

No. 20-6400

IN THE SUPREME COURT OF THE UNITED STATES

KENNETH LAMONT SANDERS, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

BRIEF FOR THE UNITED STATES

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QUESTION PRESENTED

Whether the Fourth Amendment precludes government officials, who reasonably believe that an individual inside a home presents an impending threat of harm to himself, the officials, or others inside the home, from entering the home without a warrant and searching for and seizing a firearm inside.

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OPINIONS BELOW

The opinion of the court of appeals (Pet. App. 17-25) is reported at 956 F.3d 534. The order of the district court is not published in the Federal Supplement but is available at 2018 WL 4963080.

JURISDICTION

The judgment of the court of appeals was entered on April 14, 2020. A petition for rehearing was denied on June 22, 2020 (Pet. App. 27). The petition for a writ of certiorari was filed on November 17, 2020. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

STATEMENT

Following a guilty plea in the United States District Court for the Northern District of Iowa, petitioner was convicted on one count of possessing a firearm as a prohibited person, in violation of 18 U.S.C. 922(g)(1), 922(g)(9), and 924(a)(2). Judgment 1. The district court sentenced him to 120 months of imprisonment, to be followed by three years of supervised release. Judgment 2-3.

1. In February 2018, 11-year-old N.R. contacted her grandmother and said that her mother, Karina LaFrancois, and petitioner -- LaFrancois's boyfriend -- were "fighting really bad" and that "they need[ed] someone to come.'" Pet. App. 18 (brackets in original). The grandmother then called 911 and relayed that "she had been told an altercation was occurring at LaFrancois' house," and that, in addition to N.R., a seven-year-old and one-year-old were inside the home. Ibid. The grandmother also informed the operator that "she had trouble understanding N.R." and that "she did not know if any weapons were involved or whether the fight was verbal or physical." Ibid.

Several police officers were dispatched to the home. Pet. App. 18. Officer Joel Cross was the first to arrive, and he saw "N.R. 'acting excited' and gesturing through an upstairs window." Ibid. Officer Cross relayed that information to Officer Tom Pregler, and the two officers knocked on the front door. Ibid. When LaFrancois, who was "visibly upset and unstable," answered and came outside to talk to the officers, the officers saw "red

marks on [her] face and neck.” Id. at 18-19. Nevertheless, LaFrancois told the officers that “everything was okay.” Id. at 19. But when Officer Cross told LaFrancois that N.R. had heard a disturbance and contacted law enforcement, LaFrancois “became concerned and responded, ‘Do not tell him that she called you guys.’” Ibid.

Officer Pregler then told LaFrancois “that the officers needed to talk to [petitioner].” Pet. App. 19. LaFrancois “made clear that she did not want the officers to go inside the house,” but she offered to get petitioner to come outside. Ibid. At first, the officers agreed. Ibid. But when LaFrancois opened the door, the officers heard crying inside and “decided to enter the house to make sure that everyone was safe.” Ibid. They opened the front door and saw petitioner and LaFrancois standing just inside, with a crying infant in a nearby playpen. Ibid. At that point, petitioner “became noncompliant, uncooperative, and argumentative with the officers.” Ibid. When Officer Cross tried to go upstairs to check on N.R. and the other child, petitioner “attempted to block him,” and the officers ordered petitioner to sit on the couch. Ibid.

Officer Cross then went upstairs and found N.R. “distressed and crying.” Pet. App. 19. She told him that petitioner “‘had a gun out,’” that “it ‘was downstairs,’” and that she thought it was in a drawer underneath a large mirror. Ibid. After Officer Cross checked the drawers and found no gun, he spoke with N.R. again.

Ibid. N.R. explained that she did not see a gun but that "she had heard her mother yelling, 'Put the gun down! Put the gun down!'"

Ibid. N.R. also told Officer Cross that "it sounded like LaFrancois was being choked during the fight." Ibid.

Officer Cross then went back outside and asked LaFrancois where the gun was located. Pet. App. 20. Although LaFrancois initially denied the presence of a gun, she "quickly expressed concern that [petitioner] would find out that she had been talking to the officers," and she asked if she could be arrested instead of petitioner. Ibid. After additional questioning, LaFrancois "admitted that she believed [petitioner] had a gun while the couple were arguing and that it could be in the couch." Ibid. Officer Cross returned inside and found a pistol in the couch cushions. Ibid. The officers then arrested petitioner on state domestic-assault charges. Ibid.

2. A federal grand jury returned an indictment charging petitioner with possessing a firearm as a prohibited person, in violation of 18 U.S.C. 922(g)(1), 922(g)(9), and 924(a)(2). Indictment 1-2.

Petitioner moved to suppress any evidence found in the LaFrancois residence, arguing that the officers' warrantless entry into the home and search for the gun were unconstitutional. See 10/15/18 Order 1-2, 5. Petitioner then pleaded guilty pursuant to a conditional plea agreement that allowed him to withdraw his plea if the district court or an appellate court were to grant his

motion to suppress. See 8/14/18 Report & Recommendation 1-3; see also 8/29/18 Order 1-2.

The district court denied the motion to suppress. 10/15/18 Order 1-10. First, the court determined that the officers' warrantless entry into the home was "justified by their community caretaking responsibilities." Id. at 8; see id. at 5-8. Second, the court determined that searching for the gun was permissible because the officers "had reason to believe that LaFrancois had, at the least, been threatened with a firearm," "that the firearm was likely located in close proximity to [petitioner]," and that "the scope of the officers' search was strictly limited to the areas where N.R. and LaFrancois indicated the firearm may be located." Id. at 9.

The district court sentenced petitioner to 120 months of imprisonment, to be followed by three years of supervised release. Judgment 2-3.

3. The court of appeals affirmed. Pet. App. 17-25.

The court of appeals stated that, although the Fourth Amendment generally requires government officials to obtain a warrant to enter a home, an "exception applies to law enforcement officers engaging in a community caretaking function." Pet. App. 21 (citing, inter alia, Cady v. Dombrowski, 413 U.S. 433, 441 (1973)). The court further stated that "[t]his exception allows a police officer to enter a residence without a warrant as a community caretaker where the officer has a reasonable belief that

an emergency exists requiring his or her attention.” Ibid. (citation and internal quotation marks omitted). And to determine whether the officers behaved reasonably, the court looked to “[t]he specific, articulable facts known to the officers at the time they entered the residence.” Id. at 22.*

Applying that circumstance-specific reasonableness approach here, the court of appeals first determined that “the officers acted in their community caretaking function when they entered LaFrancois’ house.” Pet. App. 22. Specifically, the court determined “that the officers reasonably believed an emergency situation existed that required their immediate attention in the form of entering LaFrancois’ home to ensure that no one inside was injured or in danger.” Id. at 23. The court explained that the officers had been “dispatched to the scene of a domestic disturbance”; “learned further details indicating a serious concern for the safety of LaFrancois and the children who were inside the house”; observed LaFrancois’s “visible injuries consistent with a physical altercation” and heard her “concern for her daughter”; and saw a child “acting excited and gesturing at the first responding officer.” Id. at 22.

The court of appeals next determined that “the scope of the encounter was carefully tailored to satisfy the officers’ purpose for entry.” Pet. App. 23. The court explained that “Officer Cross

* The court of appeals assumed without deciding that petitioner had standing to raise a Fourth Amendment challenge to the search of the LaFrancois residence. See Pet. App. 21 n.2.

had an objectively reasonable belief that a gun was inside the house"; "[t]he search [for the gun] was conducted out of the officers' legitimate concern for safety"; and the search "was limited to two places in the house: (1) where N.R. thought the gun might have been placed, and (2) where LaFrancois believed the gun could be located." Ibid.

DISCUSSION

Petitioner contends (Pet. 8-16) that the court of appeals erred in holding that the community-caretaking doctrine justified the officers' warrantless entry into the LaFrancois residence and the ensuing search for petitioner's gun. The question whether, and under what circumstances, the Fourth Amendment permits government officials to enter a residence without a warrant when they reasonably believe that a resident presents an impending threat of harming himself or others is currently before the Court in Caniglia v. Strom, cert. granted, No. 20-157 (oral argument scheduled for Mar. 24, 2021). The Court's resolution of that question in Caniglia could affect the court of appeals' disposition of this case. The petition for a writ of certiorari should therefore be held pending the decision in Caniglia and then disposed of as appropriate in light of that decision.

CONCLUSION

The petition for a writ of certiorari should be held pending the Court's resolution of Caniglia v. Strom, cert. granted,

No. 20-157 (oral argument scheduled for Mar. 24, 2021), and then disposed of as appropriate in light of the decision in that case.

Respectfully submitted.

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