

No. A-\_\_\_\_\_

**In the Supreme Court of the United States**

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WILLIAM TREVOR CASE,  
PETITIONER

*v.*

STATE OF MONTANA,  
RESPONDENT

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*APPLICATION FOR AN EXTENSION OF TIME TO FILE  
A PETITION FOR A WRIT OF CERTIORARI TO THE MONTANA SUPREME COURT*

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**APPLICATION OF PETITIONERS TO THE  
HONORABLE ELENA KAGAN AS CIRCUIT JUSTICE**

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**UNOPPOSED APPLICATION FOR EXTENSION OF TIME**

To the Honorable Elena Kagan, as Circuit Justice for the Supreme Court of Montana:

In accordance with this Court's Rules 13.5, 22, 30.2 and 30.3, Applicant William Trevor Case respectfully requests that the time to file his petition for a writ of certiorari be extended for 30 days, up to and including December 4, 2024. The Supreme Court of the State of Montana issued its opinion on August 6, 2024 (Exhibit A). Absent an extension of time, the petition would be due on Monday, November 4, 2024. The jurisdiction of this Court is based on 28 U.S.C. § 1254(1). The State of Montana consents to this request.

## **JUDGMENT FOR WHICH REVIEW IS SOUGHT**

The judgment for which review is sought is the decision of the Montana Supreme Court in *State of Montana v. William Trevor Case*, Case No. DA 23-0136, 2024 MT 165 (“Op.”) (attached). That decision, issued on August 6, 2024, affirmed Case’s criminal conviction on direct appeal from a jury trial on Montana state charges. In his appeal, Case argued that the trial court erred in failing to grant a motion to suppress evidence obtained following a warrantless search of Case’s home. Case argued that the entry and search violated his Fourth Amendment right against unreasonable search and seizure (as well as parallel state rights), and that the “community caretaking” exception was inapplicable under this Court’s decision in *Caniglia v. Strom*, 593 U.S. 194 (2021). The Montana Supreme Court rejected that challenge, holding that the warrantless entry was justified under the community caretaker exception.

## **JURISDICTION**

The judgment of the Montana Supreme Court was rendered on August 6, 2024. This Court has jurisdiction over any timely filed petition in this case pursuant to 28 U.S.C. §§ 1257(a) and 2101(d). Under Rule 13.1 of the Rules of this Court, a petition for certiorari is due to be filed on or before November 4, 2024. As required by Rule 13.5, this application is being filed more than 10 days before the petition is due.

## **BACKGROUND**

This petition arises from a warrantless entry into, and search of, Case’s home in September 2021.

Three officers responded to a call from Case’s ex-girlfriend, who said that Case had been drinking and that he told her, over the phone, that he planned to commit

suicide. Op. 2. The officers arrived at Case's home and called for backup. The officers were aware of Case's history of alcohol abuse and mental health issues and were concerned Case might be try to engage officers to shoot him—*viz.*, that he might attempt to engage in “suicide-by-cop.” *Id.* at 2, 4, 25.

The officers waited nearly an hour before making an entry. Op. 3. Case did not respond when the officers knocked on the door or when the officers yelled through an open window. *Ibid.* Through that window, the officers saw an open beer can, an empty gun holster, and a notepad on the table. *Ibid.*

Before going in, at least one officer mentioned that Case may not have shot himself and noted that Case had attempted suicide-by-cop on an earlier occasion. Op. 25 (McKinnon, J., dissenting). All of the officers agreed that it was unlikely that Case needed immediate aid. *Ibid.* Still, the officers entered the home and began clearing the rooms. *Id.* at 4. As one officer moved to the upstairs bedroom, Case appeared with a “dark object” near his waist. *Ibid.* The officer shot Case in the abdomen; as soon as Case fell, a second officer began administering first aid to Case. *Id.* at 4-5. Two more officers entered the room, and one of them secured a handgun that was in a laundry hamper. *Ibid.*

Case was taken in an ambulance to the hospital and later charged with Assault on a Peace Officer on October 1, 2021. Op. 5. Case filed a pretrial motion to suppress all evidence obtained by law enforcement in its “illegal search and seizure of Defendant and his residence.” *Id.* at 5-6. The motion to suppress was denied in relevant part, and the jury returned a guilty verdict on December 8, 2022. *Ibid.*

The Montana Supreme Court upheld the trial court’s suppression ruling, reasoning that the officers properly entered Case’s home under the “community caretaker” exception, as developed in Montana cases. Op. 17. Case had argued that this Court’s decision in *Caniglia v. Strom*, 593 U.S. 194 (2021), foreclosed application of the exception. There, this Court held that its acknowledgment of police officers’ “non-criminal ‘community caretaking functions,’” as articulated in *Cady v. Dombrowski*, 413 U.S. 433 (1973), did not “create[] a standalone doctrine that justifies warrantless searches and seizures in the home.” 593 U.S. at 196. This Court noted that warrantless entry may be justified under the “exigent circumstances” doctrine, including the “emergency aid” exception—where there is a “need to ‘render emergency assistance to an injured occupant or to protect an occupant from imminent injury.’” *Id.* (quoting *Kentucky v. King*, 563 U.S. 452, 460, 470 (2011)).

In a divided decision, however, the Montana Supreme Court held that its community caretaker test “comports with *Caniglia*,” and upheld the entry here. The majority reasoned that doctrine properly applies “when a peace officer acts on a duty to promptly investigate situations ‘in which a citizen may be in peril or need some type of assistance from an officer.’” Op. 7 (citation omitted). “[A]s long as there are objective, specific and articulable facts from which an experienced officer would suspect that a citizen is in need of help or is in peril,” the Court reasoned, the “officer has the right to stop and investigate.” *Id.* at 10. The Court specifically explained that prob-

able cause was not required when officers entered the home in a non-criminal situation. Op.11-12. Indeed, the Court suggested that the probable cause standard cannot be applied outside the criminal context. Op. 12-13.

Justice McKinnon dissented, in an opinion joined by Justices Gustafson and Sandefur. She noted that the majority “misapprehend[ed] *Caniglia*, which held that the community caretaker doctrine was *not* a standalone exception to the warrant requirement and did not permit warrantless entries into personal residences.” Op. 21. Applying the exigent circumstances test, Justice McKinnon would have “conclude[d] there was not sufficient probable cause or exigent circumstances which would justify the warrantless entry into Case’s home.” *Ibid.*

This case presents important questions about the ongoing validity of the community caretaker exception and its interplay with the emergency aid exception following *Caniglia*. The Montana Supreme Court read *Caniglia* to allow entries under its version of the community caretaking exception, even though *Caniglia* expressly rejected that exception as a free-standing doctrine. The Montana Supreme Court’s decision reflects the broad confusion in the lower courts regarding when warrantless entries of the home comport with *Caniglia*. While the Court stated that “the Fourth Amendment requires reasonable exigency to enter a home” (Op. 9), its reasoning suggests that warrantless entries would be permissible in circumstances where neither exigent circumstances nor the emergency aid exception would apply.

For example, the Court’s suggestion that officers may properly exercise community caretaking functions whenever “a citizen is in need of help” or “need[s] some

type of assistance” goes beyond situations involving *imminent* need. Yet, urgency is the hallmark of exigent circumstances and, particularly, the exception allowing officers “to render *emergency* assistance to an injured occupant or to protect an occupant from *imminent* injury.” *Caniglia*, 593 U.S. at 198 (citation omitted). Nor does the record support the majority’s suggestion that there was exigency here: as even the majority recognized, the officers were familiar with Case, and were more concerned that he would endanger them—*viz.*, that he would try “suicide-by-cop”—than himself. Op. 2, 4, 25. Indeed, there is no dispute that the officers waited nearly an hour before entering Case’s home. Because “circumstances are exigent only when there is not enough time to get a warrant,” *Caniglia*, 593 U.S. at 203 (Alito, J., concurring), that delay confirms that the exceptions outlined in *Caniglia* are inapplicable here.

The questions raised by the majority Opinion about when officers may properly enter a home to render aid go to the core of Fourth Amendment protections. Given the sanctity of the home, the baseline rule is that law enforcement cannot enter a home without a search warrant issued by a magistrate upon probable cause. *E.g.*, *Lange v. California*, 594 U.S. 295, 303 (2021). The exceptions to the search-warrant requirement—such as exigent circumstances and hot pursuit—are “jealously and carefully drawn.” *Id.* The Montana Supreme Court’s decision here provides an important opportunity for the Court to provide further guidance on the limitations and requirements for officers seeking to enter a home for purportedly non-criminal reasons.

## REASONS FOR GRANTING AN EXTENSION

Petitioner retained undersigned counsel as pro bono counsel for the purposes of filing a petition for certiorari. Counsel were not involved in the proceedings below, and require additional time to familiarize themselves with the record, research the complex issues presented in this case, and prepare a petition that will be most helpful to the Court. The legal issues in this case implicate the Court's substantial Fourth Amendment precedents concerning police officers' community caretaking functions and the exigent circumstances and emergency aid exceptions. Preparing the petition will require a close study of these precedents.

In addition, the undersigned counsel have had substantial professional commitments over the past several weeks, and will need to continue balancing commitments until the petition is filed. These commitments include:

- Oral argument before the U.S. Court of Appeals for the Ninth Circuit in *WalkingEagle v. Google*, CA No. 23-35465, on September 13, 2024. This appeal centers on novel issues of statutory construction involving Oregon consumer protection laws.
- Preparing and filing a reply brief in the U.S. Court of Appeals for the Tenth Circuit in *Munoz v. Conduent*, CA No. 24-2044, on Friday, September 27, 2024. This appeal centers on complex issues of federal arbitration law.
- Preparing and filing a reply brief in the New York Supreme Court Appellate Division (First Department) in *Skyview v. Conduent*, CA No. 650761/20, on Wednesday, October 9, 2024. This appeal arises from a \$60 million corporate acquisition and raises complex issues of contract and fraud law.

For these reasons, additional time is required to prepare the petition.

The State of Montana consents to the requested extension of time.



## CONCLUSION

For the foregoing reasons, Applicant requests that the time to file a writ of certiorari in the above-captioned matter be extended 30 days to and including December 4, 2024.

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