No. 25-1030

# In the Supreme Court of the United States

CHRISTOPHER R. CUMMINS,

*Petitioner*,

*v.*

STATE OF ILLINOIS,

*Respondent*.

**On Petition for a Writ of Certiorari to the Illinois Appellate Court**

## BRIEF IN OPPOSITION


KWAME RAOUL
*Attorney General*
*State of Illinois*
JANE ELINOR NOTZ*
*Solicitor General*
ALEX HEMMER
*Deputy Solicitor General*
115 South LaSalle St.
Chicago, Illinois 60603
(312) 814-5376
jane.notz@ilag.gov

KATHERINE M. DOERSCH
*Criminal Appeals Division Chief*
GARSON S. FISCHER
*Assistant Attorney General*

* *Counsel of Record*

## QUESTION PRESENTED

Law enforcement officers were summoned to petitioner's home in the middle of the night to find his vehicle in the driveway, one of the doors ajar, loud music blaring, a dog barking, and lights streaming from the house. The officers repeatedly knocked on the doors and attempted to reach petitioner by telephone, learned that petitioner was a drug user who had previously been convicted of a narcotics offense, and ultimately entered the house without obtaining a warrant to ensure that petitioner was safe.

The question presented is whether the state appellate court faithfully applied *Brigham City v. Stuart*, 547 U.S. 398 (2006), in concluding that the officers had an objectively reasonable basis for believing that their entry into petitioner's home was needed to prevent or deal with serious harm.

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

**Page(s)**

**Cases**

**Statute and Rule**

## BRIEF IN OPPOSITION

In *Brigham City v. Stuart*, this Court held that law enforcement officers may enter a home without a warrant if they have an "objectively reasonable basis for believing" that someone inside needs emergency assistance. 547 U. S. 398, 400 (2006). Earlier this year, in *Case v. Montana*, this Court reaffirmed that rule and clarified that officers need not also have "probable cause" to believe that aid is needed to satisfy the Fourth Amendment. 607 U.S. 107, 113 (2026).

The state intermediate appellate court here faithfully applied *Brigham City* and concluded that police officers did not violate the Fourth Amendment in entering petitioner's home without a warrant. The officers arrived at petitioner's house in the middle of the night to find his vehicle in the driveway and one of the doors ajar, hear music blaring and a dog barking, and see light streaming from the windows. They repeatedly knocked on petitioner's doors and attempted to reach him by telephone but received no response. After ascertaining that petitioner was a drug user who had previously been convicted of a narcotics offense, the officers entered the home without a warrant to ensure he was conscious and safe. Petitioner was subsequently charged with the unlawful possession of firearms and ammunition, and he successfully obtained suppression of the evidence obtained in the search of his house. Applying the *Brigham City* standard, the appellate court reversed, concluding that the officers had reasonable grounds to believe that their emergency aid was required.

Petitioner seeks further review of the appellate court's opinion, but he identifies no plausible basis for certiorari. The Court lacks jurisdiction over the petition because the decision below is an interlocutory opinion from a state court. And even if the Court had jurisdiction, petitioner seeks only fact-bound error correction, and the lower court did not err. The petition should be denied.

## STATEMENT

1. On April 27, 2022, at approximately 2:31 a.m., Kane County, Illinois, police officers were dispatched to petitioner's home to respond a noise complaint. Pet. App. 3a. When the first officer arrived, he heard "[e]xtremely loud" music and a dog barking inside the house, and he saw that the interior lights were on. *Id.* at 4a. The officer pounded on the front and side doors, one of which was slightly ajar, and announced his presence, but no one answered. *Id.* at 4a-5a. As the officer approached a third door, on the south side of the house, he saw a cabinet with firearms in plain view. *Id.* at 6a.

After a second officer arrived, the two officers spoke to the neighbor who had made the noise complaint. *Id.* at 5a. The neighbor explained that the house had belonged to petitioner's father, and that petitioner had resided there since his father had passed away. *Ibid.* The neighbor said that there was a recurring issue with noise coming from the house late at night. *Ibid.* He added that he believed petitioner was home because his car was in the driveway. *Ibid.* The neighbor informed the officers that petitioner had a drug problem, and the officers confirmed via police records that petitioner had previously been convicted of a narcotics violation. *Id.* at 7a. With the neighbor's help, the officers unsuccessfully attempted to reach petitioner and his family members by telephone. *Ibid.*

Given the time of night, the volume of the music, the interior lights, the barking dog, and the likelihood that petitioner was at home, the officers became concerned that someone in the house might be experiencing a "medical emergency" or was "under duress." *Id.* at 6a. They summoned additional officers, and all the officers together pounded on the doors simultaneously in an effort to make contact with someone inside. *Id.* at 5a-6a. When that effort was unsuccessful, the officers entered the house without a warrant. *Id.* at 6a. The time of entry was 3:47 a.m. *Id.* at 8a. The officers subsequently sought and obtained a warrant to search the house. *Ibid.*

2. Petitioner was charged with nine counts of unlawful possession of a firearm by a felon, 720 ILCS 5/24-1.1(a), one count of unlawful possession of firearm ammunition by a felon, *ibid.*, and one count of possession of a firearm by a person not eligible for a state firearms license, 439 ILCS 65/2(a)(1). Pet. App. 3a.

Petitioner moved to suppress the evidence obtained during the search of his house. *Ibid.* At the suppression hearing, the two police officers who first arrived at the scene testified consistently with the account set out above. On examination by petitioner's counsel, the first officer on the scene explained that the purpose of the entry had been to "see if anybody was under any type of medical emergency or under duress." *Id.* at 6a; see also *id.* at 9a (similar). The second officer, for his part, acknowledged that he had not obtained a search warrant before entering the house, that nothing about the situation had changed between 2:31 and 3:47 a.m., and that he had not been expressly told that "anybody was hurt in there or that there was an emergency." *Id.* at 8a.

The trial court granted the motion to suppress and denied the State's subsequent motion to reconsider. *Id.* at 9a-11a. The court agreed that it was "possible that there may have been an individual in duress of some sort in the residence," but explained that, in the court's view, "the information available to the officers . . . outside the residence" did not suggest "that was the likely possibility." *Id.* at 11a. Thus, the court held, the available information was insufficient to justify a warrantless entry. *Ibid.*

3. The State took an interlocutory appeal, and the intermediate appellate court reversed. Pet. App. 2a.

The appellate court first explained that, although the Fourth Amendment generally requires police officers to obtain a warrant before entering a house, officers may enter a house without a warrant where, as relevant here, the police have "a reasonable belief that immediate action is necessary for the purpose of providing aid to persons or property in need thereof." *Id.* at 12a. Under this exception to the warrant requirement, (1) the officers "'must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance in the protection of life or property'" and (2) "'there must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be entered and searched.'" *Ibid.* (quoting *People v. Ferral*, 921 N.E. 2d 414, 421 (Ill. App. 2009)). Because petitioner had conceded that the second prong of the test was met if the first was, the appellate court explained, "only the first prong [was] at issue" on appeal. *Id.* at 12a-13a.

The appellate court then held that the officers had "reasonable grounds to believe that an emergency [was] at hand." *Id.* at 17a. Indeed, the trial court had concluded otherwise only by "requiring that an emergency be *the* likely possibility" (or "more likely than not"), which, the appellate court explained, did not correctly describe the applicable standard. *Ibid.* (internal quotations omitted). Applying the proper standard, the officers had reason to believe that "someone was inside the home": It was the middle of the night, one of the doors was ajar, there was music blaring, the interior lights were on, and petitioner's car was parked in the driveway. *Id.* at 17a-18a. The court acknowledged that no one answered the door or the phone, but stated that "this could have resulted from the very type of emergency that would have justified the entry," namely "unconsciousness or some other serious impairment." *Ibid.* Viewed together, "[t]hese facts strongly militated in favor of a conclusion that [petitioner] was home at the time." *Id.* at 18a.

The appellate court also held that the officers had reasonable grounds to believe that petitioner "or another person . . . needed immediate assistance." *Ibid.* On the one hand, the court explained, "the noise complaint and the noise itself were not probative of an emergency," and the officers "had no other specific information about an emergency." *Ibid.* On the other, "the evidence of what did *not* happen heavily favored finding an emergency": The officers had received no response (other than the barking dog) after a "chorus of knocks on multiple doors," which they could reasonably infer resulted "not from the occupant's unwillingness to respond but from his inability to do so." *Id.* at 18a-19a (emphasis in original). The fact that petitioner was a known drug user, which was corroborated by his drug conviction, likewise furnished a basis for concern that emergency aid might be needed. *Ibid.* And although the court acknowledged the "long delay between the officers' arrival and entry," it reasoned that the officers reasonably used that period "to ascertain whether [petitioner] would answer the door." *Id.* at 19a. The appellate court thus reversed the suppression order. *Id.* at 20a.

The Illinois Supreme Court denied leave to appeal. *Id.* at 1a.

## REASONS FOR DENYING THE PETITION

The petition for certiorari should be denied. This Court lacks jurisdiction because the opinion below is not a final judgment, and no exception to the finality rule applies. On the merits, the petition identifies no division of authority or other basis on which certiorari might be appropriate beyond error correction, and the lower court did not err. On the contrary, it correctly applied the standard set out in *Brigham City*, and the result it reached is consistent with this Court's recent opinion in *Case*. There is thus no basis for further review.

## I. The Court Lacks Jurisdiction To Review The State Appellate Court's Interlocutory Decision.

To start, the petition should be denied because the Court lacks jurisdiction over it. Although petitioner invokes this Court's jurisdiction under 28 U.S.C § 1257(a), Pet. 1, he fails to "demonstrate to this Court that it has jurisdiction to review the judgment," *Johnson v. California*, 541 U.S. 428, 431 (2004) (per curiam). Nor could he. This Court's jurisdiction to review state-court decisions is limited to "[f]inal judgments or decrees rendered by the highest court of a State in which a decision could be had," 28 U.S.C. § 1257, and the Illinois Appellate Court's decision is interlocutory, not final. Nor does the decision fit into the "four categories of . . . cases in which the Court has treated" a state interlocutory decision on a federal issue "as a final judgment . . . without awaiting the completion of the additional proceedings anticipated in the lower courts." *Cox Broadcasting Corp. v. Cohn*, 420 U.S. 469, 477 (1975). The Court should thus deny review on that basis, as it regularly does in interlocutory appeals arising from a state-court decision granting a motion to suppress. See, *e.g.*, *Sneed v. Illinois*, No. 23-5827; *Andrews v. New Jersey*, No. 20-937; *Hamm v. Tennessee*, No. 19-1059.

a. In the context of a state prosecution, "[t]he general rule is that finality . . . is defined by a judgment of conviction and the imposition of a sentence." *Fort Wayne Books, Inc. v. Indiana*, 489 U.S. 46, 54 (1989). Here, petitioner has not yet been tried, much less convicted and sentenced. As a result, the additional proceedings that will follow the state appellate court's opinion—*i.e.*, pretrial proceedings and trial—may ultimately moot the federal constitutional issue. Petitioner might succeed at suppressing some or all of the evidence obtained during the search on some other basis. Or, if that evidence is admitted at trial, petitioner might be acquitted by a jury. Either event would likely moot the federal issue presented in this petition.

b. This case does not fall into any of the four "exceptional categories," *Johnson*, 541 U.S. at 429, identified in *Cox*.

First, this is not a case "where for one reason or another the federal issue is conclusive or the outcome of further proceedings preordained." *Cox*, 420 U.S. at 479. This Court has applied that exception in the criminal context only in the extreme case where the defendant had "concede[d] that he" committed the conduct of which he was accused and that he "therefore ha[d] no defense" in the trial court other than the federal constitutional claim the state court had rejected. *Mills v. Alabama*, 384 U.S. 214, 217 (1966). Petitioner has made no similar concession here. The state appellate court's reversal of the decision suppressing the evidence obtained during the search is not conclusive of and does not preordain petitioner's guilt. Whether petitioner is guilty of the charged offenses remains to be adjudicated on remand, and petitioner will be free to raise any other defenses he has at that time.

The second and third *Cox* exceptions are equally inapplicable. This is not a case in which "the federal issue, finally decided by the highest court in the State, will survive and require decision regardless of the outcome of future state-court proceedings," as needed to satisfy the second exception. *Cox*, 420 U.S. at 480. Most obviously, if the outcome at trial is acquittal, there will be no need for further review of the Fourth Amendment issue. Nor does this case fall into the third category, for "those situations where the federal claim has been finally decided, with further proceedings on the merits in the state courts to come, but in which later review of the federal issue cannot be had, whatever the ultimate outcome of the case." *Id.* at 481. If petitioner is convicted at trial, he can "once more seek review of his [Fourth Amendment] claim in the Supreme Court of [Illinois]" and, if unsuccessful, "then seek certiorari on that claim from this Court." *Johnson*, 541 U.S. at 431.

Finally, this is not a case in which "a refusal immediately to review the state court decision might seriously erode federal policy," *Cox*, 420 U.S. at 483, as the fourth *Cox* exception requires. This Court has refused to apply this exception when doing so "would permit the . . . exception to swallow the rule." *Flynt v. Ohio*, 451 U.S. 619, 622 (1981) (per curiam). As was the case when this Court declined review of an interlocutory suppression issue in *Florida v. Thomas*, 532 U.S. 774, 780 (2001), and an interlocutory *Batson* issue in *Johnson*, 541 U.S. at 430, petitioner "can make no convincing claim of erosion of federal policy that is not common to all decisions rejecting a defendant's [Fourth Amendment] claim," *ibid.* Under any contrary understanding of the fourth exception, "[a]ny federal issue finally decided on an interlocutory appeal in the state courts" that concerned a warrantless entry to a home "would qualify for immediate review." *Flynt*, 451 U.S. at 622.

The Court thus lacks jurisdiction over the petition, and it can be denied on that basis.

## II. The Court Should Deny Petitioner's Request For Error Correction.

Ignoring the jurisdictional barrier, petitioner asks the Court to grant certiorari to review the lower court's "application" of *Brigham City* and *Case* to "the facts" of his case. Pet. 3. That request for error correction does not meet the standards for certiorari, and in any event the Illinois Appellate Court did not err. The petition should be denied.

a. The petition does not meet the Court's standards for certiorari review. Petitioner does not allege the existence of any division in authority about the emergency-aid exception to the Fourth Amendment. Rather, he contends that the state appellate court misapplied this Court's caselaw on that subject. Indeed, petitioner expressly casts the petition as seeking error correction: He "does *not* challenge" the rule the appellate court applied, but merely "the application" of that rule to the "facts" of his case. Pet. 3 (emphasis in original); *id.* at 5. But this Court does not grant certiorari to review "the misapplication of a properly stated rule of law," S. Ct. R. 10, which is all petitioner says that he seeks.

Moreover, even if petitioner *could* identify a question of law implicated by the decision below regarding the circumstances under which police officers can enter a home without a warrant to render emergency aid, the Court's review would be unwarranted. The Court issued an opinion clarifying the standard for warrantless entries of that sort earlier this Term, in *Case v. Montana*, 607 U.S. 107. So even if petitioner had identified a legal question about the rules governing the emergency-aid exception to the Fourth Amendment's warrant requirement—which he has not—the Court's review of such a question would still be premature, given that *Case* is likely to resolve any uncertainty about the scope and applicability of that exception in the near term.

b. In any event, the state appellate court faithfully applied the standard set out in *Brigham City*, which this Court reaffirmed in *Case*, 607 U.S. at 113, 116, 119, to the facts of this case.

In *Brigham City*, this Court considered whether police may enter a home without a warrant for the purpose of rendering emergency aid. 547 U.S. at 400. The officers in that case received a noise complaint and were summoned to a residence in the middle of the night, where they witnessed a violent altercation through a screen door. *Id.* at 400-401. The officers entered without a warrant, quelled the altercation, and arrested and charged several of the participants. *Id.* at 401. This Court unanimously held that the warrantless entry was constitutional, explaining that the officers had "an objectively reasonable basis for believing that an occupant [was] seriously injured or imminently threatened with such injury." *Id.* at 400.

Here, the appellate court correctly stated the standard set out in *Brigham City*. It explained that a warrantless home entry is constitutional where, as relevant, the police "enter into and search the premises with a reasonable belief that immediate action is necessary for the purpose of providing aid," Pet. App. 12a—in substance, the standard set out in *Brigham City*. And the appellate court cited and discussed *Brigham City* at length, explaining that this Court held there that the standard for an emergency-aid entry is objective, not subjective, in nature. *Id.* at 15a-16a; *see id.* at 16a (explaining that *Brigham City* defeats petitioner's argument that "the officers' delay" reflects "that they did not really believe there was an emergency").

The appellate court also faithfully applied the *Brigham City* standard to the facts of petitioner's case. The appellate court reasoned that the officers on the scene could have reasonably concluded—based on the time of night, the presence of petitioner's vehicle in the driveway, the loud music blaring from the house, that the lights were on and a dog was barking, that one of the doors was ajar, that there was no answer to loud and repeated knocking at the door and efforts to reach petitioner by telephone, and that petitioner was a drug user who had previously been convicted of a narcotics offense—that petitioner was home, unconscious, and in need of urgent medical attention. *Id*. at 18a-19a. "In all," the appellate court explained, the officers acted reasonably in concluding that someone in the house "needed immediate assistance," even if a reasonable officer could also have made a different decision. *Id*. at 20a.

The decision below is likewise consistent with this Court's opinion in *Case*, which post-dated it. In *Case*, police officers received a 9-1-1 report indicating that the defendant had a firearm and was threatening suicide. 607 U.S. at 110-111. They entered his house without a warrant for the purpose of rendering emergency aid. *Id.* at 111. The state supreme court held that the warrantless entry was lawful, and this Court affirmed, reaffirming that (as explained in *Brigham City*) "[a]n officer may enter a home without a warrant if he has 'an objectively reasonable basis for believing that an occupant is seriously injured or imminently threatened with such injury.'" *Id.* at 119 (quoting *Brigham City*, 547 U.S. at 400). That is the standard the appellate court applied here.

Petitioner challenges the appellate court's "application" of the rule established in *Brigham City* and reaffirmed in *Case* to the facts of his case, Pet. 5, but his arguments lack merit. Petitioner's complaint is that the officers here did not witness a "fracas" (as in *Brigham City*) and were not expressly informed of the need for emergency aid (as in *Case*). *Id.* at 4-5; see also *id.* at i (question presented). As a result, petitioner contends, the opinion below "vastly expands the scope" of those cases. *Id.* at 5. But the emergency-aid exception is not limited to the specific facts of *Brigham City* and *Case*. The question whether a search violated the Fourth Amendment is a "fact-specific" one, *Ohio v. Robinette*, 519 U.S. 33, 39 (1996), as the appellate court here recognized, see Pet. App. 20a ("[T]he resolution of Fourth Amendment cases is highly fact-specific, and never more so than here." (citation omitted)). And nothing about *Brigham City* or *Case* even hints that the standard announced and applied in those cases is limited to cases with similar, or even similarly extreme, facts. Cf. *Case*, 607 U.S. at

118 ("objective reasonableness of an officer's conduct under *Brigham City*, as in other Fourth Amendment contexts, is evaluated by looking at the 'totality of the circumstances'" (citations omitted)). Petitioner is thus wrong to suggest that the appellate court's application of that standard was "erroneous," Pet. 4; rather, the appellate court faithfully and reasonably applied *Brigham City* to the distinct facts of petitioner's case.

c. There is no other basis for further review, including a grant, vacate, and remand to permit the appellate court to consider *Case*. To be sure, the appellate court twice glossed the applicable rule as "approximating probable cause," Pet. App. 12a, 17a, which this Court subsequently "decline[d]" to do in *Case*, 607 U.S. at 116. But that gloss does not warrant a GVR—even setting aside that petitioner has not asked for one—because there is no reason to think that the appellate court would reach a different conclusion in light of *Case*. See *Lawrence v. Chater*, 516 U.S. 163, 167 (1996) (per curiam) (GVR appropriate only where there is "a reasonable probability" that lower court would reach a different result on remand).

Most basically, the appellate court applied the standard set out in *Brigham City*, which this Court reaffirmed in *Case*, and there is no reason to think the appellate court would apply that standard differently after *Case*. The court stated *fifteen times* that the appropriate inquiry was whether the officers had "reasonable grounds to believe" (or, alternatively, a "reasonable belief") that emergency aid was necessary. See, *e.g.*, Pet. App. 17a (describing "the 'reasonable grounds' standard"); *id.* at 19a ("the reasonable-grounds analysis"); *see also id.* at 12a, 13a, 14a, 15a, 16a, 20a (similar). That is the very standard set out in *Brigham City* and reaffirmed in *Case*.

Moreover, although the appellate court used the phrase "probable cause" twice, its use of that gloss on the *Brigham City* standard does not warrant a GVR. First, even if these passing references could amount to the application of a probable-cause rule, that would mean the appellate court applied a standard *more* favorable to petitioner than that set out in *Brigham City*. It was the petitioner in *Case* who asked the Court to "understand the *Brigham City* test as 'sounding in probable cause.'" 607 U.S. at 116. The parties and the Court understood that standard to have imposed a *greater* burden on the State than *Brigham City*'s "reasonable basis" test. See, *e.g.*, Brief for the United States at 20, *Case*, 607 U.S. 107 (No. 24-624) (advocating for a "lesser degree of certainty" than probable cause). So even if the appellate court had applied a probable-cause rule, that would mean that it had held the officers to a higher burden than necessary, such that there is no "reasonable probability," *Lawrence*, 516 U.S. at 167, the court would reach a different result under a more relaxed standard and thus no basis for a GVR.

In any event, the appellate court's two references to "probable cause" did *not* mean the court applied the probable-cause standard. As explained, the court used the phrase "reasonable basis to believe" no less than fifteen times. In just one of those times, the court observed that the second prong of Illinois's articulation of the emergency-aid standard required the State to show that there was a "reasonable basis, approximating probable cause, to associate the emergency with the area or place to be entered and searched." Pet. App. 12a. But the court went on to explain that that petitioner had agreed that prong was satisfied if the first prong was, and so was not at issue on appeal. *Id*. at 12a-13a. The court later referred to probable cause in explaining that the trial court had erred in asking if it was "more likely than not" that emergency aid was needed, *id*. at 17a (internal quotations omitted), but petitioner does not challenge the appellate court's resolution of that ancillary question, and it is plainly correct. Cf. *Michigan v. Fisher*, 558 U.S. 45, 59 (2009) (per curiam) ("[o]fficers do not need ironclad proof . . . to invoke the emergency aid exception").

There is accordingly no "reasonable probability," *Lawrence*, 516 U.S. at 167, that the appellate court would reach a different result after a GVR. But to the extent there is any uncertainty at all about that question, the interlocutory posture of the case likewise counsels against a GVR. Petitioner has not yet gone to trial, and if he is ultimately convicted he will be able to renew his Fourth Amendment argument in a post-trial motion and, if it is rejected by the trial court, on appeal. So if there were a genuine question whether the lower courts would reach a different result in light of *Case*, petitioner will be able to litigate that question after final judgment in his case.

## CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

KWAME RAOUL
*Attorney General*
*State of Illinois*
JANE ELINOR NOTZ*
*Solicitor General*
ALEX HEMMER
*Deputy Solicitor General*
KATHERINE M. DOERSCH
*Criminal Appeals Division Chief*
GARSON S. FISCHER
*Assistant Attorney General*
115 South LaSalle Street
Chicago, Illinois 60603
(312) 814-5376
jane.notz@ilag.gov

* *Counsel of Record*

JUNE 2026