

No. 20-157

In The
Supreme Court of the United States

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EDWARD A. CANIGLIA,

Petitioner,

v.

ROBERT F. STROM, *ET AL.*,

Respondents.

—◆—
**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The First Circuit**

—◆—
SUPPLEMENTAL BRIEF OF RESPONDENTS

—◆—
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ARGUMENT

The Respondents file this supplemental brief pursuant to Rule 15.8 of the Rules of this Court, to bring to the Court's attention the October 19, 2020 decision of the Seventh Circuit, *Dix v. Edelman Fin. Servs., LLC, et al.*, No. 18-2970, 2020 U.S. App. LEXIS 32883 (7th Cir. Oct. 19, 2020). In urging that there is a split in need of repair, Petitioner cited to two cases from the Seventh Circuit that did not apply the community caretaking doctrine to cases that involved officers' entries into homes. See Petitioner's Brief at 2, 9, 11, 13, 17, discussing *Sutterfield v. City of Milwaukee*, 751 F.3d 542 (7th Cir. 2014) and *United States v. Pichany*, 687 F.2d 204 (7th Cir. 1982). In *Dix*, the Seventh Circuit applied the community caretaking function to a home entry without any hesitation, thus calling into question Petitioner's perceived Circuit split.

Dix was the former romantic partner turned tenant of Ms. Miller. After more than six years of cohabiting, Ms. Miller decided it was time to move on, sell the house, and end her relationship with Dix. To do so, she had to seek the help of the local police department. Eventually Dix agreed to leave and the officers supervised his move from the property. Dix, a frequent filer of lawsuits in the Northern District of Illinois, filed a lengthy complaint against, among others, the police officers who responded to Ms. Miller's call for help. The claims against the officers were based on the Fourth Amendment, powered by 42 U.S.C. 1983. All claims were dismissed by the District Court, including the

Fourth Amendment claim. *Dix v. Edelman Fin. Servs., LLC, et al.*, No. 17-cv-6561, 2018 U.S. Dist. LEXIS 139274 (N.D. Ill. Aug. 14, 2018). The District Court reasoned that Dix had not suffered a seizure that would activate constitutional protections. *Id.* at *16.

On appeal, the Seventh Circuit determined that Dix, who had proceeded *pro se* through the lower court, could benefit from appointed counsel. When Dix refused, the Court appointed counsel to act as *amicus curiae* to explore the only claim on appeal that they did not consider frivolous—the Fourth Amendment claim.

In affirming the District Court, the Circuit Court reached the same conclusion, but chose an alternate route. The Circuit Court agreed that no seizure occurred, but continued on to discuss the reasonableness of the officers' actions. Significant to this case is that part of the decision applying the community caretaking doctrine. The Seventh Circuit held that even assuming a seizure within the meaning of the Fourth Amendment, there was no constitutional violation because of the reasonableness of the interaction between Dix and the officers:

This comfortably qualifies as one of those instances in which 'police officers may, as part of their community care-taking function, separate parties to a domestic disturbance by ordering one party to leave the premises,' and 'the officers' decision to order [Dix] to leave the house was reasonable since he appeared to have the inferior possessory interest in the property.' What, we wonder, was the more

reasonable thing for these officers to have done? Leave the scene and let Miller and Dix duke it out between themselves? No case supports such an argument.

2020 U.S. App. LEXIS, *14-15 (internal citations and footnote omitted).

Dix did not mention either case that Petitioner relies upon and demonstrates that the Seventh Circuit should be counted on Respondents' side of any "split" in cases applying the community caretaking doctrine to home entries.

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CONCLUSION

Respondents respectfully request that the Petition for Certiorari be denied.

Respectfully submitted,

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