No. 24-624

In the Supreme Court of the United States

WILLIAM TREVOR CASE,

PETITIONER,

v.

MONTANA,

RESPONDENT

On Writ of Certiorari to the Supreme Court Montana

BRIEF OF THE LONANG INSTITUTE AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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August 4, 2025

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INTEREST OF *AMICUS CURIAE*[1]

The LONANG Institute is a Michigan-based, nonprofit and nonpartisan research and educational institute. Application of the "Laws of Nature and Nature's God" to contemporary legal disputes is its specialty. The Declaration of Independence affirms that states are bound in their governance and operation by the "Laws of Nature and Nature's God." It was this law which entitled each colony to become a free and independent state as a matter of law. Having adopted this legal foundation, the civil governments subsequently established state by state and in 1787 of the United States, became legally bound thereby.

As such, the Laws of Nature are enshrined into our civil laws. Among others, they animate the authority of the family in connection with its land, property rights and its dwelling place. The Constitution adds an additional layer of protection.

As a friend of the Court, the LONANG Institute offers insight into the legal implications of the laws of nature and its integral protection of human beings acting individually and through families regarding their land and their home. These guarantees deny the State of Montana jurisdiction to enter a home under a "community caretaker" theory. The Constitution's Fourth Amendment acts to the same effect. The Constitutions, Third, Fifth, First and Second

[1] This brief was not authored in whole or in part by counsel for any party and no person or entity other than amicus curiae or its counsel has made a monetary contribution to the brief's preparation or submission.

Amendments, likewise secure the inalienable rights of the People while dwelling in the security and safety of their own homes and dwellings.

STATEMENT OF THE CASE

Three armed police officers entered the home of William Case in September 2021. They had no warrant. They sought no warrant. Case never called the police for assistance. He never sought their help. He never gave permission for entry. It was his home, and he was free to act therein howsoever he wanted.

The police were told Case was drinking and abused alcohol. So do 28.9 million other Americans,[2] including 11 percent of police officers who reported "at-risk" alcohol use.[3] Alcohol use in the home is no basis to justify warrantless entry. The police were told

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[2] National Institute on Alcohol Abuse and Alcoholism, Alcohol Use Disorder (AUD) in the United States: Age Groups and Demographic Characteristics, September 2024. According to the 2023 National Survey on Drug Use and Health (NSDUH), 28.9 million people ages 12 and older (10.2% in this age group) had Alcohol Use Disorder (AUD) in 2024. https://www.niaaa.nih.gov/alcohols-effects-health/alcohol-topics/alcohol-facts-and-statistics/alcohol-use-disorder-aud-united-states-age-groups-and-demographic-characteristics

[3] Butler Center for Research, Hazelden Betty Ford Foundation, Alcohol Abuse among Law Enforcement Officers, November 1, 2015. In 2010, a study of police officers working in urban areas found that 11% of male officers and 16% of female officers reported alcohol use levels deemed "at-risk" by the National Institute on Alcohol Abuse and Alcoholism (NIAAA). A 2007 survey of 980 American police officers found that 37.6% of the respondents endorsed one or more problem drinking behaviors. https://www.hazeldenbettyford.org/research-studies/addiction-research/alcohol-abuse-police

he had "mental health" issues. So do 26 percent of other Americans.[4] Police officers experience mental health problems in greater percentages than the general population.[5] Mental health concerns in the home are no basis to justify warrantless entry.

Case's ex-girlfriend called the police saying Case planned to commit suicide. So do 4.3% or 11.3 million adults,[6] and over 13 percent of police officers also admit having suicidal thoughts.[7] Suicidal

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[4] John Hopkins Medicine, Mental Health Disorder Statistics, Site current as of July 17, 2025. Approximately 26% of Americans ages 18 and older -- about 1 in 4 adults -- suffers from a diagnosable mental disorder in a given year. https://www.hopkinsmedicine.org/health/wellness-and-prevention/mental-health-disorder-statistics

[5] Siriporn Santre, Mental Disorders and Mental Health Promotion in Police Officers. Health Psychol Res. 2024 Feb 17;12:93904. doi: 10.52965/001c.93904. PMID: 38375073; PMCID: PMC10875161. https://pubmed.ncbi.nlm.nih.gov/38375073/

[6] Hillary Samples, Ph.D., National Trends and Disparities in Suicidal Ideation, Attempts, and Health Care Utilization Among U.S. Adults, Psychiatric Services, Volume 76, Number 2, September 2024. Suicidal ideation, or suicidal thoughts, is when one thinks about, consider or feel preoccupied with the idea of death and suicide. https://psychiatryonline.org/doi/10.1176/appi.ps.20230466

[7] Lawrence, D. S., & Dockstader, J. (2024). Law Enforcement Deaths by Suicide. Arlington, VA: CNA Corporation. https://www.cna.org/analyses/2024/03/law-enforcement-deaths-by-suicide The study notes that "Thoen et al. (2020) reported that 12.4 percent of surveyed police officers expressed a likelihood of future suicide attempts, with 13.2 percent acknowledging suicidal thoughts in the past year. Moreover, compared to the general population, law enforcement officers

thoughts in the home are no basis to justify a warrantless entry. The police looked in the window of Case's home. They saw an empty gun case. They concluded Case had a gun in his home. So do 32 percent of American adults.[8] Yet, 100 percent of the police officers on the scene had a gun. Case did not use his gun, but the police did, shooting Case. The presence of a Constitutionally protected firearm in the home is no basis to justify warrantless entry.[9]

Before entering Cases' home, the police agreed he did not need immediate aid. Nevertheless, based on the forgoing generic "facts," the police entered Case's home without a warrant and promptly shot him because they saw a "dark object." The police later justified their entry to further a "community caretaking" purpose. Justice Kavanaugh's *dicta* in *Caniglia v. Strom*[10] came to their rescue. He stated that police could still enter a person's home without a warrant if they were "reasonably trying to prevent a potential suicide or … help[ing] an elderly person who has been out of contact and may have fallen and suffered a serious injury." 593 U.S. at 204.

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face a 54 percent higher risk of dying by suicide (Violanti & Steege, 2021)."

[8] Gallup Poll Social Series, What Percentage of Americans Own Guns? (2020). https://news.gallup.com/poll/264932/percentage-americans-own-guns.aspx

[9] See *District of Columbia v. Heller*, 554 U.S. 570 (2008).

[10] *Caniglia v. Strom*, 593 U.S. 194 (2021).

This *dicta* about suicide as a basis for exercising a community caretaker function, opens the homes of at least 11.3 million Americans to warrantless searches. Such a prevalent condition cannot be squared with the Fourth Amendment.

SUMMARY OF ARGUMENT

In the beginning, God gave human beings authority over land for use as shelter and a dwelling. He also charged husbands and wives with the responsibility to provide shelter for their children and oversee their upbringing, education, and medical care. The exercise of this familial authority took place in the home. Even today, the house and home is a critical place of family dominion, demanding privacy from invasive, prying and "caretaking" governmental eyes.

The Constitution recognized the pre-existing authority of the family and protected its exercise, specifically in the home. The framers' sought to protect the family and its privacy from the government and its agents. The Third Amendment prohibits quartering soldiers in their "*home*." The Fourth Amendment declares the People have a right to be secure in their "*houses*" against unreasonable searches and seizures. The Fifth Amendment protects real property including houses, from being taken away from the family unless "just compensation" is first paid.

Moreover, First Amendment activities such as publication, speech, religion, are discussed, developed and implemented in the home. The Second Amendment's prohibition on the infringement of the

"right of the people to keep and bear Arms" is a critical means by which both the freedom and the privacy of the home and family may be secured.

The State of Montana cast aside God's immutable, universal, and timeless protections. In so doing, it abridged the bundle of Constitutional protections afforded the house and the home. Montana permits governmental officials armed with weapons drawn to enter a home without a warrant. It weakly justifies this intrusion on the theory that the government becomes a "community caretaker" on its own say, and not that of a reviewing court. The pseudo-burden is this: identify some "articulable facts" and then enter the home. See *Terry v. Ohio*, 392 U.S. 1 (1968). Those "facts" here involved alcohol abuse, mental health concerns, firearms in the home and thoughts of suicide. However, such "facts" are typical of a large swath of Americans and an even larger percentage of police officers. Seen in this light, such "facts," are no facts at all.

Montana assumes it is endowed with a jurisdiction superior to that of the People when they exercise their domestic authority. Yet, the authority of the People over their own homes comes from God, and the Constitution through its various amendments serves to protect the family in its domestic privacy and dominion work. The wall erected by God and affirmed by the Constitution, between the home and state may not be warrantlessly breached, especially when, statistically, its own police officers are in greater need of caretaking themselves.

ARGUMENT

I. THE LAWS OF NATURE ESTABLISHED PROPERTY RIGHTS ANTECEDENT TO CIVIL SOCIETY, INCLUDING MONTANA.

A. Property Rights Are Inalienable, Not Merely Civil.

The question presented is whether law enforcement may enter a home without a search warrant based on less than probable cause that an emergency is occurring, or whether the emergency-aid exception requires probable cause. This in turn boils down to an application of the "community caretaker doctrine," when a peace officer promptly investigates situations "in which a citizen may be in peril or need some type of assistance from an officer."

Yet even the name of this doctrine, to wit, "community caretaker," implies certain assumptions about the nature of property rights protected by the Fourth Amendment. These assumptions strongly prejudice the rule in favor of public intervention into the domestic sphere of life. Specifically, it embraces the assumption that property rights in general - even the sanctity of one's home - are ultimately derived from civil government, which merely permits individuals to possess property as long as it serves the public interest, convenience or necessity. The doctrine inherently rejects the idea that property rights are unalienable and derived from God, upon which public officials and peace officers may not intrude.

In this regard, the history of property rights in America has been split. In the seventeenth century

John Locke asserted that "tis the taking any part of what is common and removing it out of the state Nature leaves it in, by a person's own labor, which begins the Property."[11] Similarly, Sir William Blackstone concluded that property "was no natural, but merely a civil, right."[12]

However, the English view of property rights was rejected by American commentators. Thus, Henry St. George Tucker, commenting on Blackstone in 1803, wrote as follows: "I cannot agree with the learned commentator, that the permanent right of property . . . is not a natural, but merely a civil right. . . . [T]he notion of property is universal, and is suggested to the mind of man by reason and nature, prior to all positive institutions and civilized refinements."[13]

Similarly, Chancellor James Kent, commenting on American law in 1824, said,

> To suppose a state of man prior to the existence of any notions of separate property, when all things were in common . . . is a mere dream of the imagination. The sense of property is inherent in the human breast . . .. Man was fitted and intended by the Author of his being . . . for the acquisition and enjoyment of

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11 TWO TREATISES OF GOVERNMENT at 328 (P. Laslett rev. ed. 1963) (3d ed. 1698).

12 2 W. Blackstone, COMMENTARIES ON THE LAWS OF ENGLAND *3 (1766).

13 3 Blackstone's COMMENTARIES 10 n.* (St. George Tucker ed. 1803 & photo. reprint 1969).

> property. It is, to speak correctly, the law of his nature. . . .[14]

Further, the promise of the Declaration of Independence is that the "pursuit of Happiness," including the right of private property and other economic rights, is an unalienable right endowed by the Creator - originating with God, not men.

Accordingly, neither judicial decisions themselves regarding property rights, nor legal precedent favoring a right of privacy, controls the Fourth Amendment's foundation or protections. Nor are common facts known or suspected by the police regarding possible addiction, alcohol use, mental health concerns, suicide ideation, or firearm possession sufficient to warrantlessly breach a man's castle. What controls the question is firstly, the laws of nature and of nature's God, and secondly, the Constitution's text. Judicial precedent and specific decisions of the Court are not enough. They are not counted among America's legal foundations. What is foundational and more important for our immediate purposes are the laws of nature. President Andrew Jackson's warning helps to keep case "law" in perspective: "Mere precedent is a dangerous source of authority . . .."[15] Precedent, to be valid, must be consistent with the laws of nature.

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14 2 J. Kent, COMMENTARIES *317-18.

15 Veto message of Andrew Jackson (July 10, 1832) (vetoing the bill to continue the incorporation of Bank of the United States), *reprinted in* 3 MESSAGES AND PAPERS OF THE PRESIDENTS 1139, 1144 (J. Richardson ed. 1897).

B. The Inalienable Right Of Property Preexists Montana's Statehood.

The laws of nature and of nature's God have, *via* the Declaration of Independence, been incorporated into the legal framework of the United States. These laws are, in turn, derived from the legal principles embodied in the physical universe, and the Bible where it speaks of laws that govern the nations. As such, this body of law as well as the Constitution and the Bill of Rights, are binding on the original "free and independent states" established in 1776 and all states thereafter admitted to the Union. The state of Montana was only admitted to the United States as the 41st state on November 8, 1889. Though it is a latecomer, it is nevertheless bound as all other states to the laws of nature. As such, Montana's laws on warrantless entry of a home may not contradict the rights and freedoms which pre-existed its statehood.

The Bible informs, and a study of Creation confirms, that God is the Creator of all things. Thus, God is the sole rightful owner of the earth and its inhabitants. As the uncreated Creator, God has the limitless authority to determine how and by whom His Creation is acquired, possessed, transferred and used. Exercising the authority of an owner, God delegated dominion authority over the earth to people by commanding them: "Be fruitful and multiply, and fill the earth, and subdue it; and rule over . . . every living thing that moves on the earth."[16] The root of the law of the nature of property is expressed in this verse.

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[16] *Genesis* 1:28.

Notably, neither nations nor any civil government were in existence when this dominion authority was granted. In fact, it would be centuries later when they first appeared. Montana came along much later in history. The inescapable conclusion is that dominion authority, including the rights of private property, were given to people in their private capacities as individuals. Hence, dominion authority is private in nature, because it is not derived from civil government, but rather precedes civil government in time and in right.

In this respect, private property rights may be regarded as other inalienable rights conferred by the Creator, including even religious rights, which are

> precedent both in order of time and degree of obligation, to the claims of Civil Society. Before any man can be considered as a member of Civil Society, he must be considered as a subject of the Governor of the Universe: And if a member of Civil Society, who enters into any subordinate Association, must always do it with a reservation of his duty to the general authority; much more must every man who becomes a member of any particular Civil Society, do it with a saving of his allegiance to the Universal Sovereign.[17]

Further, since everyone is an agent of dominion, he is also a steward before God for his exercise of dominion. Private dominion is not simply exercised pursuant to a divine privilege, but according to a

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[17] James Madison, MEMORIAL AND REMONSTRANCE AGAINST RELIGIOUS ASSESSMENTS, para. 1 (1785).

divine duty, because people are held accountable for the fulfillment of their dominion responsibility. Therefore, private property, as revealed by the laws of nature and of nature's God, is not merely a privilege as between men, but a right. Further, duties owed to God are superior to any social duty and cannot be waived by the institution of any civil society and certainly not by the state of Montana or a court.

II. THE FOURTH AMENDMENT SECURES THE INALIENABLE RIGHT OF PROPERTY, ESPECIALLY IN "HOUSES, PAPERS, AND EFFECTS."

The Fourth Amendment states:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.[18]

On its face, the language of the amendment would seem to be self-evident, that "houses, papers, and effects" are items of private property intended to be protected. However modernly the interpretation of this language has been corrupted to merely relate to personal liberty interests. Modern jurisprudence categorizes the protection against unreasonable

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[18] U.S. CONST. amend. IV.

searches and seizures as an aspect of the right of privacy, not the right of property.

However, both the text of the amendment and its early understanding indicate otherwise. The text secures houses, papers, and effects from unreasonable searches and seizures, all of which are in the nature of property. They are items which a person may own, possess, use and dispose of. Thus, the amendment unquestionably protects people from the unlawful confiscation of their property.

This is certainly the historical understanding of the Fourth Amendment. In *Boyd v. United States,*[19] the Court ruled that the evil in an unreasonable search and seizure was not so much found in the fact that it disturbs a person's privacy, but in the fact that it is an "invasion of his indefeasible right of personal security, personal liberty and *private property*, where that right has never been forfeited by his conviction of some public offence."[20] In the Court's opinion, personal security, personal liberty and private property each constituted an indefeasible, or unalienable, right protected by the Constitution.

According to the Court, the legitimate scope of searches and seizures was limited to retrieving the "fruit of criminal activity," such as stolen property, property used as an instrumentality of a crime, and contraband, which in its best sense refers only to property used for an illegal purpose. In other words, the only property which could be searched for or seized

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19 116 U.S. 616 (1886).

20 *Id*. at 630 (emphasis added).

was that which its alleged owner had no legitimate right to possess. This right was recognized as indefeasible, meaning it could not be balanced away by any purported state interest. As understood by the Court, the civil magistrate had no interest in property which was privately owned.

In discussing the issues in *Boyd*, the Court placed great reliance on the English case of *Entick v. Carrington*[21] to advance what was understood to be the historically accepted view of searches and seizures. In that case, the judge held that:

> The great end for which men entered into society, was to secure their property. . . . By the laws of England, every invasion of private property, be it ever so minute, is a trespass.... Where is the written law that gives any magistrate such a power? I can safely answer, there is none. . . .[22]

Modern analysis, beginning with Justice Brennan's decision in *Warden v. Hayden*[23] has abandoned this view of searches and seizures as embodied in the Fourth Amendment. Central to the modern approach is a rejection of the view that

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[21] 10 How.St.Tr. 1029 (1765). Reported in 19 Howell's State Trials as one of the "landmarks of English liberty," a "permanent monument[] of the British Constitution," and a "true and ultimate expression of constitutional law" of those "who framed the Fourth Amendment." *Boyd v. United States*, 116 U.S. 616, 626-27 (1886).

[22] *Entick*, 10 How.St.Tr. 1029, *quoted in Boyd*, 116 U.S. at 627-28.

[23] 387 U.S. 294 (1967).

property rights are unalienable. According to Justice Brennan:

> The premise that property interests control the right of the Government to search and seize has been discredited. . . . We have recognized that the principal object of the Fourth Amendment is the protection of privacy rather than property, and have increasingly discarded fictional and procedural barriers rested on property concepts.[24]

The sole basis for this opinion was Justice Brennan's conviction that the prior decisions upholding property rights were the product of the political thought of the times, and that the present "felt need" for flexibility in rulemaking warranted a change.[25] Having discarded security of inalienable property rights as the amendment' object, he narrowed its protection concluding that "there is no viable reason to distinguish intrusions to secure 'mere evidence' from intrusions to secure fruits, instrumentalities, or contraband."[26]

Justice Brennan declared the inalienable rights of private property discredited, discarded, and merely fictional simply based upon his own bald assertion without bothering to examine the laws of nature and nature's God. In one fell swoop, he obliterated the foundations supporting the supreme law of the land,

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[24] *Id*. at 304.

[25] *Id*. at 305.

[26] *Id*. at 310.

which preceded the institution of civil society in both time and priority.

Since the decision in *Warden v. Hayden*, the exclusionary rule has been obfuscated in a morass of procedural technicalities dealing with "stop and frisk," "hot pursuit" and other similar concepts.[27] As a result, everyone has suffered. Police officers are hampered in the execution of their powers because now they are subjected to the application of a reasonableness standard which is more like civil tort law than criminal law. And the People have had their property rights balanced away by a Court which knows no absolutes, no fixed rules, no immutable principles and no unalienable rights.

III. THE FIRST, SECOND, THIRD, AND FIFTH AMENDMENTS ALSO SECURE THE INALIENABLE RIGHT OF PROPERTY, ESPECIALLY IN THE HOME.

The framers of our Constitution knew that the government was neither compassionate nor a caretaker. They understood that civil government was based on force and violence. God's own description of the character of the civil governments of the earth in 1 Samuel 8 is brutally honest. Civil government will take our land, crops and property, our sons and daughters, wage war, and reduce us, the People, to slavery. We should not be surprised, however, that the Israelite nation consented to this arrangement. The

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[27] *See*, *e.g.*, *Terry v. Ohio*, 392 U.S. 1 (1968); *Adams v. Williams*, 407 U.S. 143 (1972); *Coolidge v. New Hampshire*, 403 U.S. 443 (1971).

surrender of liberty for even the appearance of security is a strong temptation, now and then.

Modern writers also understand that civil government does not enforce its rules out of love or compassion, but rather its will is made known by the jailhouse, the bayonet, and the machine gun. As Murray N. Rothbard has wisely observed: "[T]he State is not 'us,' if it is not 'the human family' getting together to decide mutual problems, if it is not a lodge meeting or country club . . . ." It exists to compel others by force.[28] Petitioner experienced the force of the state masquerading as a caretaker.

Given the state's violent propensities, the framers attempted to protect the family, its dominion and its property from the government and its agents. Prior to the revolution, the British government would quarter soldiers in a family's home. A British soldier would sit at the family dinner table, lounge in the home and dwelling, and report any activity which he believed was detrimental to the English government. The family had no privacy. The family could not perform its duties to God without also considering its conduct would be disclosed to the government. As loyal Tories and subjects of the King, many naively

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[28] He warns us that: "the State is that organization in society which attempts to maintain a monopoly of the use of force and violence in a given territorial area; in particular, it is the only organization in society that obtains its revenue not by voluntary contribution or payment for services rendered but by coercion." Murry N. Rothbard, ANATOMY OF THE STATE, Ludwig von Mises Institute, p. 11 (2009). See also the Bible, 1 Samuel 8 for a description of the violent nature of civil governments in the ancient world.

agreed that soldiers quartered in their own home kept them safe. The Montana Supreme Court has taken up the cause of the loyal Tory.

Yet, the Third Amendment to the Constitution prohibited the quartering of soldiers in one's home. It states: "No Soldier shall, in time of peace be quartered in any *house*, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law." This forgotten amendment specifically ensured the privacy of the family in its own home at least in times of peace. The family increased its ability to be faithful to God without government agents sitting there at the dinner table. The Petitioner Mr. Case essentially had police officers quartered in his home. They came and went as they pleased. Were Montana to prevail, why not just have officers stay the night anytime a suicide watch is called in? What is the difference between British soldiers entering your home without consent and local police officers doing so 'to keep you safe'?

The home is where the family typically has its base of operations. It's where the family can plan to fulfill those duties which God has directed it should perform. It is sacred ground. The Fifth Amendment is written to protects that domestic property from being taken by the government unless it can first establish a public use for it and pay "just compensation." Mr. Case had his property taken upon entry by the police who paid him with a bullet to the abdomen and a felony charge.

The home is the place where God, the husband, wife, parents and children get together and figure out how to fulfill their family's specific obligations. The family is a little Commonwealth. The family home is

the center of command-and-control. It is the locale where First Amendment activities such as publication, speech, religion, and petitions for redress of grievances are discussed, developed and implemented. It is the place where meetings take place, assembling with others to further each family's additional purposes as defined by God. The Second Amendment's prohibition on any infringement of the "right of the people to keep and bear Arms" is a critical means by which both the freedom and the privacy of the home and family may be secured.

All these amendments are pro-family amendments as well as individual freedom amendments, but three of them specifically refer to security of the home or land. This country decided that the security and protection of the home is a Constitutional priority. God made the family, and He gave the family the opportunity to own land and live in a dwelling. The state of Montana has thrown all this aside. It cannot appreciate the beauty of these amendments as an immutable means to protect the family so that it can function as God intended.

CONCLUSION

A probable cause requirement is not too much to ask in matters concerning a person's home, especially when Petitioner did not call the police himself, no disturbance was evident to the police when they arrived, and no emergency was in progress at the time. Nor are "facts" regarding addiction, alcohol use, mental health concerns, suicide ideation, or actual firearm possession sufficient to warrantlessly breach a citizen's castle. These "facts" are simply too common

among Americans and even more so for police officers, to be asserted as a basis for a warrantless search. This Court should preclude their invocation as justification for a warrantless search. Caretaking is not a legitimate civil purpose when enforced by governmental officials, especially those effecting violent entry, brandishing firearms, and caring for citizens by shooting them.

Property rights are God-given unalienable rights, ruled by fixed and immutable principles of law. Viewed in this way, a person's home is not merely a place where privacy interests are vested. It is principally a sacred embodiment of the God-given right of dominion. The laws of nature and of nature's God, have erected a wall between the state and the home. The Constitution acknowledges that wall, and commands Montana, its police and guns, to remain on its side, or produce a warrant for permission to enter through its secure gate.

Respectfully submitted,

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August 4, 2025