

IN THE SUPREME COURT OF THE UNITED STATES

Arthur Gregory Lange,

Petitioner,

v.

California,

Respondent.

On Writ of Certiorari
to the Court of Appeal of California,
First Appellate District

MOTION FOR DIVIDED ARGUMENT

Pursuant to Rule 28.4 of the Rules of this Court, petitioner Arthur Lange respectfully moves for divided argument in this case. Mr. Lange requests that he and respondent the State of California each be allocated fifteen minutes of argument time. The State consents to this motion.

1. This case presents the question whether pursuit of a person whom a police officer has probable cause to believe has committed a misdemeanor categorically qualifies as an exigent circumstance sufficient to allow the officer to enter a home without a warrant. The California Court of Appeal concluded that it does, and upheld Mr. Lange's criminal conviction on that basis. Pet. App. 18a-22a.

This Court granted certiorari to resolve the conflict between courts that have adopted that categorical rule and courts that instead apply a case-by-case exigency analysis to determine whether pursuit of a suspected misdemeanant justifies a warrantless home entry. Pet. 8-14; *see Stanton v. Sims*, 571 U.S. 3, 6-7 (2013) (per curiam).

2. In this Court, the State has agreed with Mr. Lange that “the Court should reject [the] categorical rule” applied below and instead adopt “a case-specific exigency analysis.” BIO 4-5. The Court therefore appointed an amicus curiae to brief and argue the case in support of the judgment below.

3. In cases in this posture, the Court typically allows a petitioner and respondent that agree on the question presented to divide thirty minutes of argument time between themselves, leaving thirty minutes for the Court-appointed amicus curiae. *See, e.g., Holguin-Hernandez v. United States*, 140 S. Ct. 447 (2019) (No. 18-7739); *Smith v. Berryhill*, 139 S. Ct. 1285 (2019) (No. 17-1606); *Culbertson v. Berryhill*, 139 S. Ct. 304 (2018) (No. 17-773); *Welch v. United States*, 136 S. Ct. 1407 (2016) (No. 15-6418). The same approach is appropriate here for two reasons.

First, Mr. Lange and the State have materially different interests. Mr. Lange’s interest is in securing the reversal of his conviction in this particular case. The State, in contrast, has a broader interest in the answer to the question presented, which will govern the conduct of state law-enforcement officers and could affect the admissibility of evidence in other cases to which the State is a party.

Second, although Mr. Lange and the State agree on the answer to the question presented, their reasons for reaching that conclusion differ in some respects. The State, for example, contends that this Court’s precedents make pursuit of a suspected

felon a categorical exception to the warrant requirement (Br. 12-15); Mr. Lange disagrees (Br. 24-26). Allowing both the State and Mr. Lange to participate in the oral argument would thus materially assist the Court in its consideration of the case.

4. For the foregoing reasons, Mr. Lange respectfully requests that the Court grant the motion for divided argument.

Dated: December 17, 2020

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "B. Fletcher", is centered below the text "Respectfully submitted,".

Brian H. Fletcher
Counsel of Record
STANFORD LAW SCHOOL
SUPREME COURT
LITIGATION CLINIC
559 Nathan Abbott Way
Stanford, CA 94305
(650) 724-3345
bfletcher@law.stanford.edu