No. 25-1099

In the Supreme Court of the United States

QUASHAUN MELSUN REEL,
Petitioner,

v.

STATE OF NORTH CAROLINA,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF NORTH CAROLINA

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Did the North Carolina Supreme Court correctly uphold the state trial court's denial of Petitioner's motion to suppress under this Court's decision in *Florida v. Jardines*, 569 U.S. 1 (2013)?

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INTRODUCTION

In *Florida v. Jardines*, 569 U.S. 1 (2013), this Court reaffirmed that a law enforcement officer, like any other visitor to a private home, may "approach the home by the front path, knock promptly, wait briefly to be received, and then (absent invitation to linger longer) leave." 569 U.S. at 8. The Court cautioned that "background social norms" that invite a visitor to the front door of a home "do not invite him there to conduct a search," and added in a footnote that "no one is impliedly invited to enter the protected premises of the home *in order to do nothing but* conduct a search." *Id.* at 9, 9 n.4 (emphasis added).

As the present petition tells it, the North Carolina Court of Appeals[1] "inexplicably fail[ed] to analyze *Jardines* and *Collins*" and similarly "fail[ed] to consider the officers' objective purpose" in entering the curtilage of Petitioner's home. Pet. 23. According to Petitioner, federal and state appellate courts are "confused about the intersection of the implied license, knock-and-talk investigations, and officer purpose," and he points to nine state and federal appellate courts which (he claims) demonstrate said confusion. Pet. 10-16.

The petition should be denied for multiple independent reasons. To start, this case is a poor

[1] The North Carolina Supreme Court issued a *per curiam* opinion summarily affirming the North Carolina Court of Appeals' judgment. *See State v. Reel*, 923 S.E.2d 215 (N.C. 2025) (per curiam) (hereinafter, "*Reel Sup. Ct.*"). Therefore, the only reasoned decision below is that of North Carolina's intermediate appellate court.

vehicle to resolve the question presented. Petitioner faults the courts below for "failing" to discuss officer purpose, but he fails to mention that at no stage of the proceedings (save for the present petition) did he argue that law enforcement's purpose in approaching the residence was "to do nothing but conduct a search." It comes as no surprise that the lower courts did not analyze the issue, as Petitioner chose not to raise it. That choice should preclude review here. *E.g.*, *Yee v. City of Escondido*, 503 U.S. 519, 533 (1992) (citation omitted) ("In reviewing the judgments of state courts under the jurisdictional grant of 28 U. S. C. § 1257, the Court has, with very rare exceptions, refused to consider petitioners' claims that were not raised or addressed below."); *see also Frank v. Gaos*, 586 U.S. 485, 493 (2019) (citation omitted) (noting that this Court "is a court of review, not of first view").

Further, Petitioner does not, and cannot, point to any split of authority on the question presented. Instead, he claims that there is a broader doctrinal confusion among lower appellate courts on the officer purpose inquiry of a knock-and-talk. The alleged division and confusion is illusory. Of the nine courts cited by Petitioner, four explicitly discuss officer purpose. As for the other five, the cases cited do not reveal any doctrinal division or confusion as to an officer's purpose pursuant to *Jardines* or *Collins*.

Finally, Petitioner's question presented – which takes for granted that the officers "conduct[ed] a 'knock-and-talk' investigation with the purpose of gathering incriminating evidence against" Petitioner – proceeds from a misguided view of the

facts. Neither the state trial court nor Court of Appeals found as fact that the officers entered the curtilage of the home for strictly investigative purposes. And, in fact, the available evidence suggests the opposite.

At the suppression hearing, the officer who conducted the knock-and-talk testified that he was interested in merely speaking with Petitioner, and that because he had nothing to corroborate the complaints law enforcement had received, he set out to "[k]nock, maybe speak with whoever [sic] individual it is" that answers the door, "and make [his] decision upon that." (BIO App. 11a). This expressed purpose is in the heartland of what this Court considers a permissible knock-and-talk. *See Jardines*, 569 U.S. at 2 (citation omitted) ("A police officer not armed with a warrant may approach a home in hopes of speaking to its occupants, because that is 'no more than any private citizen might do.'").

This Court should deny the petition.

STATEMENT OF THE CASE

A. The High Point Police Department receives two tips regarding drug activity at Petitioner's residence and conducts a knock-and-talk.

In July and August 2020, Officer Brian Hilliard of the High Point Police Department received two "very routine" complaints about illegal drugs being sold at an address on Leonard Avenue in High Point, North Carolina. (BIO App. 2a-4a). The main thrust of the

complaints was that a lot of people were "in and out" of Petitioner's residence "constantly, day and night" and that an unnamed male was allegedly selling drugs from the residence. *State v. Reel*, 910 S.E.2d 307, 310 (N.C. Ct. App. 2024) (hereinafter "*Reel Ct. App.*"). As Officer Hilliard made clear during the state court proceedings, though, no one reported Petitioner as having sold drugs or engaged in any other criminal activity, and there was "no specificity as to who was engaged in drug sales" at that address. (BIO App. 9a-10a).

When receiving these types of tips, Officer Hilliard typically "research[ed] that through High Point utilities" to see if he can find "who might live at the address"; he did the same in this case and found that Petitioner lived at the Leonard Avenue address in question. *Id.* at 3a-6a. As Officer Hilliard explained, "it's routine for members of the street crimes unit to just conduct a knock-and-talk. More times than not, we can knock at the front door, speak with an individual, and hopefully find a remedy to the situation before going any further." *Id.* at 3a.

Officer Hilliard decided to take the same tack in this case. On 6 August 2020, Hilliard and two other members of High Point Police Department's street crimes unit drove to the Leonard Avenue house to conduct a knock-and-talk. *Id.* At 5a. Elaborating on his decision to conduct a knock-and-talk, Officer Hilliard testified that he treated the two complaints in this case "just like any other complaint" and wanted to conduct the knock-and-talk "[j]ust to see what I can

do. Knock, maybe speak with whoever [sic] individual it is . . . and make my decision upon that." *Id.* at 11a.

On approaching the residence, the officers "saw no cars in the driveway and no apparent activity," so they decided to drive around the block and parked on a "driveway, slash, cut-through" that ran directly beside Petitioner's residence. *Reel Ct. App.*, 910 S.E.2d at 310-11; (BIO App. 5a). Officer Hilliard testified that he was not trying to hide his approach, and that after passing the home, he "took an immediate right, and drove right back to the house" to conduct a knock-and-talk. (BIO App. 12a-13a).

After parking Hilliard noticed an Acura SUV occupied by a woman and approached "just to speak with her, ask if she lived here for if she knew who does live at" the residence. *Id.* at 6a. The woman "chose not to speak" with Hilliard and proceeded to the front door. *Id.* at 7a. Hilliard followed her, and stood approximately two feet behind her as she began to knock at the front door. *Id.* at 8a; *Reel Ct. App.*, 910 S.E.2d at 314. Shortly thereafter, Petitioner opened the door to let the woman inside, and "a waft of air from . . . the inside of the house came out, and that's when [Hilliard] got a strong odor of marijuana." (BIO App. 8a).

Upon realizing that law enforcement was at the front door of his residence, Petitioner "immediately slammed the door," but Officer Hilliard could see through a window in the front door that Petitioner appeared to be "trying to place a brace behind the door to secure it from being entered." *Id.* at 9a. Officer

Hilliard identified himself as law enforcement and "gave a command for the door to be opened." *Reel Ct. App.*, 910 S.E.2d at 311. When the command was not heeded, Hilliard and the other officers made entry into the residence, detained Petitioner, and discovered "a bag of marijuana, a bag of pills, and a digital scale" in "plain view inside the residence directly beside the front door. *Id.* at 311 (internal brackets omitted).

Law enforcement's approach to the residence, the woman knocking on the door, and law enforcement's entry into the home were captured on a home surveillance video.[2] The footage was entered into evidence at the hearing on Petitioner's motion to suppress (discussed below) and tends to support the above narrative of events.

[2] The petition includes a link to an unlisted YouTube video apparently uploaded by one of Petitioner's counsel. Pet. 4. Linking to an extra-record external video is likely inconsistent with Sup. Ct. R. 14.1(i) and the guidelines for the submission of documents to the Supreme Court's electronic filing system. While surveillance footage from a video camera installed by Petitioner at his residence was submitted as evidence for illustrative purposes at the suppression hearing, Respondent is unable to independently confirm whether the YouTube video is an exact, unedited copy of the video introduced at the hearing.

B. Petitioner was charged with various drug offenses and his motion to suppress based on Fourth Amendment concerns was denied.

Petitioner was charged with various drug offenses, (R. 16-18, 25-27) [3], and filed a motion to suppress the evidence against him, citing (as relevant here) the Fourth Amendment to the United States Constitution and *Jardines*. (R. 22-25). The motion to suppress came on for hearing on December 6, 2022. The State called Officer Hilliard, whose testimony tended to establish the facts discussed above.

Petitioner's counsel argued that the law enforcement activity in this case violated the Fourth Amendment because the "knock-and-talk actually [became] a stakeout" and that the officers should have gotten a warrant before entering Petitioner's home. (*See, e.g.*, BIO App. 14a-15a). Even after the woman came to the door of Petitioner's home and knocked, Petitioner argued, "the officers themselves are still required to conduct a knock-and-talk," and that when forcing the door to the residence open after smelling the odor of marijuana, the officers "at that point have exceeded what would be permissible for someone in the public" to do. *Id.* at 15a-16a.

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[3] Citations to "R." refer to the record on appeal filed with the North Carolina Court of Appeals in *State v. Reel*, COA23-711; the record on appeal is available at https://www.ncappellatecourts.org/show-file.php?document_id=333690.

Noticeably absent from Petitioner's argument was any explicit mention of officer purpose in conducting the knock-and-talk, or any argument the court was *required* to consider officer purpose in approaching the residence in its Fourth Amendment analysis.

The trial court ultimately denied Petitioner's motion to suppress and entered a written order which included the following pertinent conclusions of law:

- Law enforcement "had the right to go to [Petitioner's] residence and attempt a 'knock and talk' to investigate" the anonymous tips High Point PD had received;
- Law enforcement was "not using the 'knock and talk' as a pretext to search the home or the curtilage to the home"; and
- Officer Hilliard's approach to the home "was legal in every way."

(R. 56-60) Unsurprisingly, the trial court's order did not specifically address Officer Hilliard's purpose in approaching the house – Petitioner did not make any explicit officer purpose argument as a part of his motion to suppress.

Following the denial of his motion to suppress, Petitioner pleaded guilty to the charged offenses while reserving his right to appeal the denial of his motion. (R. 62-65).

C. Both North Carolina appellate courts reject Petitioners' Fourth Amendment challenge, which did not include an officer purpose argument.

Petitioner appealed to the North Carolina Court of Appeals. *See Reel Ct. App.*, 910 S.E.2d at 310. Before that court, Petitioner expanded on his argument pursuant to *Jardines*, but notably did not argue that the officer's purpose in this case was relevant or that the state trial court erred in considering it. Instead, Petitioner's argument to the Court of Appeals was that Officer Hilliard and his fellow officers "exceeded the proper scope of a knock and talk by parking on a street to the side of [Petitioner's] home, cutting through his side yard, and beelining straight to his front door." Brief for Defendant-Appellant at 14-15, *State v. Reel*, No. COA23-711 (N.C. Ct. App. Sept. 18, 2023), available at https://www.ncappellatecourts.org/show-file.php?document_id=336433. Petitioner's entire argument to the Court of Appeals on this issue was that the officers exceeded the scope of the implied license because they chose to park on an adjacent street, rather than in the home's driveway; "ignored the designated path to the front door"; stood too close to Petitioner's guest as she knocked; and did not allow Petitioner to "close the door, then step forward, and knock." *Id.* at 16-17.

The Court of Appeals rejected Petitioner's argument, citing *Jardines* and concluding that Officer Hilliard approached Petitioner's home "in a way that was 'customary, usual, reasonable, respectful,

ordinary, typical, and nonalarming." *Reel Ct. App.*, 910 S.E.2d at 314 (citations and internal brackets omitted). Judge Thompson dissented. In her view, Officer Hilliard and the other officers "used the alleged 'knock and talk" as a pretext to search [Petitioner's] curtilage" the officers did not actually knock on the door of Petitioner's residence, "attempt[ed] to piggyback off of [Petitioner's guest's] invitation into [Petitioner's] home," and "usurped [Petitioner's] opportunity to decline to receive the officers." *Id.* at 317 (Thompson, J., dissenting).

Petitioner appealed to the North Carolina Supreme Court. *Reel Sup. Ct.*, 923 S.E.2d at 215. There, Petitioner renewed the argument he made to the Court of Appeals, arguing: (1) the officer's approach to the door was through a side yard and therefore improper; (2) the officer's failed to actually knock at the door and instead "stood a mere 2 feet away from Mr. Reel's visitor at his doorstep while *the visitor* knocked on the door"; (3) the officers did not stand at an appropriate place and wait to be received; and (4) the officers were not invited into Petitioner's doorway and should have allowed him to close the door before knocking, identifying themselves, and waiting to be received. Brief for Defendant-Appellant at 19-25, *State v. Reel*, No. 34A25 (N.C. July 28, 2025), available at https://www.ncappellatecourts.org/show-file.php?document_id=381338 (emphasis in original).

Again, Petitioner did not discuss officer purpose in approaching the residence, and did not argue that the courts below erred because they were required to consider officer purpose under *Jardines*. The North

Carolina Supreme Court *per curiam* affirmed the decision below in an unreasoned opinion. *Reel Sup. Ct.*, 923 S.E.2d at 215.

Petitioner now seeks this Court's review.

REASONS FOR DENYING THE PETITION

I. This case is a poor vehicle to resolve the question presented because Petitioner repeatedly failed to raise it below.

First, the petition should be denied because Petitioner failed to raise any officer purpose argument in the courts below, making this case a poor vehicle for review.

At the state trial court, Petitioner cited *Jardines* but decidedly focused his argument on issues other than officer purpose – namely, that the officer's parked on a side street rather than the driveway and that they waited behind a third party rather than knocking themselves. (BIO App. 15a-16a). At the North Carolina Court of Appeals, Petitioner made much of the same contentions, and again did not explicitly mention officer purpose or argue that the court was required to consider officer purpose when considering the constitutionality of a knock-and-talk. Brief for Defendant-Appellant at 13–17, *State v. Reel* (No. COA23-711) (focusing his argument on the fact that the officers parked on a street to the side of Petitioner's home, cut through his side yard, and "beelin[ed] straight to his front door," without discussing officer purpose). At the North Carolina Supreme Court, Petitioner again focused on issues

other than officer purpose. Brief for Defendant-Appellant at 17–25, *State v. Reel* (No. 34A25).

Petitioner has now changed course, and argues both that the North Carolina courts erred in failing to consider officer purpose and that this error adds to the division and confusion among lower courts on this issue. In truth, it is not "inexplicabl[e]," Pet. 23, that the courts below did not address officer purpose – the lower courts did not discuss officer purpose because Petitioner failed to raise the issue below. "In reviewing the judgments of state courts under the jurisdictional grant of 28 U. S. C. § 1257, the Court has, with very rare exceptions, refused to consider petitioners' claims that were not raised or addressed below." *Yee v. City of Escondido*, 503 U.S. 519, 533 (1992) (citation omitted).

Petitioner asks this Court to grant certiorari and consider a question that was not raised or addressed in the lower courts, and provides no reason why this Court should deviate from its normal procedure outlined in *Yee*. At bottom, Petitioner asks this Court to act in this case as a court of "first view." *Frank v. Gaos*, 586 U.S. 485 (2019) (citation omitted) (noting that this Court "is a court of review, not of first view"). This Court should decline the invitation.

II. There is no division or confusion about officer purpose in the lower appellate courts.

Petitioner claims that state and federal appellate courts are "divided" and "confused" about whether law enforcement purpose in conducting a knock-and-talk

is relevant after *Jardines* and *Collins*. This concern is meritless and this Court should deny review.

The Fourth Amendment provides (in relevant part) that the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated." U.S. Const. Art. IV. It is well settled that the home ranks as "the first among equals," *Jardines*, 569 U.S. at 6, in part because the Fourth Amendment's "very core" represents "the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion." *Silverman v. United States*, 365 U.S. 505, 511 (1961). A home's curtilage – the area "immediately surrounding and associated with the home" – is a "part of the home itself for Fourth Amendment purposes." *Oliver v. United States*, 466 U.S. 170, 180 (1984).

This Court has previously delineated the lawful scope of a knock-and-talk. In *Jardines*, a Florida law enforcement officer received an unverified tip that marijuana was being sold at Jardines' home. *Jardines*, 569 U.S. at 3. Acting on the tip, the officer "watched the home for 15 minutes and saw no vehicles in the driveway or activity around the home," and was also unable to see inside the home because the blinds were drawn. *Id.* Law enforcement then approached the home with a drug sniffing dog, who "apparently sensed one of the odors he had been trained to detect," and registered that fact by sitting at the base of the front door. *Id.* at 4. Based on what they had learned at the home via the drug sniffing dog, law enforcement

received a warrant, searched the home, and found marijuana plants. *Id.*

Jardines moved to suppress the evidence against him, and the Florida Supreme Court ultimately held "that the use of the trained narcotics dog to investigate Jardines' home was a Fourth Amendment search unsupported by probable cause, rendering invalid the warrant based upon information gathered in that search." *Id.* at 5. This Court granted review to decide whether "the officers' behavior was a search within the meaning of the Fourth Amendment." *Id.*

Finding the case a "straightforward one," this Court held that the officers were "gathering information" within the curtilage of Jardines' house, and did so by "physically entering and occupying the area to engage in conduct not explicitly or implicitly permitted by the homeowner." *Id.* at 6. Regarding the implied license to conduct a knock-and-talk, this Court framed the question before it as whether Jardines "had given his leave (even implicitly)" for law enforcement to be on the curtilage of his home when they employed the drug sniffing dog to search for marijuana. *Id.* at 8.

In answering that question in the negative, the Court explained that a "license may be implied from the habits of the country," and that a "knocker on the front door is treated as an invitation or license to attempt an entry, justifying ingress to the home by solicitors, hawkers and peddlers of all kinds." *Id.* (citation omitted). This "implicit license typically permits the visitor to approach the home by the front

path, knock promptly, wait briefly to be received, and then (absent invitation to linger longer) leave." *Id.* The Court reasoned that complying with the terms of the implied license "does not require fine-grained legal knowledge," as "it is generally managed without incident by the Nations' Girl Scouts and trick-or-treaters." *Id.* The Court held that "a police officer not armed with a warrant may approach a home and knock, precisely because that is no more than any private citizen might do." *Id.* (citation omitted).

In so holding, the Court also made clear that the scope of the implied license is "limited not only to a particular area but also to a specific purpose," with the "background social norms" limiting that purpose to visiting the front door but not "to conduct a search." *Id.* at 9. Responding to the dissent, the Court noted in a footnote that "it is not a Fourth Amendment search to approach the home in order to speak with the occupant," and the "'mere purpose of discovering information' in the course of engaging in that permitted conduct does not cause it to violate the Fourth Amendment." *Id.* at 9 n.4 (quoting *id.* at 22 (Alito, J., dissenting)).[4] However, the Court warned, "no one is impliedly invited to enter the protected

[4] It is worth noting that the four dissenting justices – Justice Alito, joined by The Chief Justice and Justices Kennedy and Breyer, would have gone even further – the dissenting justices would have held that "[e]ven when the objective of a 'knock and talk' is to obtain evidence that will lead to the homeowner's arrest and prosecution, the license to approach still applies. In other words, gathering evidence--even damning evidence--is a lawful activity that falls within the scope of the license to approach." *Id.*

premises of the home in order to do nothing but conduct a search." *Id.*

Applying the contours of the implied license to the facts at hand, this Court held that there is "no customary invitation" via an implied license to "introduce[e] a trained police dog to explore the area around the home in hopes of discovery incriminating evidence[.]" *Id.* at 9. The officer's behavior when entering Jardines' property "objectively reveal[ed] a purpose to conduct a search," and therefore violated the Fourth Amendment. *Id.* at 9-12.

Following *Jardines*, this Court decided *Collins v. Virginia*, 584 U.S. 586 (2018). There, a Virginia law enforcement officer observed the driver of a distinctive motorcycle (orange and black, with an extended frame) commit a traffic infraction, but was unsuccessful in stopping the vehicle. *Id.* at 589. A few weeks later, a different officer observed a similar motorcycle speeding, "but the driver got away from him, too." *Id.*

The officers concluded that the two incidents involved the same motorist, and through subsequent investigation learned that the motorcycle "likely was stolen and in the possession of" Collins. *Id.* Law enforcement went to Collins' home. *Id.* From the street, law enforcement "saw what appeared to be a motorcycle with an extended frame covered with a white tarp" in the driveway. *Id.* The officer, who did not have a warrant, walked to the top of the driveway where the motorcycle was parked "to investigate further." *Id.* (citation omitted). The officer pulled the

tarp off of the motorcycle, ran the license plate and vehicle identification numbers, and confirmed that it was stolen. *Id.* at 589-90.

After taking all these actions, Collins returned home and the officer walked up to the front door of the house and knocked. *Id.* at 590. Collins answered, agreed to speak with the officers, admitted he purchased the motorcycle without a title, and was promptly arrested. *Id.* Collins moved to suppress the evidence against him and the Virginia Supreme Court ultimately held that the automobile exception to the Fourth Amendment provided the officers with probable cause to believe the motorcycle was contraband which justified the warrantless search. *Id.*

This Court granted certiorari and reversed, noting that the case arose "at the intersection of two components of the Court's Fourth Amendment jurisprudence: the automobile exception to the warrant requirement and the protection extended to the curtilage of the home." *Id.* at 591. Relevant here, the Court noted that the "protection of the curtilage has long been black letter law," and determined that the part of the driveway where the motorcycle was parked and searched was part of the curtilage of Collins' home. *Id.* at 592-94. It further held that the automobile exception did not justify the invasion into the curtilage, because (in part) a contrary ruling would "'untether' the automobile exception 'from the justifications underlying' it." *Id.* at 595 (quoting *Riley v. California*, 573 U.S. 373, 386 (2014)).

Speaking about the curtilage specifically, the Court noted that the "ability to observe inside curtilage from a lawful vantage point is not the same as the right to enter curtilage without a warrant for the purpose of conducting a search to obtain information not otherwise accessible," and that "[s]o long as it is curtilage, a parking patio or carport into which an officer can see from the street is no less entitled to protection from trespass and a warrantless search than a fully enclosed garage." *Id.* at 600.

From *Jardines* and *Collins*, a throughline emerges. Law enforcement conducting a knock-and-talk may "approach a home and knock," and in doing so may have (at the very least) a "purpose of discovering information" without offending the Fourth Amendment. *Jardines*, 569 U.S. at 9, 9 n.4 (citation omitted). However, law enforcement may not enter the curtilage of a home "to do nothing but conduct a search," *Id.* at 9 n.4; may not use a knock-and-talk as a pretext to employ a drug sniffing dog or the like to search the curtilage, *Id.* at 9; and may not justify a warrantless search of the curtilage via the automobile exception. *Collins*, 584 U.S. at 600.[5]

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[5] One *Amici* suggests that this Court should grant review and establish a bright-line, "no greater than a Girl Scout" rule for officers conducting knock-and-talks. *See* Brief Amicus Curiae of America's Future et al. in Support of Petitioner at 10-20, *Reel v. North Carolina*, No. 25-1099 (filed April 20, 2026). *Jardines* already established such a rule, holding that police not armed with a warrant may approach a home and knock, "precisely because that is 'no more than any private citizen'" – Girl Scouts included – may do. *Jardines*, 569 U.S. at 8. There is no

As discussed below, *post* at 30-32, the High Point Police Department's officers did not offend these rules in this case, making review unwarranted here. But Petitioner also fails to identify a split of authority on officer purpose, and his argument that lower appellate courts are "divided" or confused about officer purpose are unfounded. Of the nine courts Petitioner alleges create this division or confusion, Petitioner appears to count four courts – the Michigan Supreme Court, Minnesota Supreme Court, and the Tenth and Eleventh Circuits – on one side of the ledger (as properly applying *Jardines* and *Collins* by considering officer purpose), and five – the Vermont Supreme Court, Georgia Court of Appeals, and the Fourth, Sixth and Eighth Circuits – on the other (not). Presumably, Petitioner places the North Carolina Court of Appeals in the latter, supposedly faulty category. As explained herein, Petitioner is incorrect and any division or confusion is wholly illusory.

By and large, Respondent takes no issue with Petitioner's characterization of the decisions in the former category, which do indeed discuss or briefly comment on officer purpose. *United States v. Carloss*, 818 F.3d 988, 993 (10th Cir. 2016) (citing *Jardines* for the proposition that the "mere purpose of discovering information" in conducting a knock-and-talk is permissible, and holding that nothing in the record to "suggest that the officers conducted, or intended to conduct, a search from the front porch" when they approached to conduct a knock-and-talk); *United*

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compelling reason to grant review for the purpose of renaming a rule this Court has maintained for more than a decade.

States v. Walker, 799 F.3d 1361, 1362-63 (11th Cir. 2015) (holding that a knock-and-talk is impermissible where the officer's behavior "objectively reveals a purpose to conduct a search" and holding that, under the facts of the case, "the officers' behavior did not objectively reveal a purpose to search" because they approached the home "just to speak with the homeowner" while trying to "find someone to talk to about" the whereabouts of a person with an outstanding warrant); *People v. Frederick*, 895 N.W.2d 541, 543-48 (Mich. 2017) (concluding that an officer purpose of "obtain[ing] information about [] marijuana butter," combined with a knock-and-talk occurring between 4:00 and 5:30 a.m., violated the Fourth Amendment because it constituted a trespass and was not consistent with the implied license); *State v. Chute*, 908 N.W.2d 578, 586-87 (Minn. 2018) (determining that the officer's exceeded the scope of the implied license to conduct a knock-and-talk where his purpose in approaching the house was "conduct a search," because he "deviate[d] substantially from the route that would take him to the back door of the house or to the garage").

However, Petitioner is incorrect that the decisions from the remaining five courts evince any doctrinal division or confusion as to an officer's purpose pursuant to *Jardines* and *Collins*.

Petitioner first accuses the Georgia Court of Appeals of reaching "the right result by way of the wrong analysis" in *State v. Newsome*, 835 S.E.2d 329 (Ga. Ct. App. 2019). Pet. 10. Putting aside the fact that decisions of intermediate appellate courts cannot

create a certiorari-worthy split of authority, *see* Sup. Ct. R. 10(b), his concerns are unfounded. In that case, law enforcement suspected Newsome of theft, though they conceded that the information they had obtained was insufficient to support the issuance of a search warrant. *Id.* at 331. Officers knocked on Newsome's door and received no answer, so they followed their usual practice of "knock[ing] on the back door if no one answers the front door[,]" which required the officers to walk through the grass. *Id.* At the back door, the officers discovered tools (the subject of the theft they were investigating), and received a warrant based on their observations at the back door. *Id.*

Citing *Katz v. United States*, 389 U.S. 347 (1967) and its own precedent, the court held that the approach to the back door of the home was unreasonable because it: (1) was a part of the constitutionally-protected curtilage, (2) there was "no evidence that the front door was inaccessible" or that "Newsome treated the back door as a public entryway," and (3) Newsome "had a reasonable expectation of privacy in the back door of his residence." *Newsome*, 835 S.E.2d at 333. Judge Dillard concurred "fully and specially," and wrote separately to emphasize that the officer in the case also violated the Fourth Amendment because "he obtained information against Newsome by 'physically intruding' on his home and trampling upon his property rights." *Id.* at 334-35 (Dillard, J., concurring fully and specially). Judge Dillard emphasized that the officer in question was "gathering information" within the curtilage of Newsome's home via an

"unlicensed physical intrusion" which, like *Jardines*, made the case a "relatively straightforward" one. *Id.* (citing Jardines, 569 U. S. at 7).

Contrary to Petitioner's argument, the Georgia court did not fail to follow *Jardines* and *Collins*, or hold that officer purpose is never relevant in a knock-and-talk analysis; to the contrary, it merely held that the law enforcement action in the case violated the Fourth Amendment for a different reason – because the officers approached the back door rather than the front in circumstances that did not justify such action, which was *per se* unreasonable under *Katz*. *Newsome*, 835 S.E.2d at 332. Because the Georgia Court of Appeals held that the officer violated the Fourth Amendment by approaching the back door, it had no need or reason to analyze the officer's objective purpose in approaching the home. Put simply, affirmance on a different constitutional basis does not create a jurisprudential division.

Petitioner's arguments about the Fourth Circuit's decision in *United States v. McNeil*, 126 F.4th 935 (4th Cir. 2025) are similarly misguided. There, law enforcement suspected McNeil of drug activity and approached his home without a warrant to conduct a knock-and-talk. *Id.* at 939-40. McNeil's children answered the front door and allegedly told the officers that McNeil was not at home; undeterred, the officers "walked around to the back of McNeil's house and entered his backyard," observed a "small shed" located in the yard, and knocked on its door. *Id.* McNeil answered the knock, and the officers "immediately observed a strong odor of raw marijuana" when the

door was opened. *Id.* (internal brackets and quotations marks omitted). Law enforcement ultimately seized marijuana, money and guns from the property. *Id.*

McNeil pleaded guilty and later filed a habeas petition pursuant to 18 U.S.C. § 2255, which was dismissed by the district court. *Id.* On appeal and as relevant here, the Fourth Circuit discussed *Jardines* and reasoned that the officer's approach to a shed in the backyard of the home was not within the scope of the implied license because: (1) the officers went to the front door and were told McNeill was not at home; and (2) the officers, like a neighbor, were not permitted to "roam[] around" the backyard "because a knock at the front door [had] been unavailing." *Id.* at 943-44. This analysis is directly in line with *Jardines*. Again, while it is true that the Fourth Circuit did not discuss officer purpose, there was no need for it to do so – the Court reviewed the evidence before it and determined that the officers' approach to a backyard shed exceeded the scope of the implied license. This straightforward application of *Jardines* does not suggest, let alone demonstrate, confusion or division in the Courts below.

Petitioner's arguments regarding the Sixth and Eighth Circuit's decisions in *Morgan v. Fairfield County*, 903 F.3d 553 (6th Cir. 2018) and *United States v. White*, 928 F.3d 734 (8th Cir. 2019), respectively, are different in kind but equally meritless. In *Morgan*, the plaintiff's brought a § 1983 civil rights action against Fairfield County and several of its agents and officers, alleging Fourth

Amendment violations. *Morgan*, 903 F.3d at 558. At the time, the "county's policy required officers to enter '*onto* the back' of any property during *every* 'knock and talk.'" *Id.* at 566 (emphasis in original). Consistent with the policy, county officers went to the plaintiffs' house and surrounded it before knocking on the door. *Id.* at 558. Some of the officers around the perimeter "could see through a window into the house on at least one side of the building," and another officer positioned in the back of the house "noticed seven marijuana plants growing on the second-floor back balcony[.]" *Id.* at 559.

The Sixth Circuit concluded that the officers around the perimeter of the home "searched the property for Fourth Amendment purposes" because the areas in which they were positioned were a part of the curtilage of the home, and those officers gained information by physically intruding onto that curtilage. *Id.* at 561-63. The court rejected the county's argument that the officer's presence in the plaintiff's curtilage "was not a search because they were not there for the purpose of executing a search," reasoning that "*Jardines* forecloses that argument" because "[t]he subjective intent of officers is irrelevant if a search is otherwise objectively reasonable, but subjective intent cannot make reasonable an otherwise unreasonable intrusion onto a constitutionally protected area." *Id.* at 563.

Morgan is irrelevant to the case at hand. As the majority explicitly stated, "the case [was] about the officers around the perimeter" of the plaintiffs' home, "not the officer [conducting the knock-and-talk] at the

front door." *Id.* at 559 n.2. The panel held that the officers around the perimeter of the home conducted a search for Fourth Amendment purposes, and *their* intent was irrelevant because it could not "make reasonable an otherwise unreasonable intrusion onto a constitutionally protected area." *Id.* at 563.

Properly viewed, *Morgan* says nothing about an officer's purpose in approaching a home to conduct a knock-and-talk, because it did not concern a knock-and-talk at all but rather concerned a Fourth Amendment search effectuated by the officers forming a perimeter while in the curtilage of the plaintiffs' home.

Petitioner also invokes the Eighth's Circuit's decision in *White*. There, law enforcement came upon White's property while "attempting to locate an address for an unrelated criminal investigation" in rural Missouri. *White*, 928 F.3d at 738. The officers approached White's home for assistance in finding the address they were looking for, and after exiting their vehicle on White's property "immediately smelled a strong odor of green marijuana." *Id.* The officers spoke with White about the unrelated investigation, and promptly left. *Id.*

Later the same day, law enforcement returned to White's property and knocked on the door believed to be the front door "in an attempt to contact White," but received no response. *Id.* During the second visit the smell of marijuana "was even stronger" than the first, so the officers decided to apply for a warrant to search

the property. *Id.* After obtaining the warrant, law enforcement found hundreds of marijuana plants. *Id.*

On appeal White did not challenge the first entry onto his property, but cited *Jardines* and argued that the officers' second entry violated the Fourth Amendment. Rejecting that argument, the court determined that "[t]his case is different" than *Jardines* and held that the "officers' conduct does not 'objectively reveal[] a purpose to conduct a search'" because "the officers entered his curtilage and knocked on his door" which "falls squarely within the scope of the knock-and-talk exception to the warrant requirement." *Id.* at 740.

Judge Gratz disagreed, and believed that the majority failed to correctly apply *Jardines*. *Id.* at 745 (Gratz, J., concurring in part and concurring in the judgment). In his view, the officer's testimony at the motion to suppress "objectively revealed that their purpose" during the second visit "was not just to speak with White, but to confirm the smell of green marijuana on White's property." *Id.*[6]

How Petitioner believes *White* demonstrates that lower courts are divided or confused about whether or how to analyze officer purpose in conducting a knock-and-talk is unclear. The *White* majority explicitly addressed the officers' purpose in approaching White's residence during their second visit, holding that the

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[6] However, the concurrence agreed that the denial of White's motion to suppress was proper under the independent source doctrine, because the officer's "smelling green marijuana on their first visit" was sufficient to create probable cause. *Id.* at 746.

officers' conduct did not "'objectively reveal[] a purpose to conduct a search'" because "the officers entered his curtilage and knocked on his door." *Id.* at 740. Petitioner highlights the dissenting opinion in *White* to argue that the Eighth Circuit's opinion creates division and confusion about the proper application of *Jardines*. But a dissenting judge's disagreement with how the majority applied settled law to a unique set of facts does not create division, let alone a circuit split.

Regardless, the majority and dissent both engaged with the officers' purpose in approaching White's during their second visit, but simply saw the facts differently – the majority believed that the second approach did not objectively reveal a purpose to conduct a search, while the concurrence believed that the officer's purpose was to "confirm the smell of green marijuana," and believed that such a purpose constituted a search. *White* does not support Petitioner's argument that appellate courts are divided or confused about whether to consider law enforcement purpose when conducting a knock-and-talk, as both the majority and the concurrence explicitly considered officer purpose in approaching White's home.

Finally, Petitioner counts the Vermont Supreme Court among those to be "confused" about officer purpose. Petitioner is, of course, correct that three Justices joined a statement respecting denial of certiorari in *Bovat v. Vermont*, 141 S. Ct. 22 (2020) (Gorsuch, J., joined by Sotomayor & Kagan, JJ., statement respecting denial of certiorari). But the

concerns animating the statement in *Bovat* are nowhere to be seen here. In that case, two game wardens in Vermont who suspected Bovat of "deer jacking" entered the curtilage of his home, remained for a roughly 15 minute period, and peered into his detached garage, where they spotted "what they thought could be deer hair on the tailgate of a parked truck." 141 S. Ct. at 23. For "reasons that remain unclear," the Vermont Supreme Court failed to cite to or apply *Jardines*, and instead relied on its own pre-*Jardines* precedent to hold that "driveways constitute 'semiprivate areas' within the curtilage," which were "not subject to the Fourth Amendment." *Id.*

Justice Gorsuch, joined by Justices Sotomayor and Kagan, wrote that the Vermont high court's analysis was "not easy to square with *Jardines*," which "almost certainly required a different result." *Id.* Nevertheless, Justice Gorsuch "acknowledge[d] that understandable reasons exist[ed]" to deny certiorari, including the uncertainty regarding "whether *Jardines*'s message about the protections due a home's curtilage has so badly eluded other state or federal courts," and reiterated both that there are "no 'semiprivate areas' within the curtilage" where law enforcement can "roam from edge to edge" and that *Jardines* does not "afford officers a fifteen-minute grace period to run around collecting as much evidence as possible before the clock runs out or the homeowner intervenes." *Id.* at 24.

None of the concerns expressed in *Bovat*'s statement respecting denial of certiorari are present here. Instead of ignoring *Jardines* or applying pre-

Jardines caselaw, the North Carolina Court of Appeals specifically cited to and applied *Jardines* itself. Further, the officers here did not roam Petitioner's property for 15 minutes to search for evidence, but instead proceeded directly to the front door in an attempt to speak with Petitioner, smelled the odor of marijuana emanating from the home when the door was opened, and used force to enter it only after witnessing Petitioner attempt to blockade the door. (BIO App. 8a-9a); *Reel*, 910 S.E.2d at 311. In short, this case is worlds away from *Bovat*, and the concerns underlying Justice Gorsuch's statement in that case are absent. *E.g.*, *Bovat*, 1441 S. Ct. at 24 (noting the uncertainty of "whether *Jardines*'s message about the protections due a home's curtilage" – i.e. the eradication of caselaw regarding "semiprivate" areas within the curtilage and the notion of a 15 minute grace period – had "so badly eluded other state and federal courts").[7]

[7] Subsequent to *Bovat*, the Vermont Supreme Court has reversed course. In *State v. Calabrese*, 268 A.3d 565 (Vt. 2021), the Vermont Supreme Court carefully considered *Jardines* and the statement respecting denial in *Bovat*. *Id.* at 574-78. The court acknowledged that its decision in *Bovat* "did not cite or analyze the U.S. Supreme Court's decision in *Jardines*," took the opportunity "to clarify the law and overrule *Bovat* to the extent it misstated the law under the Fourth Amendment," and held that "[a]n officer may only intrude into a constitutionally protected area subject to an express or implied license, and the officer's observational activities within that protected area are limited by the scope of that license." *Id.* at 576-77. As *Calabrese* makes clear, this Court's teachings in *Jardines* are not being ignored.

In sum, Petitioner cannot demonstrate a split of authority, and his attempt to manufacture division and confusion on the question of officer purpose fails. This Court should deny review.

III. The question presented proceeds from a false premise and, even if the Court below erred, Petitioner asks this Court to engage in mere error correction.

In addition to failing to identify and circuit split or division in the courts below, the question Petitioner presents to this Court also proceeds from a false premise. As framed, Petitioner asks this Court to decide whether "police conduct a search within the meaning of the Fourth Amendment" when they "enter the curtilage of the home to conduct a 'knock-and-talk' investigation *with the purpose of gathering incriminating evidence* against the homeowner." Pet. i (emphasis added).

The testimony presented at the suppression hearing in this case revealed that Officer Hilliard and the High Point Police Department did not approach Petitioner's home for the sole "purpose of gathering incriminating evidence" against Petitioner. Instead, that testimony showed that law enforcement received two tips that drug activity may be taking place at Petitioner's home, that Officer Hilliard treated the tips "just like any other complaint," and that the officers approached Petitioner's home to "[k]nock, maybe speak with whoever [sic] individual it is" that answers the door, "and make [his] decision upon that." (BIO App. 11a). This Court has already determined

that law enforcement are not permitted to enter the curtilage to do "nothing but conduct a search," *Jardines*, 569 U.S. at 9 n.4, but *are* permitted to do what occurred here. *Jardines*, 569 U.S. at 9 (citation omitted) (allowing police officers to "approach a home and knock, precisely because that is 'no more than any private citizen might do'"). To the extent the question presented asks whether an officer conducting a knock-and-talk can have *any* intent or purpose to gather incriminating evidence against the homeowner, this Court has already answered that question in the affirmative. *Id.* at 9 n.4 (explaining that the "'mere purpose of discovering information' in the course of engaging in that permitted conduct does not cause it to violate the Fourth Amendment").

Petitioner insists that the High Point Police Department traveled to his home not to conduct a knock-and-talk, but instead to take "some type of enforcement action." Pet. 21. It appears that this contention stems from the trial court record, which included a 24 July 2020 email from Chief of Police Travis Stroud, informing his "Patrol Commanders" about one of the tips and instructing them to "conduct a [k]nock and [t]alk at this location *or* some sort of enforcement action." (R. 50) (emphasis added). Notably, Chief Stroud's email listed two options that his patrol commanders could take and specifically used a disjunctive, instructing them to conduct a knock-and-talk *or* pursue enforcement action.

At the suppression hearing, Officer Hilliard testified that he had "nothing to corroborate [the] complaints" he had received and had "no specificity as

to who was engaged in drug sales" at Petitioner's residence and, for that reason, he was "conducting this knock-and-talk." (BIO App. 10a). Therefore, the record does not reveal an objective purpose on the officer's part to conduct a search, and the North Carolina appellate courts thus correctly rejected Petitioner's Fourth Amendment arguments. Regardless, this is the type of fact-specific inquiry that does not warrant certiorari review.

Because the record supports that the officers conducted a permissible knock-and-talk, rather than a search, Petitioner essentially asks this Court to review the evidence for itself, apply its existing precedents, and hold that the officers here had an objective purpose to conduct a search. And even if Petitioner is correct that the courts below erred in failing to analyze officer purpose, his petition asks this Court to conduct fact-specific error correction and hold that law enforcement's actions in this case objectively revealed a purpose to conduct a search. Pet. 21-22. But this Court "is not a court of error correction," S. Breyer, *Reflections on the Role of Appellate Courts: A View From the Supreme Court*, 8 J. App. Prac. & Process 91, 92 (2006), and should decline to serve that function here.

CONCLUSION

This Court should deny the petition.

Respectfully submitted,

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Dated: June 11, 2026

APPENDIX

TABLE OF APPENDICES

APPENDIX — EXCERPTS OF TRANSCRIPT FROM THE NORTH CAROLINA GENERAL COURT OF JUSTICE, SUPERIOR COURT DIVISION, DATED DECEMBER 6, 2022

NORTH CAROLINA GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

GUILFORD COUNTY
20CRS79581
21CRS70148
22CRS26050

STATE OF NORTH CAROLINA,

versus

QUASHAUN MELSUN REEL,

Defendant.

TRANSCRIPT, Volume 1 of 1
Pages 1 to 127
Tuesday, December 6, 2022

Transcript of proceedings in the General Court of Justice, Superior Court Division, Guilford County, North Carolina, at the December 5, 2022, Criminal Session, before the Honorable William A. Wood, II, Judge Presiding.

* * *

[37] Q. And are you in a—are you—what kind of uniform are you wearing?

A. We're in a—it's not a typical police uniform. It is a blue or black shirt with a police vest, a black vest that says "police" across the chest, and BDU-style pants.

Q. What kind of vehicle were you patrolling in?

A. We operate in unmarked just regular civilian vehicles.

Q. And prior to—do you recall August the 6th, 2020, coming into contact with Mr. Reel?

A. I do.

Q. Prior to coming into contact with Mr. Reel, what, if any, information did you have?

A. On—I have the dates in front of me. On July 24th, 2020, I received a drug complaint that was forwarded from the members of the High Point City Council. The complaint went to the chief's office. And it is routine that when a complaint comes in, either through the chief's office or Crime Stoppers, it gets forwarded to our office to investigate.

Q. So this is not an uncommon thing?

A. It is not.

Q. And so when the chief's office gets a complaint either from city council or a concerned citizen, how is that [38] handled?

A. Routinely, I'll do a background check on the complaint itself. If there's any names given, I'll research that through High Point utilities to see if I find who might live at the address. At that point, it is—it's routine for members of the street crimes unit to just conduct a knock-and-talk. More times than not, we can knock at the front door, speak with an individual, and hopefully find a remedy to the situation before going any further.

Q. And so that's a routine practice for the street crimes division?

A. It is.

Q. Okay. And you said that that complaint came in on or around 7/24/2020?

A. Correct.

Q. Do you know if there was any written documentation of the same?

A. The complaint itself, I—I'm not aware of. I have—if I can locate an e-mail from the chief saying, can you please check this address out. The basis of the e-mail. I'm not sure if it was in written form or not.

Q. But you'll look?

A. Correct.

Q. Okay. And so after receiving that complaint, what happened next?

[39] A. I then got another complaint that came through Crime Stoppers, which is also very routine. We get Crime Stoppers tips almost daily. And also address—was given the address of 1506-A Leonard Avenue. That's where illegal drugs were being sold.

Q. And I don't know if you said that previously reference to the 7/24 complaint to the chief's office. Was that for the same address?

A. Correct. It was for 1506, Apartment A, Adam, Leonard Avenue.

Q. So you have at least two complaints at this point?

A. Correct.

Q. You said the first one was 7/24. Do you know the date of the second one?

A. The second complaint? Yes. I've documented August 4th, 2020, is when I received the second complaint.

Q. So you took action on August the 6th based off those two complaints?

A. Correct.

Q. Was there anything else prior to or preceding up to August 6th action taken?

A. No.

Q. Okay. So on August 6th, what did you do?

A. Myself and other members of the street crimes unit, Officer Finn and a third officer who was temporarily [40] assigned to our unit—he was actually SRO at the time, but during summer months, he was assigned to our unit to assist. We drove to 1506-A Leonard Avenue to conduct a knock-and-talk at the residence.

Q. Excuse me. What happened?

A. On my initial approach to the residence, there were no cars parked in the driveway. Did not appear to be any activity at that present moment. So I decided to drive around the block to—R.C. Baldwin is a street that's directly behind the residence. There is a driveway—driveway, slash, cut-through that cuts through a cemetery that runs directly beside 1506-A Leonard Avenue. So I pulled into that driveway. And as I was doing so, a gray Acura SUV pulled in to 1506-A Leonard Avenue into the driveway.

Q. Okay. And what happened next?

A. At that point, I drove to that vehicle—drove up to that vehicle. Again, I was operating an unmarked civilian vehicle at the time. I got out of the vehicle and approached

the Acura SUV, which was occupied by a single female occupant.

Q. Now, as it relates to the gender, does—is that significant at all to you that it was a female?

A. No. It was just the first person we came in contact. My initial approach was just to speak with her, [41] ask if she lived there or if she knew who does live at the address.

Q. Okay. Did you know of—did you—you said you checked the utilities, correct?

A. I did.

Q. Okay. And did you know a Quashaun Reel?

A. I did.

Q. Okay. So you knew Quashaun Reel was possibly a resident of that location?

A. Correct.

Q. And that was based off of what?

A. I checked the High Point utilities, and I found that, since May 21 of 2020, he had active utilities at that residence.

Q. And—but at this point, you were interacting with the female?

A. Correct.

Q. Did she identify herself to you?

A. Initially, no. I believe—and this is just my belief. When I pulled up in the unmarked vehicle, I don't think she was aware that we were police officers. I stepped out of the vehicle and approached her. She was getting out of the car as well.

At that point, obviously, I was wearing my police vest that said "police" across the chest. I think she [42] realized this is the police. And she chose not to speak with me and walked to the front door of 1506-A Leonard Avenue, which is approximately I would say ten feet from where she parked.

Q. And is this all taking place in the front of the residence?

A. It's in the front yard to—if you're facing the front of the house, front yard just to the left.

Q. And is this the common area where you would approach?

A. Correct.

Q. Okay. And you indicated that she walked approximately ten feet away?

A. I would estimate ten feet from her vehicle to the front door of 1506-A Leonard Avenue.

Q. What happened next?

A. I followed Ms.—the female to the front door. I was going to try to speak with her again. She began knocking at the front door of 1506-A Leonard Avenue.

Q. You can continue.

A. After several knocks at the front door, Mr. Reel opened the front door. And when doing so, as with any door, as it opens, a waft of air from interior—the inside of the house came out, and that's when I got a strong odor of marijuana.

[43] Q. And you detected that?

A. I did. Immediately—upon opening the door, like I said, there was just a brief amount of—we call it, when a door opens, it burps the air that's within.

Q. I don't get that. What do you mean? Burp?

A. We call it burping—burping a door. I'm not—that's not the technical term, but as a door opens, a waft of air will come out, and that's when I detected a strong odor of marijuana.

Q. What happened next?

A. Mr. Reel immediately let the female into the residence. I was still standing—I was standing behind the female. Again, I didn't—never made an attempt to knock

on the door. She knocked on the door. The door opened, and he allowed the female in.

I believe that's when Mr. Reel recognized that there were police officers standing at the front door. He immediately slammed the door, and the—the front door itself had a window in it, so I could see Mr. Reel through the window, and it appeared that he was trying to place a brace behind the door to secure it from being entered.

* * *

[54] Q. All right. And what information you have is that there's a lot of traffic in and out of this location on a daily basis around the clock.

A. That's what I was given, yes.

Q. All right. You also have been told that all day, all night there's drug activity at this location.

A. Correct.

Q. All right. And what you actually did is a report of a male selling drugs at this location?

A. Correct.

Q. Right. No one reported that Mr. Reel had sold them drugs?

A. No, they hadn't. Have not.

Q. No one reported having seen Mr. Reel with drugs?

A. Correct.

Q. Right. And no one reported that Mr. Reel was engaged in any other criminal activity?

A. Not to me, no.

Q. And the report you got—or the information you got, there was no specificity as to who was engaged in drug sales?

A. Correct.

Q. There had been no previous stops from vehicles of [55] persons leaving that residence with drugs?

A. Not by myself or units from street crimes.

Q. So you had nothing to corroborate your complaints that you had received?

A. Not at that moment, no.

Q. Thus you're conducting this knock-and-talk?

A. Correct.

Q. For what you say is to remedy the situation?

A. Correct.

Q. Right. And you decided not to obtain a search warrant?

A. Upon—

Q. Well, you're getting these complaints.

THE COURT: Wait a minute. Let him answer the question.

MR. TROUTMAN: All right.

THE COURT: Go ahead, Officer.

A. Yeah. The complaint itself chose was to do a knock-and-talk. No search warrant at that point.

Q. Right. But you got a complaint from city hall?

A. Correct.

Q. Which you would deem to be rather credible, would you not?

A. I would—I would address that complaint just like any other complaint. Just see what I can do. Knock, [56] maybe speak with whoever individual it is—

Q. All right.

A. —and make my decision upon that.

* * *

[67] Q. Right. And to the right of 1506-A, there is a unpaved driveway which it accommodates both 1506 and the next house over.

A. Correct.

Q. Right. Now, in conducting a knock-and-talk, you're not trying to hide your approach, are you?

A. I'm not.

Q. And you—you, in fact, want to engage the individuals in the residence, the target of that knock-and-talk?

A. Correct.

Q. But you do not do an initial knock-and-talk when you arrive?

A. Correct.

Q. You sort of drive around to another street, come back around; is that right?

A. I passed the house, took an immediate right, and drove right back to the house.

Q. Drove right back to the house?

A. Correct.

Q. With the intent to do a knock-and-talk?

A. Correct.

Q. And when you see this Acura, you decide, okay, someone is home.

[68] A. Correct.

* * *

[106] THE COURT: All right. Mr. Troutman, do you wish to be heard?

MR. TROUTMAN: I do.

THE COURT: All right.

MR. TROUTMAN: Thank you, Judge.

The right of the people to be secure in the person's housing, papers, effects against unreasonable searches and seizures shall not be violated. That's our baseline. That's where we start this.

A very knowledgeable man told me once, on motions to suppress, it typically turns on facts and circumstances of the individual case. Got all this case law promulgated. We have these rulings. But a Court needs to hear the specifics of that case.

Judge, I submit to the Court that the facts and [107] circumstances of this case would warrant a finding that the search here was unreasonable, violated the Fourth Amendment, and thus that search is all evidence coming from it should be suppressed.

We have at our disposal detached neutral judicial officials who can stand in the gap to ascertain whether or not a warrant to search a person's home should be granted. Officer Hilliard allows that, yes, I could have done that.

THE COURT: Well, that's not exactly what he said, Mr. Troutman. He said he could have asked.

MR. TROUTMAN: Could have asked. And that's what every law enforcement officer does when he's standing before a judge, he's asking for a warrant. Thus we have that detached neutral judicial official who makes the determination. Yes. He could have asked.

THE COURT: And ultimately, he did ask.

MR. TROUTMAN: After the home has been breached.

THE COURT: That's correct.

MR. TROUTMAN: Reports come in on July the 24th, thirteen days prior. Again, there's a report August the 4th, two days prior. No report of observations of any such criminal activity on August the 6th when officers are at 1506-A Leonard Avenue.

When officers arrive at that location, Officer Hilliard testifies that he doesn't see cars in the driveway, [108] so they decide that it's so quiet that we'll just ride around. I also note that at least four, maybe six officers respond. It was maybe not so clear, but four to six officers respond prior to the home being breached. What is termed a knock-and-talk actually becomes a stakeout. We got these officers—numerous officers staking out 1506-A.

With the information they had been given up to that point, the necessity of breaching the home without a warrant is unreasonable. They could have asked. They have other methods to corroborate what they were already operating on.

In fact, they said we could—need to conduct some more vehicle stops. That's in the e-mail. They could have done confidential or undercover drug buys if that were the case. Talking about the sanctity of a man's home.

Knock-and-talk. Courts have generally allowed officers to go where the general public can go, which is to the front door of a residence. I submit to the Court that this driving around is not so much to establish the knock-and-talk, but to establish a reason for us—we're going to get entry into this home; four officers, maybe six.

Once Ms. Hemsley comes to the home and knocks on that door, the officers themselves are still required to conduct a knock-and-talk. When I open the door to my home to a guest, I'm not allowing anybody else that happens to [109] come up behind them to walk in also.

That's not what we expect from the public. I open my home to my guest. I can then close my door.

You saw the video. Why he did not remember. Video clearly showed that Officer, now Lieutenant Hilliard opened the storm door and walked right up behind her. He has made an affirmative move to enter the home. And as—I essentially say has done so.

Shouldn't result to force and kicking a man's door in. And kicking of the door creates the exigent circumstances. What I would argue to the Court—what I do argue to the Court that the officers at that point have exceeded what would be permissible for someone in the public absent a valid search warrant from a neutral detached judicial official. Again, creating the circumstances.

Plain smell. Officer Hilliard says that as soon as the door opens, a burp comes out, a rush of air. And we note there's a fan in the house as well. If a person is trying to mask the odor of marijuana, he's not going to blow towards the door. He would be blowing away from the door.

The smell of marijuana that he is referring to could just as easily have emanated from the immediately next-door apartment. We saw just how close they were. It could have emanated from Ms. Hemsley herself. If there is a rush of air, the smell of marijuana on her person would hit [110] him right square in the face because he says, I am immediately behind her.

Says he's had training and experience on the detection of marijuana smell, hemp, and CBD. Very easily could have been that. No less of a greater authority than the State Bureau of Investigation in issuing a memo to the general assembly who were at the time considering a bill to replace old 90-93, which was what currently is 90-94 had a bill before it that said, no one can detect that. It's impossible to distinguish that. Distinction. Make a distinction between burnt or unburnt marijuana and hemp. State Bureau of Investigation.

Statutorily, Judge, under 15A-974(a) and (b). General assembly says there are four factors to consider when there is a violation of the Criminal Procedure Act. In this regard—well, let me just back up just one moment. If indeed we find that there—and I suggest the Court should find that there's a violation of the Fourth Amendment, there's also a violation of his Fifth Amendment. Because once they get into the house, he makes these incriminating statements. That too should be suppressed.