

No. 20-1247

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IN THE  
**Supreme Court of the United States**

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GERALD DIX,  
*Petitioner,*

v.

EDELMAN FINANCIAL SERVICES, LLC, ET AL.,  
*Respondents.*

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**On Petition For A Writ Of Certiorari  
To The United States Court of Appeals  
For the Seventh Circuit**

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**SUPPLEMENTAL BRIEF OF PETITIONER**

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## ARGUMENT

The Petitioner files this supplemental brief pursuant to Rule 15.8 of the Rules of this Court, to bring to the Court's attention the misrepresentations and omissions regarding this instant case by the parties in *Caniglia v. Strom* (No: 20-157). While the Petitioner was aware of *Caniglia* when he filed his petition, he was completely unaware that his complaint was misrepresented by the attorney, Marc DeSisto in his supplemental brief of the respondent, Robert Strom filed on October 27, 2020. The Petitioner has reviewed the pleadings and oral arguments in *Caniglia* and finds that this Court would benefit by reviewing the actual *facts* in this case before deciding whether the "community caretaking" exception to the Fourth Amendment's warrant requirement extends to the home. To support his position, Strom is relying on this instant case, specifically, the Seventh Circuit's opinion that even if there was a seizure of Mr. Dix during an eviction, it was reasonable based on the "community caretaking" doctrine available to police officers. *See Dix v. Edelman Fin. Servs.*, 978 F.3d 507, 517 (7th Cir. 2020). In this instant case, Mr. Dix was forcibly removed from his home and had some of his property seized by the Lisle police for purely financial reasons and the "community caretaking" function is merely a pretext to the unlawful, even criminal acts committed by the Lisle police. By reviewing this case, the Court will have a more suitable and much needed forum to help answer this important question which will have an enormous impact on Fourth Amendment rights which make the American home sacrosanct.

**I. This instant case provides a saner forum to resolve warrantless civil seizure in the home.**

In citing *Dix* in his supplemental brief, Strom deliberately omitted pertinent facts in this Petitioner's complaint which is primarily based on an illegal eviction performed by police in contravention of clearly established law – the Illinois Forcible Entry and Detainer Statute (735 ILCS 5/9-101) and this Court's nearly thirty-year precedent, *Soldal v. Cook County*, 506 U.S. 56 (1992) meant to protect Fourth Amendment rights of a home's occupants. (Dix Pet. p.1). In *Dix*, there were no weapons displayed or any threats or any allegations of threats or arguments between the roommates while the Lisle police illegally evicted Mr. Dix. However, according to *Caniglia v. Strom*, 396 F. Supp. 3d 227, 230 (D.R.I. 2019), Edward Caniglia placed a gun on a table during a verbal disagreement and invited his wife to shoot him and told her to "get me out of my misery." When Theresa Miller unsuccessfully attempted to unlawfully evict Mr. Dix from their home the night of August 23, 2017, nothing he said or did caused Ms. Miller to vacate her domicile and seek temporary shelter elsewhere. Rather, Mr. Dix and Ms. Miller returned to their home after the Lisle police left and remained civil to each other. In *Caniglia* at 230-31, the wife, Kim Caniglia after hiding the handgun and magazine, was upset enough with her husband's behavior that she sought refuge at a hotel rather than continue fighting with her husband. While the police eventually returned Mr. Caniglia's gun, something they should not have done given his reckless behavior, Ms. Miller and the

Lisle police have refused to return Mr. Dix's property to him and even *donated* his pickup truck without his authorization.

Edward Caniglia recklessly used a gun like he was in a John Wayne movie. The pilgrim caused a lot of trouble and might have gotten somebody killed and his behavior rightfully invoked the interests of local law enforcement. To the contrary, the seizure of Mr. Dix's person and property were clear Fourth Amendment violations and demonstrates the need to disallow applying the "community caretaking" doctrine to the home.

**II. For State Actors, the "Community Caretaking" Doctrine is the Ideal Pretext to Invidious Fourth Amendment Violations in the Home.**

Strom made an outright false statement that, "All [of Dix's] claims were dismissed by the District Court, including the Fourth Amendment claim." The record is clear, Judge Norgle relinquished Mr. Dix's state law claims and he was free to refile them in state court (Dix App. p.30a). Mr. Dix duly notified the circuit court that he refiled his state law claims pursuant to the Illinois Savings Statute (735 ILCS 5/13-217) but without *competent jurisdiction*, the Seventh Circuit dismissed Mr. Dix's wrongful eviction claim anyway. (Dix App. p.28a). Because the Lisle defendants intend to use collateral estoppel to prevent Mr. Dix from pursuing his wrongful eviction claim, he sought and was granted a stay in his state court proceedings pending the *final* outcome of his federal complaint. (Dix Pet. p.2 n.1). By misrepresenting Dix,

Strom jeopardizes Mr. Dix's claims now before this Court as well as his state law claims.

In *Dix*, the Lisle police were only present to breach a landlord-tenant relationship which was conditioned by the landlord's realtor and the only maniac with a gun was Lisle's Sergeant Tim Dempsey (Dix Pet. p.5). Strom falsely claimed that, "Ms. Miller decided it was time to move on, sell the house, and end her relationship with Dix." However, the undisputed facts confirm that Miller was not acting entirely on her own volition, but she was forced to sell her home because of the fiduciary misconduct of her financial advisor and she offered Mr. Dix continued tenancy in her mother's two-flat with an agreement similar to their arrangement in the Lisle home. (*Id.* p.5, 7). Strom also falsely claimed that in order to forcibly remove Mr. Dix from his home, "[Miller] had to seek the help of the local police department." To remove Mr. Dix against his will, all Ms. Miller had to do was obtain an order for eviction from a DuPage County judge through a Forcible Entry and Detainer action which the Lisle police advised her to do. (*Id.* p.4-5). Strom also falsely claimed that "[e]ventually Dix agreed to leave and the other officers supervised his move from the property." Mr. Dix never agreed to give up his occupancy of Miller's house voluntarily and he had projects with upcoming hard deadlines which prevented him from performing any other duties including moving from his abode which was known to the Lisle police. (*Id.* p.5; Dix D.Ct.Dkt. 23 ¶¶119-21). The Lisle police not only supervised Mr. Dix's eviction, but they also took an active role by physically restraining him preventing him from entering his own

house and entering the second and third floors. (Dix Pet. p.5-6).

Like Kim Caniglia, Mr. Dix had to deal with a clearly deranged person. However, Mr. Dix had to deal with Sergeant Dempsey who was acting like a maniac, screaming at him for no apparent reason and preventing him from safeguarding his personal property. (Dix Pet. p.19). After the illegal eviction, Sergeant Dempsey made a false allegation that Mr. Dix made a "bomb threat" on Edelman's corporate headquarters and Sergeant Dempsey caused the City of Wheaton to become involved by convincing one of its police officers to telephone Mr. Dix and falsely claim that he threatened Miller's realtor. (*Id.* p.8-9).

Strom reiterates the Seventh Circuit's delusional and speculative claim that had the police not been present, Ms. Miller and Mr. Dix would duke it out. (Strom Rep. p.52). In reality, a physical fight was only likely to occur between Mr. Dix and the Lisle police, given Sergeant Dempsey's belligerence and the use of physical force by Sommer. The Seventh Circuit deceptively claimed that Mr. Dix caused the situation to become deranged and that a "fracas" was unfolding around them. *Dix* at 517. The Lisle police, themselves caused the situation to become deranged and there was no fracas between Mr. Dix and Ms. Miller in the presence of the Lisle police and Sergeant Dempsey was the only one screaming and yelling. To the contrary, Mr. Dix was rather congenial to Ms. Miller given the circumstances and in doing so was able to negotiate an oral agreement favorable to him for reimbursement of the cost of the moving van. (Dix Pet. p.16-17).

The Lisle police had no more of a right to forcibly remove Mr. Dix from his home than the Cranston police had to help Kim Caniglia put her husband, Edward “out of his misery.” The Petitioner makes light of the situation in *Caniglia* since Edward did something incredibly *stupid* which would have never been done by any responsible gun owner – display a firearm during the course of a verbal disagreement. These types of incidents generally occur in the ghetto by young, inebriated individuals without traditional parenting. i.e. *See People v. Taylor*, 2019 IL App (1st) 150628-U ¶¶74, 87. (Defendant who was raised in a series of group homes used a weapon to settle what had been an alcohol-fueled verbal argument.) Appallingly, even Caniglia has decided that the Lisle police were justified in evicting Dix because Miller requested it. (Caniglia. Rep. p.14). Under Illinois law, Mr. Dix had a right to remain in his home and it was not for the Lisle police to decide if he was to be evicted. *See People v. Evans*, 516 N.E.2d 817, 819. Nonetheless, the “community caretaking” exception applied to the home has already advanced from police responding to a firearm placed on a table in *Caniglia* to police unlawfully and forcibly evicting a tenant in good standing because of an unscrupulous and greedy real estate agent in *Dix* even before this Court has had the final say. Mr. Dix simply called a fraudster stupid because she was carelessly handling his property, but because of this single word rightfully uttered, the Seventh Circuit and Strom now contend that the community caretaking doctrine permits warrantless entry into the home.

Even assuming that Mr. Dix had created a fracas and called everyone present "stupid," he had a right to do so as a form of protest against his eviction done without judicial authority. "Court approval of an eviction, for example, becomes necessary only when the tenant protests his eviction, and he alone decides whether he will protest." *New Motor Vehicle Bd. of Cal. v. Orrin W. Fox Co.*, 439 U.S. 96, 109 (1978).

When the Seventh Circuit issued its opinion in *Dix*, it was not relying entirely on the facts in that case, but its panel members were motivated by personal animosity toward Mr. Dix for several reasons unrelated to the unlawful eviction. (Dix Pet. p.32). Because of what Dix knows and to keep his silence, a U.S. Marshal struck him in the back of his neck while he was in the Everett McKinley Dirksen U.S. Courthouse. Previous to that, U.S. Marshals had been stalking Mr. Dix at his residence with the intent to "beat him" to keep him silent. These U.S. Marshals were acting under the extraneous direction of federal judges in the Dirksen federal building. According to Mr. Dix's anonymous source and his own attorney, federal officials are involved with manufacturing false criminal evidence against him to prevent his testimony. (Dix Pet. p.23 n.3).

The Seventh Circuit's recent departure from its previous stance on the "community caretaking" doctrine applied to the home is unrelated to the actual facts of Mr. Dix's unlawful eviction. It would be a grievous error for this Court to rely on misrepresentations by the Seventh Circuit, Strom and Caniglia and will only foster egregious Fourth Amendment violations obfuscated by fallacious claims

of protecting the health and safety of the community. The Seventh Circuit's opinion in this case is nothing more than a personal vendetta against Mr. Dix himself and the attorney, Marc DeSisto became an opportunist by further misrepresenting the facts in *Dix*.

### CONCLUSION

Petitioner respectfully requests that the Petition for Certiorari be granted.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Gerald Dix". The signature is written in dark ink and is positioned above a horizontal line.

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