No. 24-624

In the Supreme Court of the United States

WILLIAM TREVOR CASE,
Petitioner,
v.

MONTANA,
Respondent.

On Petition for a Writ of Certiorari to the Montana Supreme Court

BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

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.

LIST OF PARTIES TO THE PROCEEDINGS

Petitioner William Trevor Case was the defendant in the state trial court and the appellant in the Montana Supreme Court. The State of Montana was the plaintiff in the state trial court and the appellee in in the Montana Supreme Court.

In a separate proceeding, Case petitioned the Montana Supreme Court for a writ of supervisory control. Case and Respondent Montana Third Judicial District Court were the sole parties in the writ proceeding.

STATEMENT OF RELATED PROCEEDINGS

Montana Supreme Court

State v. *William Trevor Case*, No. DA 23-0136 (Aug. 6, 2024).

Montana Third Judicial District Court, Anaconda – Deer Lodge County

State v. *William Trevor Case*, No. DC 21-100 (Feb. 24, 2023).

Montana Supreme Court

William Trevor Case v. *Montana Third Judicial District Court*, No. DA 22-0102 (Mar. 1, 2022).

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INTRODUCTION

The Fourth Amendment's warrant requirement "safeguard[s] the privacy and security of individuals against arbitrary invasions by government officials." *Carpenter* v. *United States*, 585 U.S. 296, 303 (2018) (citation omitted). But its "proscription against warrantless searches must give way to the sanctity of human life." *United States* v. *Holloway*, 290 F.3d 1331, 1137 (11th Cir. 2002). Even though "searches and seizures inside a home without a warrant are presumptively unreasonable," *Groh* v. *Ramirez*, 540 U.S. 551, 559 (2004) (citation omitted), "the exigencies of the situation [may] make the needs of law enforcement so compelling that the warrantless search is objectively reasonable," *Mincey* v. *Arizona*, 437 U.S. 385, 393-94 (1978). One such exigency—the "emergency-aid exception"—includes "the need to assist persons who are seriously injured or threatened with such injury." *Brigham City* v. *Stuart*, 547 U.S. 398, 403 (2006).

Case argues that federal and state courts are "deeply divided" on whether police officers must have "probable cause" or some "lower level of suspicion" to invoke the emergency-aid exception. Pet.1; *see also* Pet.12-22. To a degree, Case is right. Some courts say probable cause isn't required, *see, e.g.*, *Hill* v. *Walsh*, 884 F.3d 16, 23 (1st Cir. 2018), but some say it is, *see, e.g.*, *Corrigan* v. *District of Columbia*, 841 F.3d 1022, 1030 (D.C. Cir. 2016). Others say that an "objectively reasonable basis"—which is "more lenient" than probable cause—is all that is required, *see, e.g.*, *United States* v. *Gambino-Zavala*, 539 F.3d 1221, 1225 (10th Cir. 2008), but others say an "objectively reasonable belief" is the same thing as probable cause, *see, e.g.*,

Holloway, 290 F.3d at 1338. But the confusion Case identifies does not require this Court's intervention.

Many exigency exceptions involve officers acting in an investigatory role, and these exceptions require, at a minimum, probable cause to believe "a search will disclose evidence of a crime." *See, e.g.*, *Holloway*, 290 F.3d at 1137. Some confusion arises because probable cause of criminal activity applies to most exigency exceptions, but that probable cause standard, as Case agrees, *see* Pet.29, doesn't apply when officers are acting to address an emergency. In that latter role, "officers are not motivated by an expectation of seizing evidence of a crime," *see Holloway*, 290 F.3d at 1337, but by "the need to assist persons who are seriously injured or threatened with such injury," *Brigham City*, 547 U.S. at 403. Probable cause is unnecessary in those cases, the argument goes, because "in an emergency," it is "satisfied where officers reasonably believe a person is in danger." *United States* v. *Snipe*, 515 F.3d 947, 952 (9th Cir. 2008) (quoting *Holloway*, 290 F.3d at 1338).

Even if probable cause is necessary to invoke the emergency-aid exception, *Brigham City*'s "objectively reasonable basis" standard requires, in function if not in form, that officers have probable cause to believe someone is in danger and requires immediate assistance. *See* 547 U.S. at 403; *see also* Pet.18-20 (reviewing cases equating an "objectively reasonable basis" with probable cause). That inquiry requires courts to consider whether a reasonable officer faced with the same circumstances would conclude that entry was necessary to render emergency aid, *see id.* at 403-04—probable cause by any other name. And on the ground,

courts routinely apply the probable cause standard, even if they say that *Brigham City*'s standard is "more lenient" or "less exacting" than probable cause. *See infra* Sect.I.A. Case claims that these differing standards will lead to "divergent outcomes," Pet.21, but he fails to identify a single case—other than the decision below—where a court has reached the wrong result, including courts applying a so-called "more lenient" standard. So even though Case identifies an ostensible split of authority, it isn't a split that requires this Court's correction.

The Montana Supreme Court's decision below is no different. Case claims that this is the "paradigmatic case" when the standard of proof is dispositive. *See* Pet.3. But that's wrong. Even though the majority and the dissent articulated seemingly distinct standards, they (like other courts across the country) essentially applied the same standard. Both considered whether, based on the facts in the record, an experienced officer would reasonably conclude that entry was necessary because Case was in danger and required assistance. The disconnect between the two boils down to different views on whether the factual record showed that the officers had probable cause to believe that Case was in danger and required immediate assistance. Resolving the proper standard of proof wouldn't yield a different outcome. Because this Court does not grant certiorari to resolve factual disputes, it should deny the petition.

OPINIONS BELOW

The Montana Supreme Court opinion (Pet.App.1a-32a), is published at 553 P.3d 985 (Mont. 2024). The Montana district court's February 17, 2022 order

denying Case's motions to dismiss and to suppress (Pet.App.33a-35a) is unpublished.

JURISDICTION

The Montana Supreme Court entered judgment on August 6, 2024. Pet.App.1a. On October 11, 2024, Case applied for an extension of time to petition for a writ of certiorari. Justice Kagan granted that application, extending Case's time to file a petition through December 4, 2024. Case timely filed this petition. This Court has jurisdiction under 28 U.S.C. §1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const., amend. IV:

> 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 person or things to be seized.

STATEMENT OF THE CASE

1. During a phone call with his girlfriend, J.H., on September 27, 2021, William Trevor Case threatened to commit suicide. Pet.App.3a. When J.H. reported this to the police, J.H. said she assumed Case was drinking because he seemed "erratic," and she was concerned because Case said that "he was going to get a note" and then commit suicide. Pet.App.3a. After J.H. failed to deescalate, she heard a "click[]" that sounded like a cocking pistol. Pet.App.3a. J.H. said she would call the police, but Case said he would hurt

any officer who came to his house. Pet.App.3a. After that, J.H. said she heard a "pop" and thought it was a shot because Case was unresponsive afterward. Pet.App.3a. J.H. then reported the call to the police and drove to Case's house. Pet.App.3a-4a.

Three officers—Captain Dave Heffernan, Sergeant Richard Pasha, and Officer Blake Linsted—responded to Case's house. Pet.App.4a. J.H. arrived on scene shortly after the officers, and she relayed Case's threats and reiterated her concern that Case may have harmed himself. Pet.App.4a. Given Case's threats to harm the officers, Heffernan called Chief Bill Sather for help. Pet.App.4a. None of the officers considered getting a warrant because they "were [just] going in to assist him." Pet.App.4a. Sather arrived on scene about 30 minutes later. Pet.App.4a.

The officers knocked on the front door and on an open window and yelled for Case to come out, but Case didn't respond to either. Pet.App.4a. Pasha and Linsted looked through Case's windows for signs of an injury or danger, but they only saw some empty beer cans, an empty handgun holster, and a notepad. Pet.App.4a.

Given Case's threats to harm the officers, they were reluctant to enter Case's house. Pet.App.4a. Beyond his current threats, the officers were familiar with Case's history of alcohol abuse and mental health issues. Pet.App.4a. This history included an incident where a local school had to be locked down because he threatened suicide and had a weapon. Pet.App.4a-5a. It also included an incident at Georgetown Lake where officers responded because he was acting erratically

and he tried to elicit a defensive response—*i.e.*, "suicide-by-cop." Pet.App.5a.

Before the officers entered Case's home, Heffernan returned to the office to get a ballistic shield, and Pasha and Linsted got the personal long barrel guns from their patrol car. Pet.App.5a. Chief Sather made the call to enter Case's home roughly 40 minutes after the first three officers arrived on scene. Pet.App.5a.

The four officers entered through an unlocked door, announced themselves, and continued to do so, "yelling the whole time" they were in the home. Pet.App.5a. While they were clearing the first floor, they saw the empty holster and a notepad with what appeared "like a suicid[e] note." Pet.App.5a. Heffernan and Sather went to the basement, and Pasha and Linsted went upstairs. Pet.App.5a.

As Pasha searched an upstairs room, Case "jerked open" a closet curtain, and Pasha saw a "dark object" near his waist. Pet.App.6a. Pasha immediately shot Case, hitting him in the abdomen. Pet.App.6a. Case fell to the floor, and Linsted immediately administered first aid. Pet.App.6a. Heffernan and Sather entered the room moments later, and Heffernan saw (and secured) a handgun in a laundry hamper outside the closet, next to Case. Pet.App.6a.

2. A few days later, on October 1, 2021, Case was charged by Information with assaulting a peace officer. Pet.App.6a. That charge was amended in December 2021 to provide that Case "knowingly or purposefully caused reasonable apprehension of serious bodily injury in Sgt. Richard Pasha when he pointed a pistol at Sgt. Richard Pasha." Pet.App.6a.

Case filed pre-trial motions two days later, but only two are relevant here: a motion to dismiss for lack of probable cause and a motion to suppress evidence obtained from the "illegal search of Defendant and his residence." Pet.App.6a-7a. Montana amended the Information again in January 2022 to provide that Case "knowingly or purposefully caused reasonable apprehension of serious bodily injury in Sgt. Richard Pasha when he pointed a pistol, *or what reasonably appeared to be a pistol*, at Sgt. Richard Pasha." Pet.App.7a.

During a February 2022 motions hearing (and at trial), Pasha testified that he was nervous the entire time he was in Case's house. Pet.App.6a. After Case "jerked open" the closet curtain, he said Case had "an aggressive like look on his face" and "gritted" teeth, and he saw a dark object coming out of the curtain that he thought was a gun. Pet.App.6a. He thought he would be shot, so he shot Case. Pet.App.6a. The district court denied the motion to dismiss and the motion to suppress. Pet.App.7a.

At trial, Pasha testified that he had been shot at when responding to a crime scene, and he believed it added to his reluctance to enter Case's house. Pet.App.7a. Case's counsel didn't ask about this on cross-examination. Pet.App.7a. The jury returned a guilty verdict on December 8, 2022. Pet.App.7a.

3. On appeal, the Montana Supreme Court considered whether the district court erred in denying Case's motion to suppress evidence obtained following the warrantless entry into his home. Pet.App.8a. Recognizing that warrantless entries are presumptively unreasonable under federal and Montana law, Pet.App.8a, the Court identified three exceptions to

that rule under Montana law: (1) consent; (2) exigent circumstances and probable cause for a violation of a criminal statute: and (3) welfare checks under Montana's community caretaker doctrine. Pet.App.8a-9a. The last exception applies when a "peace officer acts on a duty to promptly investigate situations 'in which a citizen may be in peril or need some type of assistance from an officer.'" Pet.App.9a (quoting *Est. of Frazier* v. *Miller*, 484 P.3d 912, 918 (Mont. 2021)). But under Montana law, a warrantless entry under the community caretaker doctrine *may not* implicate a criminal investigation. Pet.App.9a.

The majority turned to this Court's decision in *Caniglia* v. *Strom*, 593 U.S. 194 (2021), which reversed a lower court's decision holding that a warrantless entry into a home was reasonable based on the community caretaker doctrine and the resident's threats of suicide. Pet.App.9a-10a. Because this Court distinguished between Fourth Amendment protections in homes and on highways, Case argued that *Caniglia* forbids applying the community caretaker doctrine to warrantless entries into homes. Pet.App.10a. But the majority wasn't persuaded. It recognized this Court's concern that broad application of the community caretaker doctrine could limit citizens' "protection from unreasonable entries," but it noted that the inquiry is still "whether there were exigent circumstances rendering the entry 'reasonable.'" Pet.App.11a (quoting *Caniglia*, 593 U.S. at 198). And it added that *Caniglia* held that any seizure after entry pursuant to a reasonable exigency must be supported by probable cause. Pet.App.11a (citing *Caniglia*, 593 U.S. at 196-97).

From there, the majority reasoned that Montana's jurisprudence on its community caretaker doctrine "comports with *Caniglia* and aligns with Montana's heightened privacy protections." Pet.App.11a. In particular, the doctrine applies only when an "officer's warrantless entry is 'totally divorced from the detection, investigation, or acquisition of evidence relating to the violation of a criminal statute.'" Pet.App.12a (quoting *Frazier*, 484 P.3d at 918). In these cases, there "is neither a search nor seizure that would implicate Article II, Section 11, of the Montana Constitution." Pet.App.12a. Courts apply a three-factor test to determine whether entries under the doctrine are reasonable: (1) an officer may investigate if there are "objective, specific and articulable facts from which an experienced officer would suspect that a citizen" is in peril; (2) if the citizen is in peril, the "officer may take appropriate action to render assistance or mitigate the peril"; and (3) once the episode has been resolved, any other actions implicate the protections under the Fourth Amendment and Article II, §§10, 11, of the Montana Constitution. Pet.App.12a (quoting *State* v. *Lovegren*, 51 P.3d 471, 475-76 (Mont. 2002)).

The majority added that the first two prongs of the *Lovegren* test mirror the Ninth Circuit's test for reasonable exigency with one exception—welfare checks in Montana cannot justify warrantless entries based solely on criminal activity. Pet.App.13a & n.4 (citing *United States* v. *Snipe*, 515 F.3d 947, 952 (9th Cir. 2008)). In cases involving criminal activity, a warrantless entry must be supported by exigency *and* probable cause. In those not involving criminal activity, the majority agreed with the Ninth Circuit's rationale that the "probable cause element is 'superfluous' and

should not impede an officer's duty to ensure the well-being of a citizen in imminent peril." Pet.App.14a (quoting *Snipe*, 515 F.3d at 952).

Responding to the dissent's claim that distinguishing between "criminal and non-criminal exigencies [was] 'confusing and unnecessary,'" the majority explained it was necessary because Montana's "caselaw does not yet have a 'framework' for law enforcement to address situations" where probable cause to believe a crime occurred doesn't exist despite the need to help a citizen believed to be in imminent peril. Pet.App.14a. In these scenarios, the majority reasoned, the "'exigent circumstances plus probable cause' standard is unwieldy and risks grave consequences for individuals in need of care." Pet.App.14a-15a. The dissent's alternative—which requires "probable cause to believe a person is in imminent peril and in need of help"—was not supported by any existing legal authority. Pet.App.15a. But the majority rejected this because Montana's community caretaker doctrine "encompasses non-criminal situations where a warrantless entry is essential to ensure the wellbeing of a citizen" but "would otherwise be forbidden for lack of criminal activity and probable cause." Pet.App.15a.

Turning to the *Lovegren* factors, the majority found that the officers acted on "objective, specific, and articulable facts from which an experienced officer would suspect a citizen is in need of help." Pet.App.16a (quoting *Lovegren*, 51 P.3d at 475-76). Several facts were relevant to the majority—a report of an intoxicated, suicidal male; officers observed empty beer cans, an empty gun holster, and a notepad through an open window; J.H.'s report mentioned that Case said he

planned to write a "note" and she thought she heard a gunshot; and the officers were aware of Case's prior episodes with law enforcement. Pet.App.16a. An experienced officer with knowledge of these facts would reasonably conclude Case needed help and "formulate a plan to render aid accordingly." Pet.App.16a. And the officers' actions were appropriate. Having seen the empty gun holster, they announced their presence before and after entering, but Case never responded. Pet.App.16a-17a. The sweep was appropriately tailored to locating Case, and they reasonably did so with firearms drawn. Pet.App.17a.

After Pasha shot Case, however, the warrantless entry supported by the community caretaker doctrine morphed into a "seizure implicating the Fourth Amendment and Article II, Section 11, of the Montana Constitution." Pet.App.17a (quoting *Lovegren*, 51 P.3d at 476). For that, probable cause was required. Pet.App.17a (quoting *State* v. *Williamson*, 965 P.2d 231, 236 (Mont. 1998)). And the jury unanimously concluded that Case assaulted Pasha "[b]efore the welfare morphed into an arrest," so "probable cause … had ripened for an arrest." Pet.App.17a. The majority found that the analogous facts in *Frazier*—the only other Montana case applying the community caretaker doctrine to the warrantless entry into a home—supported its conclusion. *See* Pet.App.18a-20a.

4. Justice McKinnon, joined by Justices Gustafson, and Sandefur, dissented. The dissent argued that the warrantless entry into Case's house to render aid should have been supported by "probable cause to believe Case was subject to imminent harm, distress, or in need of assistance." Pet.App.24a. In particular, the

dissent argued that probable cause was necessary for warrantless entries for criminal and non-criminal searches. Pet.App.24a. According to the dissent, the majority misunderstood *Caniglia*, which (says the dissent) held that the community caretaker doctrine was not a standalone exception to the warrant requirement and didn't permit warrantless entries into personal residences. Pet.App,24a-25a. Based on the facts here, the dissent believed there wasn't "sufficient probable cause or exigent circumstances to justify entry into Case's home." Pet.App.25a.

The dissent argued that the community caretaker doctrine is not an exception to the warrant requirement but just involves "police-citizen encounters" that don't "involve a seizure." Pet.App.26a (quoting *Lovegren*, 51 P.3d at 473). Relying on *Cady* v. *Dombrowski*, 413 U.S. 433, 441 (1973), which applied the doctrine in the context of a vehicle encounter, the dissent argued that the doctrine was limited to searches of a vehicle and inapplicable to warrantless entries into a home. *See* Pet.App.26a-27a. While noting that *Frazier* held that the doctrine was an exception to the warrant requirement, the dissent noted that *Caniglia* held that an officers "'caretaking' duties" do not "create[] a standalone doctrine that justifies warrantless searches and seizures in the home." Pet.App.27a-28a (quoting *Caniglia*, 593 U.S. at 196). From there, the dissent argued that the only exception to the warrant requirement relevant here was exigency, which probable cause must support. Pet.App.28a.

The dissent's read of the record diverged from the majority. While noting that the officers observed the notepad, an open beer can, and an empty gun holster

through the window, the dissent emphasized the officers' delayed entry—arguing that the delay and the officers' concern about Case "tr[ying suicide by cop] suggested a lack of exigency. Pet.App.28a-29a. Compared to *Snipe* and *Michigan* v. *Fisher*, 558 U.S. 45 (2009), which involved quick responses to urgent conditions, the officers' here were responding to a "silent residence with no signs of an active emergency" and their response was calculated and delayed. Pet.App.29a.

Responding to the majority's argument that their probable cause requirement to render aid was an "unprecedented formulation of the law," the dissent pointed to *Snipe*'s recognition that the Second and Eleventh Circuits require probable cause to enter a home without a warrant to assist a person in danger. Pet.App.29a-30a (citing *Holloway*, 290 F.3d at 1338; *Koch* v. *Brattleboro*, 287 F.3d 162, 169 (2d Cir. 2002)). According to the dissent, *Snipe* also said that *Brigham City* assumed that probable cause was required for warrantless entries to render emergency aid. Pet.App.29a-30a (quoting *Snipe*, 515 F.3d at 951. Claiming, based on this thin reed alone, that its position was supported by "ample precedent," the dissent argued that there was "nothing novel" about its new probable cause requirement. Pet.App.30a.

Instead, it claimed it was the majority's improper extension of Montana's *Lovegren* doctrine—rooted in *Terry*'s reasonable suspicion standard—that was "new." Pet.App.29a-30a. Using its probable-cause standard, the dissent found "no probable cause to believe Case was in imminent peril and in need of immediate assistance." Pet.App.30a. Even though J.H.'s report gave them reason to believe that Case could have

already committed suicide (or was about to), the dissent claimed that the officers "observed [no] signs of an emergency, even after being there nearly an hour," suggesting that exigencies can only exist if "immediate police action" is required to "prevent imminent harm" Pet.App.31a-32a. Because it found no exigent circumstances or probable cause, the dissent concluded that the officers' entry was unreasonable. Pet.App.32a.

REASONS FOR DENYING THE PETITION

To be sure, states and lower federal courts have articulated different standards to evaluate whether a warrantless entry into a home to render emergency aid is reasonable under the Fourth Amendment. Pet.12-24. Yet it is not clear on the ground that there is any daylight between an officer having an "objectively reasonable belief" that someone may need assistance or probable cause to believe that they do. Even so, the Montana Supreme Court reached the correct result, properly balancing the Fourth Amendment's privacy and public safety interests. But if this Court finds it necessary to clarify the standard for the emergency-aid exception, Montana agrees that this case could provide a suitable vehicle to clarify the "contours of the exigent circumstances doctrine as applied to emergency-aid situations." Pet.27 (quoting *Caniglia*, 593 U.S. at 206 (Kavanaugh, J., concurring)).

I. The split Case identifies is illusory.

In *Brigham City*, this Court held that a warrantless entry into a home complies with the Fourth Amendment if the officers "have an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury."

547 U.S. at 400. Three years later, *Fisher* applied *Brigham City*'s reasoning, explaining that "[o]fficers do not need ironclad proof of 'a likely serious, life-threatening' injury to invoke the emergency aid exception"—just "'an objectively reasonable basis for believing' that medical assistance was needed, or persons were in danger." 558 U.S. at 49 (quoting *Brigham City*, 547 U.S.at 406). Neither *Brigham City* nor *Fisher* said probable cause was necessary, but objective facts indicating that people in the homes were injured or required medical assistance supported the warrantless entries in both cases.

Even so, *Brigham City*'s "objectively reasonable basis" standard doesn't require courts to consider anything different from the probable cause standard. Probable cause requires a "reasonable ground for belief of guilt." *Maryland* v. *Pringle*, 540 U.S. 366, 371 (2003) (quoting *Brinegar* v. *United States*, 338 U.S. 160, 175 (1949)); *see also Florida* v. *Harris*, 568 U.S. 237, 244 (2013) (requiring the sort of "fair probability" on which "reasonable and prudent [people] … act"). To determine "whether an officer had probable cause to arrest an individual," courts "examine the events leading up to the arrest, and then decide 'whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to" probable cause. *Pringle*, 540 U.S. at 371 (quoting *Ornelas* v. *United States*, 517 U.S. 690, 696 (1996)). The daylight between probable cause and an "objectively reasonable basis" is difficult, if not impossible, to see.

A. The First, Eighth, and Tenth Circuits—and multiple state courts—require an "objectively reasonable belief" for warrantless entries that mirrors probable cause.

The First, Eighth, and Tenth Circuits all say that *Brigham City*'s "objectively reasonable basis" standard requires something less than probable cause. Pet.14-15. Yet when reviewing the First, Eighth, and Tenth Circuits' application of *Brigham City*, it's difficult to see any daylight between officers having an "objectively reasonable basis" or probable cause to believe a person is injured or needs assistance.

1. Start with the First Circuit. In *Hill* v. *Walsh*, the plaintiffs' son, Matthew Hill, overdosed and was taken to a Massachusetts hospital. 884 F.3d at 18. The next day, a state district judge issued a Section 35 warrant[1] to apprehend Hill to take him to a state court civil-commitment hearing, but the warrant stated that Hill was in the hospital and that his residence was at "3 Eldridge Street"—his parents' address. *Id.* Hill, however, lived at "44 Weir Street." *Id.* The officers went to 3 Eldridge Street and, while there, thought they observed movement in the house. *Id.* No one responded to their calls to come to the door, so the officers entered, believing that Hill was in danger of another overdose. *Id.* After entering, they had to subdue the

[1] Hill's sister filed a petition in state district court to civilly commit Hill as a substance abuser under Mass. Gen. Laws, ch. 123, §35. *Id.* at 19. Under §35, a district court may issue a warrant for the "apprehension and appearance" of an individual if "there are reasonable grounds to believe that [he] will not appear [at his civil commitment hearing] and that any further delay … would present an immediate danger to [his] physical well-being."

Hills' dogs, and they damaged part of the house in the process. *Id.* The Hills sued the officers and the city under 42 U.S.C. §1983, alleging that the warrantless entry violated their Fourth Amendment rights. *Id.* The First Circuit affirmed the district court's entry of judgment on qualified immunity grounds, holding that the law on the emergency-aid exception wasn't clearly established. *Id.*

The court held that warrantless entries under the emergency-aid exception require the prosecution to show "'an objectively reasonable basis' for believing that a person inside the home is in need of immediate aid," and "[t]his basis need not 'approximate probable cause.'" *Id.* at 23. This standard, the court explained, is distinct from the "familiar tests of 'reasonable suspicion' and 'probable cause.'" *Id.* *Hill* concluded that probable cause was unnecessary because *Fisher* only referenced the "objectively reasonable basis" standard and said nothing about probable cause. *Id.* But when applying the standard, the court reasoned that given Hill's history of overdosing, the subject line of the warrant listing "3 Eldridge Street," and the appearance of a person inside the home, a reasonable officer could have concluded that their warrantless entry was lawful under the emergency-aid exception. In other words, the officers likely had an "objectively reasonable basis" and "probable cause" to believe Hill needed immediate aid. *Id.*

Turn to the Eighth Circuit. In *United States* v. *Quarterman*, 877 F.3d 794 (8th Cir. 2017), officers responded to Curlie Quarterman's apartment following a report from his girlfriend's mother, Carol, that she and Quarterman had been in a "heated verbal

altercation" and that Quarterman "had a gun on his waist" and was evicting her daughter, Christina. *Id.* at 796. When the officers arrived, Carol was outside, and Quarterman and Christina were inside with several packed bags and boxes. *Id.* Quarterman was sitting on the couch. *Id.* The officers asked if they could enter, but received no verbal response, just some shiftiness from Quarterman. *See id.* Then the officers asked if Quarterman had a gun, and he said, "No." *Id.* One of them stepped inside, and another told Quarterman to keep his hands up. *Id.* Quarterman stood up, and as he did, one of the officers noticed the gun. *Id.* They ordered him against the wall, seized the gun, and told him they'd return the gun after they finished talking. *Id.* at 796-97. One of the officers discovered the gun was stolen, so they arrested Quarterman. *Id.* at 797. Before trial, Quarterman moved to suppress the gun and derivative evidence, arguing that the officers' warrantless entry violated the Fourth Amendment, and the district court agreed. *Id.* The Eighth Circuit disagreed and reversed. *Id.* at 799-800.

Following *Brigham City* and *Fisher*, the court held that a warrantless entry "to assist persons who are seriously injured or threatened with such injury" is justified "if officers have an 'objectively reasonable basis for believing … that a person within the house is in need of immediate aid." *Id.* at 797. And the court rejected the district court's reliance on in-circuit authority "suggesting that probable cause [was] also required," *see id.* at 799, because *Fisher* observed that *Brigham City* only required an "objectively reasonable belief," *see id.* at 800. But again, even though the court suggested it was applying a less stringent standard, it considered all the facts from the perspective of a

reasonable officer—as it would when applying the probable cause standard—and found that the officers had an "objectively reasonable concern for the safety of Christina … and the officers." *Id.* at 797. That is, the officers "had information that Quarterman was making Christina … move out, he was armed, and he had been in a heated verbal altercation with her mother that morning." *Id.* These same facts would support finding probable cause too.

And consider the Tenth Circuit. In *United States* v. *Gambino-Zavala*, officers responded to reports of multiple gunshots in an Albuquerque apartment complex, and when they arrived on scene, a "frantic and scared resident" told them that she heard multiple gunshots from the apartment above her—unit J. 539 F.3d at 1224-25. She told them that the people living in unit J had created problems before and carried guns in the past. *Id.* at 1225. And she also identified two cars in the parking lot that they used. *Id.* The officers knocked on the door and, after a few minutes, Gambino-Zavala answered. *Id.* They asked if anyone else was there, and Gambino Zavala said, "No." *Id.* Even so, given the reports of gunshots, they entered "just to make sure that there was nobody else inside that was either injured or hurt or needed assistance, and also just to make sure there wasn't anybody in there armed with a gun[.]" *Id.* The officers' sweep lasted just a few minutes, but during the search, they noticed a shotgun and ammunition in a bedroom closet. *Id.* After the officers finished the sweep, Gambino-Zavala admitted he was an illegal alien. *Id.* The officers then confirmed that he had two outstanding misdemeanor warrants and arrested him. *Id.* The government charged him with unlawful possession of a firearm and ammunition

under 18 U.S.C. §§922(g)(5) and 924(a)(2). *Id.* Gambino-Zavala moved to suppress the evidence obtained during the warrantless search, but the district court denied the motion and the Tenth Circuit affirmed. *Id.*

The court explained that, under Tenth Circuit precedent, the emergency-aid exception justifies a warrantless search if (1) the officers have an objectively reasonable belief that there is "an immediate need to protect the lives or safety of … others," and (2) "the manner and scope of the search is reasonable." *Id.* (quoting *United States* v. *Najar*, 451 F.3d 710, 718 (10th Cir. 2006)). Looking to *Brigham City*'s articulation of the emergency-aid standard, the court noted that the standard is "more lenient" than "probable cause" and "does not require absolute certainty." *Id.* (citing *Najar*, 451 F.3d at 718). But when it applied the standard, the court concluded that "the officers had [a] reasonable belief, *if not probable cause*, [that it was necessary] to search the apartment for injured persons." *Id.* at 1226 (emphasis added). The officers heard several reports of multiple gunshots in the complex, a "shaken tenant" who lived below the apartment heard the gunshots and "pinpointed the shots" as coming from unit J, and that same tenant identified two cars in the parking lot that belonged to unit J's residents (so there was reason to believe they were inside unit J). *Id.* Based on these facts, the officers had an objectively reasonable basis—and probable cause—"to believe there was an immediate need to search the apartment to protect the safety of others." *Id.*

2. Connecticut, Kansas, and Maryland all hold that to justify a warrantless entry under the emergency-aid exception, it must be objectively reasonable for an

officer to believe that a person inside the home is injured or requires immediate medical assistance. *See, e.g.*, *State* v. *Curet*, 289 A.3d 176, 186 (Conn. 2023); *State* v. *Hillard*, 511 P.3d 883, 902 (Kan. 2022); *see also State* v. *Alexander*, 721 A.2d 275, 284-85 (Md. Ct. Spec. App. 1998) (applying objective reasonableness standard to warrantless entries under officers' "community caretaking function").

Both Kansas and Connecticut say that the "objectively reasonable basis" standard is "more lenient than the probable cause standard." *Hillard*, 511 P.3d at 902 (citation omitted); *see also Curet*, 289 A.3d at 190 (reasonable belief standard "less exacting" than probable cause (citation omitted)). But both States' application of the "objectively reasonable basis" standard closely approximates probable cause. *See Hillard*, 511 P.3d at 902 (must consider "whether the totality of circumstances created a reasonable belief that someone within the premises … may need immediate aid"); *Curet*, 289 A.3d at 190-91 (requiring that "the totality of facts known to the officers support[] an objectively reasonable belief that someone inside the defendant's apartment … need[ed] emergency medical aid"). Maryland, too, requires courts to consider whether an officer had "reasonable grounds to believe"—based on "specific and articulable facts"—that an emergency existed that would "lead a prudent and reasonable official to see a need to act." *Alexander*, 721 A.2d at 285 (citation omitted) (cleaned up).[2]

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[2] *Alexander* also explained that probable cause—which is required for the more general exigency exception—is "inappropriate[]" for "anything other than [warrantless entries under officers'] criminal investigatory function." 721 A.2d at 285. That is, if

3. The Ninth Circuit has not "implicitly adopted a less demanding test for the emergency-aid exception" like "*Terry*'s test," as Case claims. Pet.16. Both *Hopkins* and *Sandoval* held that the warrantless entries were *unlawful* because no reasonable officer could conclude that the entries were necessary to prevent or address an emergency. *Hopkins* v. *Bonvicino*, 573 F.3d 752, 763-64, 764-66 (claim that reasonable officer could conclude that Hopkins was in a diabetic coma was "baseless"); *Sandoval* v. *Las Vegas Metro. Police Dep't*, 756 F.3d 1154, 1164-65 (9th Cir. 2014) ("no objective basis for applying the emergency aid exception" because the officers "arrived at a home to find a pattern consistent with lawful or unlawful activity, but with no evidence of weapons, violence, or threats").

Nor is it clear that the Fourth Circuit has adopted a less demanding test for the emergency-aid exception that resembles *Terry*'s test. Pet.16. On one hand, *Figg* v. *Schroeder*, 312 F.3d 625 (4th Cir. 2002), was decided before *Brigham City*, so it's not clear that *Figg*'s statement that only a "'reasonable suspicion' that [an emergency] exist[s] at the time of the search or seizure" is still good law. *See id.* at 639. On the other hand, *United States* v. *Curry*, 965 F.3d 313 (4th Cir. 2020), evaluates exigency in the context of seizures traditionally covered by *Terry*. *See id.* at 320 (finding the investigatory seizure was "not a legal *Terry* stop" and evaluating under exigent circumstances exception). But even *Curry* explained that the emergency-aid

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the purpose of the warrantless entry "is not *per se* to discover evidence of some crime but is intended to serve some special need beyond the investigative norm, what is constitutionally required is simply general reasonableness." *Id.* (quotation marks omitted).

exception requires an "objectively reasonable belief," based on specific and objective facts, that a true emergency exists and is "enveloped by a sufficient level of urgency." *Id.* at 322 (quoting *United States* v. *Yengel*, 711 F.3d 392, 397 (4th Cir. 2013)).

None of Case's drive-by citations to decisions from California, Oregon, South Dakota, Tennessee, Michigan, and Ohio suggest otherwise.[3] Pet.16-17 & nn.1-6.

B. The Second, Eleventh, and D.C. Circuits—and several state courts—all hold that *Brigham City*'s "objectively reasonable basis" standard mirrors probable cause.

The Second, Eleventh, and D.C. Circuits have all held that warrantless entries under the emergency-aid exception must be supported by probable cause. But the probable cause standard in each circuit

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[3] Many of these cases use language common to *Terry*'s "reasonable suspicion" test, but even a cursory review reveals that these courts are just applying *Brigham City*'s "objectively reasonable belief" standard. To be sure, it would be helpful if courts were more precise and consistent in articulating that standard, but when applying it, each court considers all the facts before the officers and asks whether a reasonably prudent officer would conclude that it was necessary to enter the home to prevent injury or provide medical assistance. *See, e.g.*, *People* v. *Ovaida*, 446 P.3d 262, 273 (Cal. 2019) (need "objectively reasonable basis" for believing person was injured or needed assistance); *State* v. *Fessenden*, 333 P.3d 278, 281-82 (Or. 2014) (same); *State* v. *Deneui*, 775 N.W.2d 221, 234 (S.D. 2009) (same); *State* v. *Meeks*, 262 S.W.3d 710, 723 (Tenn. 2008) (same); *People* v. *Lemons*, 830 N.W. 2d 794, 797 (Mich. Ct. App. 2013) (same); *State* v. *Modreski*, 241 N.E.3d 942, 945 (Ohio Ct. App. 2024) (same).

mirrors the "objectively reasonable basis" standard applied in the First, Eighth, and Tenth Circuits.

1. The Second Circuit interprets *Brigham City* to require "probable cause to believe that a person is 'seriously injured or threatened with such injury'" to justify a warrantless entry under the "emergency aid doctrine." *Chamberlain* v. *City of White Plains*, 960 F.3d 100, 106 (2d Cir. 2020) (quoting *Brigham City*, 547 U.S. at 403). To conclude there is probable cause "requires finding a *probability* that a person is in danger," *id.* (quoting *Kerman* v. *City of N.Y.*, 261 F.3d 229, 236 (2d Cir. 2001))—the "mere possibility of danger' is insufficient," *id.* (quoting *Hurlman* v. *Rice*, 927 F.2d 74, 81 (2d Cir. 1991)). The "core question" for the court "is whether the facts, as they appeared at the moment of entry, would lead a *reasonable, experienced officer*, to believe that there was an urgent need to render aid or take action." *Id.* at 106 (emphasis added) (quoting *United States* v. *Klump*, 536 F.3d 113, 117-18 (2d Cir. 2008)). This inquiry requires courts to consider the "totality of circumstances" confronting the officers at the time of entry. *Id.* (quoting *Klump*, 536 F.3d at 117).

The Eleventh Circuit treats *Brigham City*'s "objectively reasonable basis" standard and probable cause as one and the same. *United States* v. *Tinmann*, 741 F.3d 1170, 1178 n.4 (11th Cir. 2013). In *United States* v. *Holloway*, the court held that a warrantless entry based on an emergency could be justified only by "exigency *and* probable cause," but it explained that, because officers "[i]n emergencies" are not "motivated by an expectation of seizing evidence of a crime," probable cause is satisfied when "officers reasonably believe a person is in danger." 290 F.3d at 1337-38.

Reviewing this analysis, *Tinmann* explained that *Brigham City*'s standard was "essentially the same approach" as *Holloway*'s probable cause standard, which required "a reasonable belief that a person is in danger coupled with an immediate need to act." 741 F.3d at 1178 n.4.

The D.C. Circuit similarly requires that officers have "at least probable cause to believe that one or more of the … factors justifying entry"—here, a "need to protect or preserve life or avoid serious injury," *Brigham City*, 547 U.S. at 403—"[is] present." *Corrigan* v. *District of Columbia*, 841 F.3d 1022, 1030 (D.C. Cir. 2016) (quoting *Minnesota* v. *Olson*, 495 U.S. 91, 100 (1990)). The underlying level of cause necessary to support entry is "'an objectively reasonable basis for believing' that the urgent and compelling need that would justify a warrantless entry actually exists." *Id.* (citation omitted). And "reasonableness" under the Fourth Amendment requires courts to consider the "particular circumstances" facing the officers at the time of the warrantless entry. *Id.*

2. Nebraska and Colorado both require that probable cause—or some "reasonable basis approximating probable cause," *People* v. *Pate*, 71 P.3d 1005, 1011 (Colo. 2003)—support a warrantless entry under the emergency-aid exception. *State* v. *Eberly*, 716 N.W.2d 671, 677 (Neb. 2006); *Pate*, 71 P.3d at 1011-12. In both states, "reasonableness" requires officers to point to specific facts that courts judge against an objective standard: "[W]ould the facts available to the officer at the moment of … the search 'warrant a man of reasonable caution in the belief' that the action taken was appropriate?" *Eberly*, 716 N.W.2d at 677-78 (citation

omitted); *see also Pate*, 71 P.3d at 1011 ("warrantless entries [permissible] only when there are facts to support the conclusion that someone's life or safety is seriously threatened").

* * *

Several federal and state courts *say*—like *Hill*, *Quarterman*, *Gambino-Zavala*, *Curet*, and *Hillard*—that probable cause isn't required, just an "objectively reasonable belief" that an emergency is underway. But in nearly every case applying the emergency-aid exception, courts require officers to have what amounts to probable cause to enter a home without a warrant to render emergency aid. *See, e.g.*, *Snipe*, 515 F.3d at 952 (citation omitted) (quoting *Holloway*, 290 F.3d at 1338) ("[I]n an emergency, the probable cause element may be satisfied where officers reasonably believe a person is in danger.")); *see also supra* Sect.I.A-B. Case is right that many federal and state courts articulate ostensibly distinct standards for evaluating warrantless entries in emergency-aid situations, but in practice courts apply probable cause or something close to it, rendering Case's proffered split largely illusory.

II. The Montana Supreme Court's majority opinion reached the correct result.

1. The majority concluded that Montana's community caretaker doctrine "comports with *Caniglia* and aligns with Montana's heightened privacy protections." Pet.App.11a. For warrantless entries "totally divorced" from an officer's investigatory functions, Montana courts evaluate such entries for reasonableness using a three-part test: (1) officers may investigate if there are "objective, specific and articulable

facts from which an experienced officer would suspect that a citizen" is in peril; (2) if so, officers may act to address the emergency; and (3) after the emergency has been resolved, all other actions implicate federal and state constitutional protections. *See* Pet.App.12a (quoting *Lovegren*, 51 P.3d at 475-76). Warrantless entries based on general exigency require probable cause, but for entries to address emergencies, the majority concluded that "probable cause" is "'superfluous' and should not impede an officer's duty to ensure the wellbeing of a citizen in imminent peril." Pet.App.14a (quoting *Snipe*, 515 P.3d at 952).

Based on its review of the record, the majority concluded that the officers' entry was reasonable. Looking to the *Lovegren* factors, the majority found that the officers acted on "objective, specific, and articulable facts from which an experienced officer would suspect a citizen is in need of help." Pet.App.16a. Case's girlfriend, J.H., reported that during their phone conversation, Case seemed intoxicated and suicidal, he said he planned to write a suicide "note," and she thought she heard a gunshot. Pet.App.16a. When the officers arrived, they observed a scene through Case's window consistent with J.H.'s report: an empty beer can, an empty gun holster, and a notepad. Pet.App.16a-17a. The officers were also aware of Case's mental health issues and prior attempts to initiate "suicide-by-cop," *see* Pet.App.5a, so they "formulate[d] a plan to render aid accordingly." Pet.App.16a.

2. In reaching its conclusion, the majority rightly rejected the dissent's claim that distinguishing between "criminal and non-criminal exigencies [was] confusing and unnecessary." *See* Pet.App.14a. And it

recognized that the lack of a framework for law enforcement to address situations where there wasn't probable cause but there was a need to help people in imminent peril made the "'exigent circumstances plus probable cause' standard … unwieldy and risks grave consequences for individuals in need of care." Pet.App.15a. The dissent's alternative—which Case advances here, *see* Pet.29-30—requires "probable cause to believe a person is in imminent peril and in need of help." *See* Pet.App.15a. And the majority rejected this formulation of the probable cause standard as "superfluous," *see* Pet.App.14a (quoting *Snipe*, 515 F.3d at 952), because "in an emergency, the probable cause element may be satisfied where officers reasonably believe a person is in danger." *Snipe*, 515 F.3d at 952 (quoting *Holloway*, 290 F.3d at 1338).

Before *Brigham City*, the Ninth Circuit evaluated emergency-aid exceptions using these three factors: (1) officers must have "reasonable grounds to believe there is an emergency … and an immediate need for their assistance"; (2) search "must not be primarily motivated by intent to arrest and seize evidence"; and (3) "must be some reasonable basis, *approximating probable cause*, to associate the emergency to the … place to be searched." *Snipe*, 515 F.3d at 951 (quoting *United States* v. *Morales Cervantes*, 219 F.3d 882, 888 (9th Cir. 2000)). *Brigham City*, however, held that "[t]he officer's subjective motivation is irrelevant" to this inquiry, 547 U.S. at 404, so *Snipe* eliminated "*Cervantes*' subjective second prong" from the inquiry, 515 P.3d at 952. And "because *Brigham City* failed to conduct any traditional probable cause inquiry," *Snipe* treated "*Cervantes*' third prong"—which included "an expanded probable cause inquiry"—as "superfluous"

because that element is satisfied "whenever law enforcement officers have an objectively reasonable basis for concluding that an emergency is unfolding in that place." 515 P.3d at 952.

Beyond these doctrinal disagreements, the dissent's read of the record deviates from the majority's—largely relying on the officers' delayed entry and concern that Case was trying to elicit a "suicide-by-cop." Pet.App.28a-29a. Because *Snipe* and *Fisher* involved quick responses to urgent conditions—and the officers here had a delayed and calculated response to a "silent residence with no signs of an active emergency"—the dissent concluded that the facts did not support the existence of an emergency requiring the officers to enter Case's home. Pet.App.29a. That the officers observed the notepad, an open beer can, and an empty gun holster through the window was of no moment because they didn't suggest the existence of an active emergency. *See* Pet.App.28a-29a.

3. Even if the majority opinion "treat[ed] *Brigham City*'s 'reasonable basis' standard as a 'less exacting standard,'" as Case argues, *see* Pet.1 (quoting *Curet*, 289 A.3d at 190), its decision properly balances the Fourth Amendment's privacy and public safety interest. To be sure, the Fourth Amendment's warrant requirement "safeguard[s] the privacy and security of individuals against arbitrary invasions by government officials." *Carpenter*, 585 U.S. at 303 (citation omitted). But its "proscription against warrantless searches must give way to the sanctity of human life." *Holloway*, 290 F.3d at 1137 ("difficult to imagine a scenario in which police action is more justified than when a human life hangs in the balance"); *see also*

Alexander, 721 A.2d at 269 (officers must "respond promptly" to "possible medical emergenc[ies]" because "[u]ndue concern with Fourth Amendment niceties could yield a dead victim who might otherwise have survived").

Justices Alito and Kavanaugh highlighted these tensions in their separate opinions in *Caniglia*. Revisiting the Chief Justice's oral argument hypothetical about an elderly woman that was hours late for a dinner engagement with her neighbors "even though she was never late for anything." *Caniglia*, 593 U.S. at 202 (Alito, J., concurring). The hypothetical posed the question: If her neighbors were unable to reach her and "the police entered the home without a warrant to see if she needed help, would that violate the Fourth Amendment?" *Id.* The petitioner said it would. *Id.* Yet many elderly people live alone and many fall in their homes, so striking the balance of Fourth Amendment interests too much in favor of privacy interests may have devastating, real-world consequences. *See id.* at 203 ("[I]f the elderly woman was seriously hurt or sick and the police heeded petitioner's suggestion about what the Fourth Amendment demands, there is a fair chance she would not be found alive.").

Justice Kavanaugh considered a similar example of an elderly man uncharacteristically absent from church and unreachable for the entire day—a "heartland emergency-aid situation"—and concluded that entry in these circumstances would *not* violate the Fourth Amendment. *See id.* at 206, 207-08 (Kavanaugh, J., concurring). In a situation similar to Case's—where a woman calls 911 and says she's contemplating suicide, and when officers arrive at the

home, she doesn't answer the door—he said the entry would, *again*, not violate the Fourth Amendment. *See id.* at 207. Permitting "warrantless entries when police officers have an objectively reasonable basis to believe there is a current, ongoing crisis for which it is reasonable to act now" strikes the right balance of Fourth Amendment interests, even if it happens to be a less exacting standard. *See id.* at 206; *see also id.* at 203 (Alito, J., concurring) ("This imaginary woman may have regarded her house as her castle, but it is doubtful that she would have wanted it to be the place where she died alone and in agony.").

III. Case's petition is not an ideal vehicle for answering the question presented.

Even if there is daylight between *Brigham City*'s "objectively reasonable basis" standard and probable cause, Case's petition is not an ideal vehicle for determining the standard of proof for warrantless entries into a home under the emergency-aid exception.

Despite the majority's and the dissent's heightened rhetoric, their competing emergency-aid standards yield only chimeric differences in practice. Probable cause and an "objectively reasonable basis" both consider all the facts before a reasonable, trained officer and ask whether, in light of those facts, it was objectively reasonable for the officer to believe there was an emergency in the home that required immediate action. *See supra* Sect.I; *see also, e.g.*, *Snipe*, 515 F.3d at 952 ("probable cause element may be satisfied where officers reasonably believe a person is in danger" (citation omitted)). Regardless of the label this Court attaches to that inquiry, the real dispute between the majority and dissent below is whether the facts

supported the officers' belief that entry was necessary to check on Case's well-being. *See supra* Sect.II. The majority thought the facts observed onsite (and J.H.'s corroborating report) suggested that Case was contemplating suicide and may require immediate assistance, while the dissent believed that the silent scene (evidenced by the officers' delayed entry) suggested the opposite. *See supra* Sect.II. But this Court "rarely grant[s]" petitions "when the asserted error consists of erroneous factual finding or misapplication of a properly stated rule of law." Sup. Ct. R. 10.

If this Court concludes there is indeed a deep and intractable split among federal and state courts on whether courts should evaluate warrantless entries under the emergency-aid exception using *Brigham City*'s "objectively reasonable basis" standard or probable cause, Montana agrees that Case's petition provides a suitable vehicle to address that split. No doubt the use of different formulations—probable cause, objectively reasonable basis, reasonable suspicion—to analyze warrantless entries for Fourth Amendment "reasonableness" runs the risk of sowing deeper confusion among federal and state courts on an issue of vital importance to citizens and law enforcement. But Montana believes the majority opinion applied the appropriate standard and reached the correct result, so this Court should deny the petition.

CONCLUSION

The petition should be denied.

Respectfully submitted,

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APRIL 2025