

No. 24-1244

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IN THE  
SUPREME COURT OF THE UNITED STATES

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DAVID A. MCMASTER, JR.,  
Petitioner,

v.

COMMONWEALTH OF PENNSYLVANIA,  
Respondent.

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On Petition for Writ of Certiorari  
To the Pennsylvania Superior Court

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**BRIEF FOR RESPONDENT IN OPPOSITION  
TO PETITION FOR WRIT OF CERTIORARI**

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## **COUNTER-STATEMENT OF THE QUESTION PRESENTED**

Whether law enforcement officers may enter a home without a search warrant to render aid to individuals believed to be inside of the home when officers observe signs of an altercation or struggle inside the residence and the erratic homeowner, overdosing on a controlled substance, refuses to tell the police whether any other person is inside of the residence?

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## **COUNTER-STATEMENT OF THE CASE**

Officer Cory Ammerman (hereinafter, “Officer Ammerman”) is employed by the Conewago Township Police Department. Pet.App. 38a. Officer Ammerman has been a law enforcement officer for approximately fourteen (14) years. Pet.App. 38a. Detective Burnell Bevenour (hereinafter, “Detective Bevenour”) is employed as a detective with the Conewago Township Police Department and has been a police officer for approximately seventeen (17) years. Pet.App. 51a-52a. Officer Ammerman and Detective Bevenour have both encountered hundreds of individuals suspected to be under the influence of controlled substances over their years as police officers. Pet.App. 38a, 52a.

On December 7, 2022, at approximately 3:00 p.m., Officer Ammerman was dispatched to a residential neighborhood for a report of an unclothed male subject screaming in the backyard of a residence. Pet.App. 39a. En route to the residence, Officer Ammerman was advised the male subject had moved to the front of the residence and into the roadway on Hanover Pike. Pet.App. 39a. Upon arrival, Officer Ammerman observed the Petitioner, David A. McMaster Jr. (hereinafter, “McMaster”), standing in the roadway of Hanover Pike in front of a residence. Pet.App. 39a. When McMaster spotted Officer Ammerman’s patrol vehicle, he ran up a driveway towards McMaster’s residence. Pet.App. 39a. Officer Ammerman then approached McMaster and observed that McMaster was naked, incoherent, excited, jumping around, and appeared to be under the influence of controlled substances. Pet.App. 40a.

Based on these observations, and for McMaster's own safety, Officer Ammerman secured McMaster with handcuffs and advised him that an ambulance was dispatched. Pet.App. 40a.

Officer Ammerman then began to question McMaster. Pet.App. 40a. For the purposes of proper medical treatment, Officer Ammerman asked McMaster which controlled substances he had consumed. Pet.App. 40a-41a. McMaster stated that he had consumed Ketamine and had huffed butane gas. Pet.App. 41a. Officer Ammerman also asked McMaster if anybody else was in the residence, but McMaster did not respond. Pet.App. 49a. Officer Ammerman then asked McMaster if he lived alone, and McMaster indicated that he lived by himself. Pet.App. 49a.

Detective Bevenour arrived at McMaster's house approximately four minutes after Officer Ammerman. Pet.App. 52a. Upon arrival, Detective Bevenour observed Officer Ammerman speaking with McMaster and overheard some of their discussion. Pet.App. 68a. Detective Bevenour described McMaster's demeanor as incoherent. Pet.App. 52a. Shortly thereafter, Detective Bevenour began to survey the rest of the property for anyone who may have required medical attention. Pet.App. 53a.

In the rear of McMaster's house, Detective Bevenour observed a butane lighter directly outside of the residence. Pet.App. 54a. He also observed the doorway to an exterior porch, and a doorway into the residence through the porch, were both open. Pet.App. 53a. From his vantage point, Detective Bevenour was able to see inside of the residence. Pet.App. 54a. He

observed what appeared to be trash scattered throughout the kitchen, as well as what appeared to be burnt vegetation on the stovetop. Pet.App. 55a. Officer Ammerman succinctly described the view of the kitchen through the open door as "...complete disarray, items strewn about the house floor appearing that a struggle had occurred or something of that nature." Pet.App. 43a. Based on these observations, his observations of McMaster, and his experience with drug-related medical emergencies, Detective Bevenour was concerned that there may be other individuals who required medical assistance within the residence. Pet.App. 55a. Detective Bevenour attempted to gain the attention of anyone inside of the residence but received no response. Pet.App. 55a.

At this time, Detective Bevenour decided to make entry into the residence to ensure that nobody inside the residence needed any medical attention. Pet.App. 56a. Detective Bevenour and another officer conducted the search of the residence for approximately five minutes. Pet.App. 57a. The two officers conducted a search for anybody who may require medical assistance. Pet.App. 57a. The officers announced themselves as police as they conducted the search. Pet.App. 57a. In the rear kitchen area, Detective Bevenour observed a white powder on the floor and burnt vegetation on the stovetop. Pet.App. 56a. He continued into the living room, before entering the basement. Pet.App. 56a. In the basement area, Detective Bevenour observed neon lights and vegetation on tables. Pet.App. 56a. The two officers also entered the upstairs second floor and checked the bedroom. Pet.App. 56a. Detective

Bevenour determined that the items he observed in plain view were controlled substances and indicated this to Officer Ammerman. Pet.App. 57a.

Police subsequently obtained a search warrant for the residence, where they recovered psilocybin mushrooms, a small amount of marijuana, fifteen packs of rolling papers, two food dehydrators, a vacuum sealer, and various other items of drug paraphernalia. Pet.App. 58a; Petition p. 6.

## **PROCEDURAL HISTORY**

On March 23, 2023, McMaster was charged with Possession with Intent to Deliver a Controlled Substance (Psilocybin), Simple Possession (Psilocybin), Possession of a Small Amount of Marijuana, Possession of Drug Paraphernalia, Disorderly Conduct, Indecent Exposure, and Public Drunkenness. On April 19, 2023, McMaster filed an Omnibus Pre-Trial Motion for Suppression of Evidence, wherein McMaster sought suppression of all items seized from his residence as the result of the officers' entry, as well as statements he made to police. Pet.App. 75a. Following the Suppression Hearing, the Trial Court granted McMaster's Motion in Part, concluding that while McMaster's statements to the police should not be suppressed, the police officers had unlawfully entered and searched McMaster's home. Pet.App. 16a. On September 12, 2023, the Commonwealth filed a timely appeal to the Pennsylvania Superior Court.



The Pennsylvania Superior Court reversed this suppression of evidence, finding that the brief search of McMaster's home was lawful under the circumstances presented in this matter. Pet.App. 14a. On June 25, 2024, Defense filed a timely Petition for Reargument with the Pennsylvania Superior Court, and the Pennsylvania Superior Court denied the Petition on August 28, 2024. On September 25, 2024, Defense filed a timely Petition for Allowance of Appeal with the Pennsylvania Supreme Court, and the Pennsylvania Supreme Court denied the Petition on March 5, 2025. Pet.App. 1a. This Petition for Writ of Certiorari followed.

## **REASONS FOR DENYING THE WRIT**

### **I. THE POLICE OFFICERS DID POSSESS AN OBJECTIVELY REASONABLE BASIS FOR BELIEVING THAT AN INJURED PERSON INSIDE OF THE RESIDENCE NEEDED ASSISTANCE UNDER THE “EMERGENCY AID EXCEPTION” TO THE FOURTH AMENDMENT.**

The Fourth's Amendment's warrant requirement “is to safeguard the privacy and security of individuals against arbitrary invasions by government officials.” *Carpenter v. United States*, 585 U.S. 296, 303 (2018) (citation omitted). This Court has “firmly established that the basic principle of Fourth Amendment law [is] that searches and seizures inside a home without a warrant are presumptively unreasonable.” *Groh v. Ramirez*, 540

U.S. 551, 559 (2004) (citations omitted). However, this Court has “also recognized that this presumption may be overcome in some circumstances because the ultimate touchstone of the Fourth Amendment is reasonableness.” *Kentucky v. King*, 563 U.S. 452, 459 (2011) (citations and internal punctuation omitted). As such, a warrant is not required when “the exigencies of the situation make the needs of law enforcement so compelling that the warrantless search is objectively reasonable under the Fourth Amendment.” *Mincey v. Arizona*, 437 U.S. 385, 393-94 (1978) (citations and internal punctuation omitted).

One such exigency that this Court has recognized is the “emergency aid exception.” *Kentucky v. King*, 563 U.S. 452, 460 (2011) (citations omitted). Under this exception, “law enforcement officers may enter a home without a warrant to render emergency assistance to an injured occupant or to protect an occupant from imminent injury.” *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006) (citations omitted). This exception does not depend upon an officer’s subjective motivations, but “requires only an objectively reasonable basis for believing that a person within the house is in need of immediate aid.” *Michigan v. Fisher*, 558 U.S. 45, 47 (2009) (citations and punctuation omitted).

With these well-established principles in mind, the law enforcement officers entering McMaster’s residence possessed an objectively reasonable basis for entry. Initially, Officer Ammerman was dispatched to a naked male acting erratically outside in a residential neighborhood. When Officer Ammerman arrived, his observations confirmed the

initial reports received when he observed McMaster standing naked in a public roadway. Officer Ammerman was able to speak with McMaster, but McMaster was excited, incoherent, and appeared to be under the influence of controlled substances. Officer Ammerman was able to get McMaster under control and ask him some basic preliminary questions.

While McMaster did indicate that he did not live with anyone else, he would not indicate whether he was alone at the property. He also indicated that he had used Butane and Ketamine, and appeared heavily under the influence of controlled substances. Detective Bevenour overheard parts of this discussion and surveyed the rest of the property to determine whether anyone else was injured or in need of assistance. While in the rear of McMaster's residence, Detective Bevenour noticed that McMaster's rear door was open and was able to see inside of the residence. From this vantage point, Detective Bevenour observed a residence in disarray through the open doorway. "[I]tems [were] strewn about the house floor appearing that a struggle had occurred or something of that nature" had occurred in the residence. Pet.App. 43a. This observation of an apparent struggle, coupled with McMaster's obvious intoxicated state and his failure to indicate whether any other person was present in the residence, provided Detective Bevenour with "an objectively reasonable basis for believing, that a person within the house is in need of immediate aid." *Michigan v. Fisher*, 558 U.S. 45, 47 (2009) (citations and punctuation omitted).

Given this background, Detective Bevenour most certainly had an objectively reasonable basis for believing that an injured party was present in the residence. McMaster utilizes a great deal of hyperbolic rhetoric alleging that the Pennsylvania appellate court created new rules of law greatly expanding the well-established exceptions to the Fourth Amendment that this Court has carefully crafted over the years. However, while it is certainly beneficial for McMaster to use such language when characterizing the decision of the Pennsylvania appellate court that did not rule in his favor, such language is inappropriate given the factual findings of the Trial Court and the Pennsylvania Superior Court's application of those facts under the Emergency Aid Exception comply with this Court's well-established precedent. As such, the state appellate court did not rule unreasonably, and the opinion below does not warrant this Court's review.

## **II. THE STATE APPELLATE COURT PROPERLY APPLIED THE "EMERGENCY AID EXCEPTION" TO THE FOURTH AMENDMENT IN DELIVERING ITS DECISION.**

McMaster asserts that the Pennsylvania appellate court departed from established precedent of this Court when delivering its opinion below on this matter, and established a new rule of law. However, a comprehensive review of the Superior Court's decision illustrates that the State appellate court

followed the established precedent of this Court when delivering its decision.

When providing the general legal principles and standards by which the Pennsylvania appellate court would structure its analysis on the case *sub judice*, the Pennsylvania Superior Court provided the following quote to summarize its legal framework:

Generally, the police will be excused from compliance with the warrant and probable cause requirements of the Fourth Amendment to the United States Constitution in only limited circumstances. One of these circumstances is when the police reasonably believe that someone within a residence is in need of immediate aid. Additionally, it is widely recognized that situations involving the potential for imminent physical harm in the domestic context implicate exigencies that may justify limited police intrusion into a dwelling in order to remove an item of potential danger. The relevant inquiry is whether there was an objectively reasonable basis for believing that medical assistance was needed, or persons were in danger. [T]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain and rapidly [e]volving.

*Commonwealth v. McMaster*, 320 A.3d 85, 90-91 (Pa. Super. 2024) (quoting *Commonwealth v. Potts*, 73 A.2d 1275, 1280-81 (Pa. Super. 2013); Pet.App. 12a-13a. While the *McMaster* Court used a quote from a Pennsylvania appellate court to provide the legal framework of its analysis, few if any could doubt that this paragraph is an accurate summation of this Court’s precedent on the Emergency Aid Exception of the Fourth Amendment.

Further, the *McMaster* Court closely examined two separate Pennsylvania appellate cases, both of which employed the Emergency Aid Exception to the Fourth Amendment in reaching their conclusions, *Commonwealth v. Davido*, 106 A.3d 611 (Pa. 2014) and *Commonwealth v. Caple*, 121 A.3d 511 (Pa. Super. 2015). Both of these cases involved police responding to emergency situations at residential locations, and based upon the facts and circumstances presented to them at that time, the police officers made warrantless entry into the respective residences under the Emergency Aid Exception. *See Davido*, 106 A.3d at 623-24; *Caple*, 121 A.3d at 519.

McMaster takes particular issue with the conclusion of the Pennsylvania appellate court’s opinion, where the *McMaster* Court summarized its prior Emergency Aid Exception analysis by briefly characterizing Detective Bevenour’s entry into McMaster’s home as a “minimally intrusive protective sweep....” *Commonwealth v. McMaster*, 320 A.3d 85, 90 (Pa. Super. 2024); Pet.App. 14a. While the state appellate court certainly employed inartful language with this phrase, McMaster’s hyperbolic description of it as creating a new rule of law does little to mask McMaster’s actual issue with the state appellate

decision, in that McMaster simply does not like how the Pennsylvania appellate court applied the factual scenario presented here to the Emergency Aid Exception of the Fourth Amendment.

The state appellate court does not mention *Maryland v. Buie*, 494 U.S. 325 (1990), does not provide any law related to *Buie*/Protective Sweeps, does not attempt to merge the Emergency Aid Exception and Protective Sweeps, and certainly does not attempt to employ this Court's law on Protective Sweeps to the facts *sub judice*. Given that the state appellate court employed a properly stated rule of law to a given factual scenario, McMaster's Petition is merely a request for this Court to reevaluate the state appellate court's application of the facts to a properly stated rule, which should not justify the granting of a petition for writ of certiorari. *See* Supreme Court Rule 10 (noting that "[a] petition for writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law.") While understandable that McMaster may believe that allegations to the contrary are necessary to gain the attention of this Court, these allegations lack any grounding in law or the language of the opinion below itself. As such, McMaster has not presented this Court with a sufficient reason to grant a writ of certiorari, and the Court should deny this Petition.

### **III. THE PETITION DOES NOT PRESENT ANY QUALIFYING CONCERNS WHICH MANDATE REVIEW ON CERTIORARI.**

McMaster has failed to demonstrate sufficient compelling reasons for this Court to grant certiorari. “A petition for a writ of certiorari will be granted only for compelling reasons.” Supreme Court Rule 10. The non-exhaustive list provided by this Honorable Court’s Rule contemplates the following situations where this Court will exercise its reviewing authority: 1) a U.S. Circuit Court of Appeals has issued an opinion on the present matter conflicting with that of a separate Circuit or state court of last resort, or the opinion so far departed from accepted judicial proceedings such that this Court’s supervisory authority is warranted; 2) a state court of last resort has decided a federal question in such a way that conflicts with another state court of last resort or the U.S. Circuit Court; or 3) a state court of last resort decided an important question of federal law that should be settled by this Court, or decided an important federal question such that its decision conflicts with this Court. Supreme Court Rule 10(a)-(c). Even in a light most generous to McMaster, his Petition fails to meet any of these given examples.

McMaster’s Petition does not allege there is any conflict between any appellate courts. The Petition also does not allege a departure from accepted and usual judicial proceedings, arguably aside from the groundless claims that the Pennsylvania appellate court created a new rule of law through a conflation of the Emergency Aid Exception to the Fourth Amendment and a *Buie*



Protective Sweep (which is discussed in more detail in Section II of this Brief, *supra*). See *Maryland v. Buie*, 494 U.S. 325 (1990). While the state appellate court did unfortunately use the term “protective sweep” when concluding their analysis of this matter, the lower court clearly did not create a new rule of law blending a *Buie* Protective Sweep with the Emergency Aid Exception to the Fourth Amendment, nor could a reasonable reading of their opinion reach such a conclusion. McMaster’s Petition does not identify any important question of Federal law that should be settled by this Court, nor does it assert a conflict exists with either the precedential decisions of this Court or any other court for that matter.

The crux of McMaster’s Petition is a request to reapply a given factual scenario to a properly stated rule of law under the Emergency Aid Exception to the Fourth Amendment. As more thoroughly explained in Section II of this Brief (*supra*), the Pennsylvania appellate court clearly, accurately, and concisely explained this Court’s applicable rules regarding the Emergency Aid Exception to the Fourth Amendment. The state appellate court discussed two prior Pennsylvania appellate cases involving the Emergency Aid Exception to the Fourth Amendment and analogized that they were similar to the matter *sub judice*. Following that properly stated rule of law and discussion of relevant cases applying that properly stated rule of law, the state appellate court held that Detective Bevenour possessed an objectively reasonable basis to believe that an individual inside of the residence required aid. McMaster simply argues that the Pennsylvania appellate court employed a “misapplication of a properly stated rule

of law” which, even if accurate, should not be the basis for the granting of a writ of certiorari. Supreme Court Rule 10.<sup>1</sup> As such, McMaster’s Petition does not merit further discretionary review by this Court and should be denied.

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<sup>1</sup> As Justice Alito has stated when describing this precise situation:

As stated in our Rules, “[a] petition for writ of certiorari is rarely granted when the asserted error consists of ... the misapplication of a property stated rule of law,” this Court’s Rule 10. That is precisely the situation here. The Court does not dispute that the Fifth Circuit applied all the correct legal standards, but the Court simply disagrees with the Fifth Circuit’s application of those tests to the facts in a particular record.

*Taylor v. Riojas*, 592 U.S. 7, 11 (2020) (Alito, J., concurring).

## CONCLUSION

For the foregoing reasons, the Commonwealth of Pennsylvania respectfully requests that this Court deny the Petition for Writ of Certiorari.

Respectfully submitted,

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