant to California Rule of Court 8.520, the American Civil Liberties Union Foundation of Southern California ("ACLU SoCal") respectfully requests leave to file, as *amicus curiae*, the accompanying brief in support of Defendant-Appellant's Willie M. Ovieda's request that this Court reverse the Court of Appeals. (Cal. Rule Ct. 8.520(f).) ACLU SoCal writes in support of Defendant-Appellant's appeal from the Court of Appeals' ruling in favor of Plaintiff and Respondent.[1]

Counsel for ACLU SoCal acknowledges that such application was due to be filed with the Chief Justice by February 14, 2019, and respectfully requests that the Chief Justice allow the brief to be filed two court days late, on February 19, 2019. Counsel for proposed *amicus* became ill in the course of preparing the attached brief, delaying its drafting in a manner not anticipated. Counsel has also communicated with the Parties about the late filing, and Counsel for both Defendant-Appellant Mr. Ovieda and Plaintiff and Respondent have authorized counsel for proposed *amicus curiae* to represent that neither objects to the instant filing of this brief and that neither objects to the instant late filing, made on February 19, 2018. Counsel therefore respectfully requests that this Court exercise its discretion and allow the instant late filing of the present application to serve as *amicus curiae*.[2]

ACLU SoCal is a civil rights organization dedicated to defending the

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[1] Pursuant to California Rule of Court 8.520(f)(4), proposed *amicus* ACLU SoCal hereby certifies that no Party or counsel for a Party in the pending appeal has (1) authored the attached proposed amicus brief, in whole or in part, nor (2) made a monetary contribution intended to fund the preparation or submission of the brief.

[2] Counsel for proposed *amicus* was unable to complete the attached brief until today, February 19, 2019, and was therefore unable to file the instant application sooner, in light of the requirement that such brief accompany such application. (Cal. Rule Ct. 8.520(f)(5).)

constitutional rights of the most vulnerable, including those accused of criminal offenses, persons deprived of their liberty, and persons with disabilities. Since its founding in 1923, ACLU SoCal has frequently participated in matters before the courts in matters implicating human rights and civil rights and civil liberties. ACLU SoCal therefore has a strong interest in the application of the Constitution to entries into homes and searches or seizures, including those purportedly to aid individuals who are seriously injured or at imminent risk of serious injury, whether or not they are suspected or accused of a criminal offense by the state. *Amicus* has a significant interest in a robust Fourth Amendment and case law that confers an expansive view and heightened protection of the need for the quiet enjoyment of privacy against governmental intrusion *in the home*.

ACLU SoCal has filed *amicus* briefs in a number of cases addressing the proper scope of searches under the Fourth Amendment, including *People v. Macabeo*, 1 Cal. 5th 1206 (2016) (addressing scope of search incident to arrest in connection with search of cell phone); *People v. Buza*, 231 Cal. App. 4th 1446 (2014) *review granted and opinion superseded*, 342 P.3d 415 (Cal. 2015) (regarding constitutionality of requiring arrestees to provide DNA samples); and *United States v. Pool*, 621 F.3d 1213 (9th Cir. 2010) (same); *City of Ontario, Cal. v. Quon*, 560 U.S. 746 (2010) (addressing constitutionality of employer's search of pager text messages). ACLU SoCal has also represented parties in numerous cases regarding the appropriate scope of police authority to conduct searches in different circumstances, including *Fazaga v. FBI*, 884 F. Supp. 2d 1022 (C.D. Cal. 2012) (challenge to the FBI's surveillance of mosques in Orange County); *Gordon v. City of Moreno Valley*, 687 F. Supp. 2d 930 (C.D. Cal. 2009) (suit over warrantless raid-style searches of African American-run barbershops); *Fitzgerald v. City of Los Angeles*, 485 F. Supp. 2d 1137 (C.D. Cal. 2007) (suit targeting unlawful searches and detentions in Skid Row area of Los Angeles); and

United States v. City of Los Angeles, 2001 U.S. Dist. LEXIS 26968 (C.D. Cal. Jan. 4, 2001) (representing community intervenors in consent decree brought by United States Department of Justice, which addressed in part issues around searches).

Amicus seeks to aid the Court by presenting arguments grounded in analysis of U.S. Supreme Court and federal court jurisprudence not presented or adequately addressed by the Parties along with potential practical consequences of a ruling against Defendant-Appellant.

CONCLUSION

For the foregoing reasons, ACLU SoCal respectfully requests that the Chief Justice allow the brief to be filed two court days late, on February 19, 2019.

Dated: February 19, 2019

Respectfully submitted,

By: /s/
Ian M. Kysel

AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF SOUTHERN CALIFORNIA
Attorneys for Amicus

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INTRODUCTION

I. Introduction

"At the very core of the Fourth Amendment 'stands the right of a [person] to retreat into [their] own home and there be free from unreasonable governmental intrusion." (*Kyllo v. United States*, 533 U.S. 27, 31 (2001) (internal citations and quotations omitted).) As the U.S. Supreme Court has repeatedly recognized, the home bears special protection under the Fourth Amendment, rooted in the text of its guarantee of the "right of the people to be secure in their persons, houses, papers, and effects." (U.S. Const. amend. IV.) The Court has recognized that, where the warrant requirement is concerned, "the Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant." (*Payton v. New York*, 445 U.S. 573, 590 (1980).) These protections extend to intrusions for all reasons, not just for purposes of criminal investigation. Indeed, the Court has underscored that it would be "anomalous" to view the warrant requirement as "fully protect[ing]" the home "only when [an] individual is suspected of criminal behavior" because "even the most law-abiding citizen has a very tangible interest in limiting the circumstances under which the sanctity of [their] home may be broken by official authority. (*Camara v. Mun. Court*, 387 U.S. 523, 530-31 (1967).). The U.S. Supreme Court has jealously guarded this protection and never permitted an exception to the warrant requirement for searches of the home other than in circumstances that constitute exigent or emergency circumstances.

The government asks this Court to change that. It seeks to defend the warrantless search in this case, not under any recognized exception to the warrant requirement for entry into private homes, such as that for emergency aid, but by asking this Court adopt a new justification for warrantless entry of private homes by officers of the state seeking to perform "community

caretaking" functions, such as "assist[ing] those who cannot care for themselves," "resolv[ing] conflict," "creat[ing] and maintain[ing] a feeling of security in the community," "helping stranded motorists," or "returning lost children to anxious parents." (Resp't's Answer Br. on the Merits at 13-14; *People v. Ray*, 21 Cal.4th 464, 467, 471 (1999) (Opinion of Brown J., with Kennard and Baxter concurring).) The rule sought by the government and adopted by the Court of Appeal would fundamentally changes Fourth Amendment protections for the home by, for the first time, allowing police to enter a home without either a warrant or any exigency or emergency.

The new exception urged by the government builds on *dicta* about "community caretaking" from a U.S. Supreme Court in *Cady v. Dombrowski*, 413 U.S. 433 441, 442-443, 447-448 (1973), approving a search of a car – an "effect," rather than a "house" – for the proposition that officers of the state should have such powers to enter into and search and seize within houses. (Resp't's Answer Br. on the Merits at 19-20.).) But *Cady* carefully cabined what has become known as the inventory exception to the warrant requirement, specifically distinguishing between cars and homes and directing that their rationale for permitting searches of *effects* could and should not justify searches of *houses*. (*Cady*, 413 U.S. at 430-442.)

The U.S. Supreme Court has *never* recognized a "community caretaking" justification for a warrantless entry into a home, and has repeatedly affirmed that warrantless entry into and search or seizure within the home is permissible only in "an exigency or emergency" where officers have "an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such [serious] injury." (*Brigham City*, 547 U.S. at 400. *Accord*, *Fisher*, 558 U.S. 45, 47 (2009); *Ryburn v. Huff*, 565 U.S. 469, 474 (2009).) Nor has this Court ever adopted such a rule – while Justice Brown suggested the rationale in an opinion joined by two other Justices in *Ray*, 21 Cal.4th at 467, 471, "community caretaking"

as a basis for warrantless searches of the home has never been adopted by a majority or even plurality of this Court, and should now be rejected as unconstitutional.

The government's rule would work a sea change in Fourth Amendment law by permitting, as a matter of federal constitutional law in this jurisdiction, police to entry into private homes without a warrant and regardless of whether the facts support a reasonable inference a person is at imminent risk of serious injury within. The rule the government seeks would have profound results: allowing searches of homes in response to tens or perhaps hundreds of thousands of 911 calls because officers might view such circumstances as justifying entry, search and seizure as a way to care for the community rather than in response to an exigency or emergency, without a warrant and regardless of whether there is consent. As a further consequence, such a rule is likely to make those experiencing a physical or behavioral health crisis *less* likely to seek aid, for fear that police do view their expectation of privacy in the home as reasonable.

The government's proposal may be well-intentioned. But the U.S. Supreme Court has admonished that the Fourth Amendment must interpreted "so as to prevent stealthy encroachment upon or gradual depreciation of the rights secured by [it], by imperceptible practice of courts or by well-intentioned, but mistakenly overzealous executive officers." (*Gouled v. United States*, 255 U.S. 298, 303-304 (1921) (internal citations omitted) *abrogated on other grounds by Warden, Maryland Pennitentiary v. Hayden*, 387 U.S. 294 (1967).) Anything other than a narrow ruling upholding that the warrant requirement applies to home entries absent a true exigency or emergency threatens to, "obliterate one of the most fundamental distinctions between our form of government, where officers are under the law, and the police-state where they are the law." (*Johnson v. United States*, 333 U.S. 10,

17 (1948) (internal quotations and citations omitted).) We strongly urge this Court to reverse the ruling of the Court of Appeals.

II. Statement of Facts and Procedural History

Defendant-Appellant Mr. Ovieda (hereinafter "Mr. Ovieda") makes much of the facts underlying the entry and search of his home and attached garage; the government makes little of them.[1] Though the record is limited, there are a few key facts which, together, demonstrate that the warrantless entry and search at issue here was unconstitutional.

On June 17, 2005, sometime after 8:46 pm, police officers entered Mr. Ovieda's home without a warrant to conduct a search. (Clerk's Transcript (hereinafter "CT") 29.) Officers testified that they made the plan to enter and search his house while Mr. Ovieda and others were still inside and before all witnesses had been interviewed;[2] officers in fact entered and searched only *after* they detained Mr. Ovieda (handcuffing him *after* he *consented* to a search of his person (Reporter's Transcript (hereinafter "RT") 39:2-4)) and *after* all witnesses had exited and been interviewed. (*See, e.g.*, RT 44:22-28; 39:2-6.) No evidence in the record suggests officers ever sought Mr. Ovieda's consent to enter and search his home.[3]

---

[1] *Compare* Appellant's Opening Br. at 17-20 *with* Resp't's Answer Br. on the Merits at 10-11.

[2] Officer Corbett, who conducted the search, testified that after Mr. Case emerged from Mr. Ovieda's home but while both Mr. Ovieda and Ms. Woellert were inside the home, he "spoke with other officers on scene . . . and made a plan to conduct a protective sweep and then start to interview people and get Mr. Ovieda secure." (RT 24: 27-25:3.) Note that Officer Corbett also testified that this plan may have been made even before Mr. Case exited the home and was interviewed. (RT 26:24-27:5 ("We got there. We surrounded the house. We made a plan. We spoke with Mr. Case on the phone.").)

[3] *See* CT 66 ("[Mr. Ovieda] was upset that his residence was searched without his permission."). It is not clear what the factual basis of the government's

At trial, officers described the situation as, at least initially, "emotional," "dynamic," and "volatile" (RT 9:2; 13:1-2), and invoked and presented testimony to support three justifications for their warrantless entry and search: First, a desire to render aid to unidentified others; second, a desire to prevent harm to Mr. Ovieda, arising from reports that Mr. Ovieda had expressed suicidal ideation a matter of hours before officers arrived and that he owned weapons that had since been removed from his home, by searching for and seizing his guns; and, third, a desire to investigate illegal activity.

As to the first justification, testimony shows that at the time that police entered Mr. Ovieda's home, every reasonable inference suggested it was unoccupied. Police testified that they knew of the involvement of only five people other than Mr. Ovieda who may have been connected to events leading to the officers' arrival. Police dispatchers determined that the two 911 callers, Mr. Ovieda's brother and sister, were never present at Mr. Ovieda's home during the expression of suicidal ideation. (RT 8:27-28; 41:15-23.) Officers determined that a third person, Mr. Ovieda's roommate and the owner of the home, was in another state. (RT 43:10-26.) Mr. Case and Ms. Woellert, the fourth and fifth, exited the home when asked by officers to do so via telephone. (RT 9: 23-25; 11:1-7.) In light of this, officers concluded that "[they] didn't have any specific information that led [them] to believe somebody else was inside" at the time of entry. (RT 42:28-43:1.) Not a single additional fact was cited by officers to support an inference that there was anyone inside who might have been seriously injured or face an imminent threat of serious injury or indeed might exist and need

statement that "police were unable to obtain the consent" of Mr. Ovieda. (Resp't's Answer Br. on the Merits at 34 n. 16.). It is not common parlance to suggest that one is unable to obtain content without first making an attempt to do so.

to be cared for at all, but officers specifically described this speculation as motivating the warrantless entry and search.[4]

As to the second justification, preventing harm to Mr. Ovieda, testimony shows that at the time they entered and searched his home, officers had handcuffed Mr. Ovieda and "safely detain[ed]" him in the back of a patrol car. (RT 39:2-6; 51:25.) Before the entry and search, officers also "interviewed" Mr. Ovieda, who told them that he had not made "suicidal comments,"[5] though he was depressed; Mr. Ovieda also told officers that he did not "hav[e] any access to firearms." (RT 39:4-5; 39:7-10; 42:9-13.) Indeed, officers testified that, by that point, they had already interviewed Mr. Case and determined that he had removed Mr. Ovieda's firearms from the

[4] Testimony by Officer Corbett states that he "conducted what we call a protective sweep to secure the premises to make sure there were no additional parties inside, nobody armed, nobody injured, no one in need of assistance" and did so because "[t]here could be a myriad of things that could occur. For example, there could be a child hiding out of fear, there could be somebody injured, somebody may have been injured by the suicidal subject, could be a domestic situations" and because "we felt duty bound to secure the premises and make sure there were no people inside that were injured or in need of assistance" (RT 11:18-22; 12:2-6; 12:17-24.) However, Officer Corbett also confirmed that he was never given any information from the key witness on the scene, Mr. Case, which could have suggested that there was anyone else in the home. (RT 23:6-8.) Testimony by Officer Garcia states that the "safety search" or "safety sweep" was conducted "to confirm there were no other people, nobody else [sic] was hurt" and that "due to the circumstances, the mention and possibility of live firearms inside, we wanted to confirm no one else was inside hurt or possible waiting to cause anyone harm." (RT 39:26-40:1; 40:26-41:1.) However, as noted, Officer Garcia also testified that, "[officers] didn't have any specific information that led [them] to believe someone else was inside" at the time of entry. (RT 42:28-43:1.)

[5] At some point, officers also learned that Mr. Ovieda had apparently previously attempted to take his own life. (RT 38:15-19.)

home as many as several hours earlier (ending such access).[6] Nothing in the record shows whether officers sought the advice of or requested the presence of behavioral or other health experts on the scene *before* making a warrantless entry of his home – nor, even, that they asked Mr. Ovieda any particular questions about his health.[7] Yet the clear implication is that officers intended to search and did seize Mr. Ovieda's firearms in order to

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[6] The transcript suggests that witnesses on the scene stated to officers that Mr. Ovieda had expressed a desire to access and use the firearms he owned, and may have briefly held a handgun, hours earlier, but that Mr. Case and Ms. Woellert had successfully prevented Mr. Ovieda from having access to such weapons by removing them from the home. Officer Corbett's nearly contemporaneous police report indicated that dispatch had advised officers that "[Mr. Ovieda] had been in possession of a gun, however some friends had taken the gun away[];" but he testified that before entering, he understood that "Mr. Ovieda had been suicidal and . . . was [previously] trying to attempt to access firearms." (RT 9:26-10:3; 20: 16:18.) Officer Garcia testified that he understood on arrival that "the subject who was having the suicidal thoughts or comments had possibly been in possession of a firearm within . . . an hour or two prior to our response," (RT 35:16-20.) but also that he learned on the scene, from Mr. Case, that "Willie [Ovieda] had attempted to grab a firearm," had "made comments to [Mr. Case] that [Mr. Ovieda] wanted to end it as [Mr. Ovieda] tried to grab hold of a firearm" and that Mr. Case and Ms. Woellert had "restrain[ed] [Mr. Ovieda] in order to remove the firearms from his possession" and that Mr. Case and Ms. Woellert had indeed then removed what they believed to be all of the firearms from the house. (RT 37:6-27.). Later, Officer Garcia testified that he understood that "Mr. Ovieda had grabbed a handgun . . . Once he reached for the handgun, Mr. Case and [Ms. Woellert] attempted to take it from him. After they removed that handgun from him . . . Mr. Ovieda then reached into the closet, attempting to grab another firearm which was found to be a rifle, and at that point is when Mr. Case's wife was able to physically detain Mr. Ovieda as Mr. Case removed those firearms that he could find and safely secure them in the [detached] garage." (RT 46:13-24.)

[7] As noted below, at some point officers did seek to have mental health professionals evaluate Mr. Ovieda. (*See infra* FN 10 and accompanying text.)

prevent harm to him.[8] (CT 64 ("The defendant's firearms were removed from the residence due to his suicidal statements.")

As to the third justification, investigating illegal activity, Officer Garcia testified under oath that, "we conducted our investigation and interview with everyone involved, [and] we did it safely to make sure no one [was] . . . involved in any *illegal possession* or use of weapons or firearms."[9] (RT 43:5-9 (emphasis supplied).) There is nothing further in the record examining whether this justification was in fact the predominant one; it is plain that this justification cannot legally support the warrantless entry.

Following their warrantless entry and search, officers discovered contraband that Mr. Ovieda now seeks to suppress. They then arrested Mr. Ovieda pursuant to open misdemeanor warrants. (CT 64.) It is not clear when officers learned about the open warrants or determined that they would take Mr. Ovieda into custody. Mr. Ovieda appears not to have been formally charged for offenses related to the contraband until two days later. (CT 1-3.)

---

[8] While the entire Police Report does not appear to be part of the record, the County of Santa Barbara Probation Department Presentencing Report summarizing the Police Report indicates that "[t]he defendant's firearms were removed from the residence due to his suicidal statements." (CT 64.) Trial testimony similarly implies was that officers believed that securing firearms was necessary because Mr. Ovieda had previously expressed suicidal ideation, but officers were not examined about this at trial. Officer Garcia testified that the entry and search was also conducted to confirm "there were no other dangerous weapons or firearms out in the open" (RT 39:28-40:1) because "we did not know if there were any other weapons or firearms that were not found by the friends on scene . . . A safety sweep of the house due to the circumstances was necessary to determine that." (RT 43:2-5.)

[9] The Trial Court expressly "found the officers' testimony credible regarding . . . what they were concerned about" and did not otherwise specifically discuss Officer Garcia's sworn testimony that officers were partially motivated by an interest in investigating suspected illegal conduct. (RT 53.)

At some point, officers contacted Santa Barbara Crisis and Recovery Emergency Services ("CARES"), a mobile crisis response staffed by mental health professionals,10 which evaluated Mr. Ovieda and "determined that [Mr. Ovieda] was not a danger to himself or others." (CT 64.) It is not clear whether officers contacted Santa Barbara CARES as a matter of protocol or affirmatively, based on their investigation. It is also not clear whether this evaluation and determination occurred at Mr. Ovieda's home before officers arrested him or at the Santa Barbara County Jail, where officers later transported him. (CT 64.)

The relevant procedural history is addressed at length in the parties' briefs. (*See* Appellant's Opening Br. at 14-17; Resp't's Answer Br. on the Merits at 11-13.).

ARGUMENT

III. Argument

The rule the government advances, which would permit an entry and search of Mr. Ovieda's home without any specific reason to believe there was anybody in the home who needed aid and when Mr. Ovieda was already detained and without an exigency or emergency. This would create an exception that threatens to eviscerate the Fourth Amendment's warrant requirement. Indeed, the rule proposed by the government could create a precedent squarely at odds with U.S. Supreme Court jurisprudence and the Fourth Amendment in such factual situations for four reasons:

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[10] Santa Barbara County Department of Behavioral Wellness, Behavioral Health Services for Adults https://www.countyofsb.org/behavioral-wellness/adultservices.sbc (last visited Feb. 12, 2019) ("Consolidates intake, mobile crisis response and access to service for mental health and alcohol and drug emergencies. Staffed by mental health professionals, CARES provides crisis support on a 24/7 basis").

First, the Supreme Court has repeatedly and emphatically held that warrantless entries into and searches or seizures in the home are permissible under the Fourth Amendment only in an exigency or emergency. Second, the Supreme Court has refused to extend the "community caretaking" exception, which permits searches of "effects" in specific circumstances, to permit entry into or search or seizure within the home, contrary to the expansive new exception urged by the government (i.e., "[an] objectively reasonable need to act in furtherance of a community caretaking function" (Resp't's Answer Br. on the Merits at 22). Third, any broad ruling by this Court affirming this new non-exigency, non-emergency exception to the Fourth Amendment's protection of the home from warrantless entry, search or seizure would be radically inconsistent with reasonable expectations of privacy in the home and would threaten the protections the Fourth Amendment provides. Finally, no exception to the Fourth Amendment's warrant requirement justifies the entry and search of Mr. Ovieda's home at issue here.[11]

A. The Fourth Amendment Permits Warrantless Entry and Search of a Home for the Purposes of Protection Only Where Exigent or Emergency Circumstances Make it Objectively Reasonably to Provide Emergency Assistance to Someone who is Seriously Injured or to Prevent Imminent Serious Injury Within

The U.S. Supreme Court and this Court have repeatedly affirmed the special protections conferred on the home by the Constitution's Fourth Amendment and continued vitality of the warrant requirement. (*See, e.g.*, *Kyllo v. United States*, 533 U.S. 27, 31 (2001) ("At the very core of the Fourth

[11] Because the Parties have extensively litigated and interpreted state law precedent, *amicus* will focus on federal court decisions interpreting the Fourth Amendment.

Amendment stands the right of a [person] to retreat into [their] own home and there be free from unreasonable governmental intrusion. With few exceptions, the question whether a warrantless search of a home is reasonable and hence constitutional must be answered no.") (internal citations and quotations omitted); *Riley v. California*, 573 U.S. 373, 402-03 (2014) (applying warrant requirement to searches of cellphones incident to arrest); *People v. Rogers*, 46 Cal. 4th 1136, 1156 (2009) ("Because a warrantless entry into a home to conduct a search and seizure is presumptively unreasonable under the Fourth Amendment, the government bears the burden of establishing that exigent circumstances or another exception to the warrant requirement justified the entry.") (internal citation omitted).).

The rationale for and scope of such protections are not grounded merely in protections against investigations of crime, but rather in an expansive view and heightened protection of the need for the quiet enjoyment of privacy against governmental intrusion *in the home*. (*Payton v. New York*, 445 U.S. 573, 585 (1980) ("[T]he physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.") (internal quotations and citation omitted); *Silverman v. United States*, 365 U.S. 505, 511 (1961) ("At the very core [of the Fourth Amendment] stands the right of a [person] to retreat into [their] own home and there be free from unreasonable governmental intrusion."); *People v. Dumas*, 9 Cal.3d 871, 882 (1973) ("The courts have implicitly recognized that [people] require[] some sanctuary in which [their] freedom to escape the intrusions of society is all but absolute. Such places have been held inviolate from warrantless search except in emergencies of overriding magnitude, such as pursuit of a fleeing felon or the necessity of action for the preservation of life or property.") (internal citations omitted).)

The U.S. Supreme Court has held that, because entry into and searches or seizures within a home are presumptively unreasonable, such presumption

can be overcome – and an exception to the warrant requirement allowed – only when "the exigencies of the situation make the needs of law enforcement so compelling that a warrantless search is objectively reasonable under the Fourth Amendment." (*Kentucky v. King*, 563 U.S. 452, 459-60 (2011) (internal quotations and citation omitted). *See also Mincey v. Arizona*, 437 U.S. 385, 392-93 (1978) ("We do not question the right of the police to respond to emergency situations. Numerous state and federal cases have recognized that the Fourth Amendment does not bar police officers from making warrantless entries and searches when they reasonably believe that a person within is in need of immediate aid . . . But a warrantless search must be strictly circumscribed by the exigencies which justify its initiation.") (internal quotations and citations omitted).) The Court has recognized a limited number of such exigencies that allow warrantless entry into a home, including "to fight a fire and investigate its cause, to prevent the imminent destruction of evidence, or to engage in "'hot pursuit' of a fleeing suspect." (*Brigham City, Utah v. Stuart*, 547 U.S. 398, 403 (2006) (internal quotations and citations omitted). The exception permitting officers to enter a home in an exigency or emergency to render aid to a seriously injured occupant or protect an occupant from imminent serious injury, is thus one of only a very few paradigmatic exigencies recognizes by the Court. (*King*, 563 U.S. at 460.)[12]

In all the Court's cases, *exigency* remains the common requirement for warrantless entry into a home: "In terms that apply equally to seizures of property and to seizures of persons, the Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant." (*Payton*, 445 U.S. at 590. *Accord*, *King*, 563 U.S. at 460 (quoting *Payton*); *Wayne v. United States*, 318