No. 25-

In the Supreme Court of the United States

CHRISTOPHER JOHN GOLBERG AND
SHANTEL ROSE GOLBERG,
Petitioners,

v.

NORTH DAKOTA,
Respondent.

On Petition for a Writ of Certiorari to the Supreme Court of North Dakota

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the police need a warrant to enter the attached garage in a single-family home, in the absence of any exception to the warrant requirement.

PARTIES TO THE PROCEEDINGS BELOW

Petitioners are Christopher John Golberg and Shantel Rose Golberg. They were the defendants-appellants below. Petitioner Shantel Golberg was named Shantel Lais below, but her surname is now Golberg because petitioners are now married. Respondent North Dakota was the appellee below.

Petitioners' cases were decided in separate opinions on the same day by the North Dakota Supreme Court. They involve the same facts and the same legal issue, so petitioners are filing a single petition for certiorari pursuant to Rule 12.4.

RELATED PROCEEDINGS

Supreme Court of North Dakota: *State v. Golberg*, No. 20250224 (Jan. 29, 2026); *State v. Lais*, No. 20250231 (Jan. 29, 2026)

North Dakota District Court, South Central Judicial District, Mercer County: *State v. Golberg*, No. 29-2024-CR-197 (June 3, 2025); *State v. Lais*, No. 29-2024-CR-198 (June 2, 2025)

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PETITION FOR A WRIT OF CERTIORARI

Christopher and Shantel Golberg respectfully petition for a writ of certiorari to review the judgment of the Supreme Court of North Dakota.

OPINIONS BELOW

The opinion of the Supreme Court of North Dakota in *State v. Golberg* is published at 30 N.W.3d 875 (N.D. 2026). The opinion of the Supreme Court of North Dakota in *State v. Lais* is published at 30 N.W.3d 700 (N.D. 2026).

JURISDICTION

The Supreme Court of North Dakota entered its judgments on January 29, 2026. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISION INVOLVED

The Fourth Amendment provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

STATEMENT

"[W]hen it comes to the Fourth Amendment, the home is first among equals. At the Amendment's 'very core' stands 'the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.'" *Florida v. Jardines*, 569 U.S. 1, 6 (2013) (quoting *Silverman v. United States*,

365 U.S. 505, 511 (1961)). To protect this right, "the Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant." *Payton v. New York*, 445 U.S. 573, 590 (1980).

But what about an attached garage? Do the police need a warrant to enter the attached garage in a single-family home? Or may they simply walk right in?

This question has arisen in many jurisdictions because attached garages are so common. Courts in most jurisdictions have decided that the police need a warrant to enter the garage, either because it is part of the home or because it is a part of the curtilage that the public lacks permission to enter. In the decision below, however, the North Dakota Supreme Court joined the few courts that disagree, by holding that the police did not need a warrant or an exception to the warrant requirement to enter Christopher and Shantel Golberg's attached garage.

The decision below is wrong. The attached garage in a single-family home is not open to the public. It is a room in the house, where residents store their belongings, where they work, where they exercise, where they pursue hobbies, and where they relax. The police cannot march into one's attached garage any more than they can march into one's bedroom or kitchen.

The Court should grant certiorari and reverse.

1. Shantel Golberg was at home with her two-year-old son when a police officer arrived, accompanied by two social workers, to investigate an allega-

tion that Christopher Golberg had assaulted Shantel's daughter. App. 1a-2a. (Because petitioners share a last name, we will refer to them by their first names from now on.) The home had an attached garage, which included two exterior doors to the driveway: a larger door for cars and, next to it, a smaller door for pedestrians. *Id.* at 2a. The door for cars was closed, but the pedestrian door was open. *Id.* One of the social workers knocked on the outside of the pedestrian door but heard nothing. *Id.*

Then, without a warrant, without exigent circumstances, and without an invitation into the house, the officer and the social workers let themselves into the garage through the pedestrian door. *Id.* They walked through the garage to the interior door that leads to the Golbergs' kitchen. *Id.* When they knocked on that door, Shantel answered and allowed them to search the house. *Id.* at 2a-3a. Inside the house the officer saw firearms and open containers of alcohol within the child's reach. *Id.* at 2a. He also found drugs and drug paraphernalia. *Id.*

Christopher was charged with unlawful possession of drug paraphernalia, unlawful possession of a firearm, and child neglect. *Id.* Shantel was charged with unlawful possession of drug paraphernalia and child neglect.

Christopher and Shantel moved to suppress the evidence obtained from their home on the ground that the police illegally entered their attached garage. *Id.* The trial court denied their motions. *Id.* at 3a. The trial court found that the garage was the primary entrance to their house, that it was "open to the public," and that the Golbergs "did not have a reasonable expectation of privacy in the garage." *Id.*

Shantel entered a guilty plea to the charges against her, conditional on her appeal of the trial court's order denying the motion to suppress. She received a suspended sentence of three years, with two years of probation.

Christopher went to trial. *Id.* A jury found him guilty of child neglect but not guilty of the other charges. *Id.* at 4a. He was sentenced to five years in prison, with two years suspended for two years of probation.

2. A divided North Dakota Supreme Court affirmed in both cases. App. 1a-21a.

a. In Christopher's case, the court's majority held that while the police normally may not enter a home without a warrant, "[t]he location of a home's 'threshold' is not always clear." *Id.* at 7a. The majority observed that the police "may enter certain areas surrounding a home" that are "impliedly open to use by the public." *Id.* (citation and internal quotation marks omitted). "Whether a structure attached to a home is open to the public, such as a porch, vestibule, or entryway," the majority reasoned, "is a fact-specific inquiry" that depends on "the reasonableness of each situation, giving due consideration to the particular characteristics of the home in question." *Id.* at 7a-8a (citation and internal quotation marks omitted).

Applying this standard, the court's majority held that the police lawfully entered the Golbergs' attached garage because it was open to the public. *Id.* at 9a-10a. The majority found it significant that "there is no evidence in this case of express signage warning unexpected guests they were unwelcome in

the garage." *Id.* at 9a. The majority also emphasized that "the most direct access to the home's threshold was through" the garage, rather than through an ordinary door. *Id.* at 10a. The majority noted that because of ongoing construction, "'[t]he only other potential entrance would have required the officer to walk through the yard and approach the back of the residence.'" *Id.* (quoting the trial court). The majority accordingly concluded that "the deputy did not illegally cross the threshold of the home into an area where a reasonable expectation of privacy existed." *Id.*

Justice Crothers dissented. *Id.* at 12a-19a. He explained that it is "well settled that a garage is an intimate part of a person's residence and, therefore, is an area in which the person has a reasonable expectation of privacy against warrantless intrusions by the State." *Id.* at 12a (citation and internal quotation marks omitted).

Justice Crothers disagreed with the majority's reliance on the absence of a "no trespassing" sign on the garage. *Id.* at 14a. "[F]ailing to have a no-trespassing sign on an intimate area of [the] home does not provide evidence the occupant has relinquished the reasonable expectation of privacy," he observed. *Id.* "This negative inference against Golberg cuts against the plain rule that citizens have a reasonable expectation of privacy in their garage and other intimate parts of the home." *Id.* He suggested that the majority's reasoning erroneously "plac[es] the burden on an occupant to take affirmative steps to preserve an expectation of privacy in their homes and garages." *Id.*

Justice Crothers also disagreed with the majority's focus on whether the garage was the most direct entrance to the Golbergs' home. *Id.* at 15a. "[T]he proper question is not whether the garage was the threshold of the home," he observed. *Id.* "For the State to prevail we would need facts showing the occupant did not have a reasonable expectation of privacy to the garage—meaning the occupant opened the area to use by the public." *Id.* Justice Crothers pointed out that there was no evidence suggesting that the Golbergs' garage was open to the public. *Id.* at 16a-18a. It was just an ordinary garage.

b. In Shantel's case, the North Dakota Supreme Court majority wrote a short opinion affirming for the reasons expressed in Christopher's case. *Id.* at 20a-21a. Justice Crothers again dissented, for the reasons stated in his dissent in Christopher's case. *Id.* at 21a.

REASONS FOR GRANTING THE WRIT

In the decision below, the North Dakota Supreme Court joined the smaller side of a very uneven conflict among the lower courts. Courts in most jurisdictions agree with the dissent below. They hold that the police need a warrant to enter the attached garage in a single-family home, in the absence of an exception to the warrant requirement.

The North Dakota Supreme Court erred in treating an attached garage like a front porch, where members of the public have an implied license to enter for the purpose of knocking on the door or ringing the bell. There is no such implied license to barge into someone's attached garage. Because of the decision below, however, the police in North Dakota may

now intrude into anyone's attached garage whenever that is the most direct way of gaining access to the rest of the home.

I. There is a large, lopsided conflict among the lower courts over whether the police need a warrant to enter the attached garage in a single-family home.

Attached garages are so common that this issue arises frequently. Most courts hold that the police need a warrant (or an exception to the warrant requirement) to enter the attached garage in a single-family home. But a few courts, now including the North Dakota Supreme Court, have reached the opposite conclusion.

A. In most jurisdictions, the police need a warrant to enter the garage.

Courts in most jurisdictions have held that the police need a warrant to enter the attached garage in a single-family home.

The **First Circuit** holds that "attached garages are typically part of a home's curtilage," and that the police therefore need "a lawful basis for entering the garage"—either a warrant or an exception to the warrant requirement. *United States v. Hernandez-Mieses*, 931 F.3d 134, 145-46 (1st Cir. 2019). *See also United States v. Bonner*, 808 F.2d 864, 868 (1st Cir. 1986) (holding that a warrant to search a single-family home implicitly includes the garage as part of the home). As a district court within the First Circuit put it, "[t]he home for Fourth Amendment purposes is defined expansively to include almost any

habitable structure, as well as an attached or adjacent garage." *United States v. Brown*, 322 F. Supp. 2d 101, 106 (D. Mass. 2004).

In *Estate of Smith v. Marasco*, 318 F.3d 497, 521 (3d Cir. 2003), the **Third Circuit** held that officers responding to a minor complaint could not enter the curtilage of a home, including a garage that was "a part of the structure of the house itself," without a warrant unless an exception to the warrant requirement applied. *Id.* at 518-21. *See also Carman v. Carroll*, 749 F.3d 192, 197-99 (3d Cir. 2014) (finding a warrantless entry of the curtilage, including an attached garage, unreasonable in the absence of any exception), *rev'd on other grounds*, *Carroll v. Carman*, 574 U.S. 13 (2014).

In the **Sixth Circuit**, even a nearby *detached* garage is "a part of the home's curtilage. Accordingly, the officers' warrantless search of the garage violated the Fourth Amendment's prohibition against unreasonable searches and seizures." *Daughenbaugh v. City of Tiffin*, 150 F.3d 594, 596 (6th Cir. 1998). The district courts within the Sixth Circuit consistently hold that attached garages are part of the home for Fourth Amendment purposes. *See Copeland v. Sadler*, 2021 WL 6124560, *6 (E.D. Mich. 2021) ("[A] garage that is physically attached to a home—such as the garage at issue here—is part of the curtilage of that home. Police officers may not enter such a garage merely because it is open. Thus, a police officer must have a warrant or some other justification—such as continuing a valid stop that began outside of the open garage—to enter a garage that is attached to a home.") (citations omitted); *Mallory v. City of Riverside*, 35 F. Supp. 3d 910, 928-29

(S.D. Ohio 2014) ("Plaintiff's garage is attached to her home, with a door joining the two. Therefore, it is linked to the home physically and psychologically. … The uses to which garages are put are clearly personal, in terms of parking a car and personal storage, and one in which is afforded some privacy. … Thus, the garage is part of the curtilage to Plaintiff's home and under the umbrella of the Fourth Amendment protections.").

The **Seventh Circuit** likewise holds that an "attached garage and the areas immediately surrounding the[] home and garage fit comfortably within the scope of the Fourth Amendment's protections of the home," and therefore that "a search [of those areas] conducted without a warrant issued upon probable cause is *per se* unreasonable." *Vinson v. Vermillion Cty.*, 776 F.3d 924, 929 (7th Cir. 2015) (citation and internal quotation marks omitted). *See also United States v. Contreras*, 820 F.3d 255, 262 (7th Cir. 2016) (noting that "it seems fairly certain that Contreras' attached garage would be protected as part of his home" for Fourth Amendment purposes); *Salzer v. Dellinger*, 54 F.3d 779, *4 (7th Cir. 1995) (unpublished) ("The Fourth Amendment explicitly protects a person's interest in the privacy of his home, and an attached garage is undoubtedly a part of that private space."); *United States v. Craig*, 12 F.3d 1101, *5 n.3 (7th Cir. 1993) (unpublished) (observing that an attached garage is "so close to and intimately connected with the home and activities that go on there that it can reasonably be considered part of the home" for Fourth Amendment purposes).

The **Eighth Circuit** agrees that a home's curtilage "obviously include[s] the attached garage." *Luer*

v. Clinton, 987 F.3d 1160, 1166 (8th Cir. 2021). *See also United States v. Scott*, 876 F.3d 1140, 1143-44 (8th Cir. 2017) (treating an attached garage as part of the home for Fourth Amendment purposes); *United States v. Dunn*, 723 F.3d 919, 929 (8th Cir. 2013) (holding that a warrant to search a house includes an attached garage, because an attached garage is "not noticeably separate from the rest of the house").

The **Ninth Circuit** has considered this issue at length. The court held:

> The Supreme Court has long extended the Fourth Amendment's protection to garages. *See Taylor v. United States,* 286 U.S. 1, 6, 52 S.Ct. 466, 76 L.Ed. 951 (1932) (holding that search of garage without a warrant violated the Fourth Amendment). Moreover, we have rejected the argument that the Government makes here, writing that "[n]o reason exists to distinguish an attached garage from the rest of the residence for Fourth Amendment purposes." *United States v. Frazin,* 780 F.2d 1461, 1467 (9th Cir.1986); *see also Los Angeles Police Protective League v. Gates,* 907 F.2d 879, 884–85 (9th Cir.1990); *United States v. Suarez,* 902 F.2d 1466, 1468 (9th Cir.1990). We can conceive of no reason to distinguish a garage, where people spend time, work, and store their possessions, from a den or a kitchen, where people spend time, work, and store their possessions. Simply put, a person's garage is as much a part of his castle as the rest of his home.

United States v. Oaxaca, 233 F.3d 1154, 1158 (9th Cir. 2000). *See also Chong v. United States*, 112 F.4th 848, 860 (9th Cir. 2024) ("Just because the

garage entrance was exposed to the public for a period doesn't give law enforcement license to treat it as a public thoroughfare."); *United States v. Perea-Rey*, 680 F.3d 1179, 1185 (9th Cir. 2012) (holding that a carport is "so closely connected to the home that it falls under the same umbrella of the Fourth Amendment's protections" as the home) (brackets and internal quotation marks omitted); *Los Angeles Police Protective League v. Gates*, 907 F.2d 879, 885 (9th Cir. 1990) (holding that an attached garage is entitled to the same "cloak of protection" as the rest of the home because "garages are commonly used for the storage of many household items besides automobiles. They are not like distant open barns or open fields to which the general public is given visual or physical access.").

The **Tenth Circuit** agrees that "the garage should be treated as a home for purposes of Fourth Amendment analysis." *United States v. Carter*, 360 F.3d 1235, 1241 (10th Cir. 2004). District courts in the Tenth Circuit do just that. *See United States v. Soza*, 162 F. Supp. 3d 1137, 1153 (D.N.M. 2016) (observing that for Fourth Amendment purposes, an "attached garage is part of the home"), *rev'd on other grounds*, 686 Fed. Appx. 564 (10th Cir. 2017); *Roybal v. City of Albuquerque*, 2007 WL 9709833, *5-*6 (D.N.M. 2007) (analyzing a warrantless entry into a garage as a warrantless entry into the home).[1]

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[1] In *Coffin v. Brandau*, 642 F.3d 999, 1012 (11th Cir. 2011) (en banc), the **Eleventh Circuit** found that "[w]e need not decide in this case whether entering an open garage in order to utilize a passageway to gain access to a visible door to the home is a violation of the Fourth Amendment." The court nevertheless held that "under the totality of the circumstances, the

The **California Supreme Court** likewise holds that the Fourth Amendment's protection of a home includes "a garage that is attached or adjacent to a home," and consequently that "a warrantless search of such an area is unreasonable per se unless it falls within a recognized exception to the warrant requirement." *People v. Robles*, 3 P.3d 311, 314 (Cal. 2000). *See also People v. Morgan*, 196 Cal. App. 3d 816, 820 (Cal. Ct. App. 1987) (observing that "it is well settled that a garage under the same roof with the living quarters, functionally connected therewith, and an integral part thereof, is part of an inhabited dwelling house" for Fourth Amendment purposes) (brackets and internal quotation marks omitted).

The **Colorado Supreme Court** also treats a garage just like any other room in the house when assessing the constitutionality of a warrantless entry by the police. *People v. Turner*, 660 P.2d 1284, 1288 (Colo. 1983) (concluding that "the warrantless entry by the police into the defendant's residence and garage when no exigent circumstances existed constituted an unreasonable search in violation of the defendant's constitutional rights").

The **Florida Supreme Court** agrees that the Fourth Amendment protects the attached garage along with the rest of the house. As the court has explained,

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Deputies' entry into the Coffins' garage was a violation of the Fourth Amendment." *Id. See also Jiles v. Lowery*, 2023 WL 2017354, *3 (11th Cir. 2023) ("[A] warrantless arrest in a suspect's garage generally is unlawful.").

> This reasoning that an attached garage is afforded a reasonable expectation of privacy is further bolstered by the common use of garages as multi-purpose rooms. … Therefore, we approach this case with the understanding that Markus had a reasonable expectation of privacy in the area utilized as an attached recreational/garage facility.

State v. Markus, 211 So. 3d 894, 903 (Fla. 2017).

The **Idaho Supreme Court** takes the same view. "[A]n attached, enclosed garage is typically an area where people expect privacy and expect to secure their possessions and perform private activities away from public view," the court observed. *State v. Jenkins*, 155 P.3d 1157, 1160 (Idaho 2007). "Jenkins' garage was part and parcel of the structure constituting his home" and therefore "this space was subject to Fourth Amendment protection." *Id.*

Ditto for the **Iowa Supreme Court**. An attached "garage is so intimately tied to the home itself that it should be placed under the home's umbrella of Fourth Amendment protection," the court held. *State v. Legg*, 633 N.W.2d 763, 768 (Iowa 2001) (citation and internal quotation marks omitted). The resident of a home with an attached garage has "a legitimate expectation of privacy in her garage." *Id.*

The **Maine Supreme Court** agrees that an attached garage receives the same Fourth Amendment protection as other rooms in the house. The court held in *State v Trusiani*, 854 A.2d 860, 864 (Me. 2004) that "[b]ecause the garage was within the curtilage of the home, it was protected from unreasonable entries and searches under the Fourth Amendment." *See also State v. Brochu*, 237 A.2d 418, 422

(Me. 1967) ("The garage was plainly part of the defendant's house in which he was secure against unreasonable searches and seizures under both Federal and State Constitutions."); *Marshall v. Wheeler*, 128 A. 692, 693-94 (Me. 1925) ("[A]t common law a shed, connected with the house ... would be considered part of the 'dwelling house,' which an officer may not enter by force or against the will of the owner.").

The **Minnesota Supreme Court** also holds that "[a]lthough the Fourth Amendment refers only to 'persons, houses, papers and effects,' courts generally have held that it applies also to the 'curtilage,' which is the area adjacent to a house and includes the garage." *State v. Crea*, 233 N.W.2d 736, 739 (Minn. 1975). *See also Haase v. Comm'r of Pub. Safety*, 679 N.W.2d 743, 746 (Minn. Ct. App. 2004) ("It has been long recognized that a garage adjoining the home enjoys the same constitutional protections against warrantless entry as the home.").

The **Montana Supreme Court** likewise equates garages and homes under the Fourth Amendment. In *State v. DeWitt*, 101 P.3d 277, 282 (Mont. 2004), the court held that "[s]earches conducted within a home or a garage are *per se* unreasonable," subject to the standard exceptions to the warrant requirement. *See also State v. Smith*, 501 P.3d 398, 403 (Mont. 2021) (noting that a garage is within the curtilage of the home).

The **New Hampshire Supreme Court** holds that even a detached garage is "undisputedly within the curtilage" of the home and thus that the police need a warrant even to enter the area *near* the garage. *State v. Socci*, 98 A.3d 474, 479 (N.H. 2014). The court explained that the public's implicit license "to

approach the home by the front path, knock promptly, wait briefly to be received, and then (absent invitation to linger longer) leave, did not extend so far as to allow a private citizen, let alone a police officer not armed with a warrant, to circle [the] garage to gather evidence." *Id.* (citations and internal quotation marks omitted).

The **New Jersey Supreme Court** agrees that the police need an exception to the warrant requirement in order to enter an attached garage without a warrant. *State v. Caneiro*, 346 A.3d 718, 724-25 (N.J. 2025). *See also State v. Mellody*, 318 A.3d 723, 738 (N.J. App. Div. 2024) ("The special protections accorded to the home apply to defendant's garage. The attached garage is part of her home, or at the very least, part of the home's protected curtilage. For constitutional privacy analysis purposes, a garage is not just a place to shelter vehicles from the elements. Personal 'effects' protected under the literal terms of the Fourth Amendment … might as easily be stored in a garage as in a basement, an attic, or, for that matter, a bedroom walk-in closet.").

The **Vermont Supreme Court** holds that even a detached "garage is properly considered to be within the curtilage of the home," and thus that the "garage merit[s] the same constitutional protection from unreasonable searches and seizures as the home itself." *State v. Bovat*, 224 A.3d 103, 107 (Vt. 2019) (internal quotation marks omitted), *overruled on other grounds*, *State v. Calabrese*, 268 A.3d 565, 577 (Vt. 2021).

Finally, the **Wisconsin Supreme Court** draws a distinction between a garage shared by the residents of an apartment building, which is often not part of

an individual apartment's curtilage, and "a single family home's attached garage, which courts have consistently held constitutes curtilage." *State v. Dumstrey*, 873 N.W.2d 502, 512 (Wis. 2016). "In such cases," the court noted, "the garage is quite literally attached to the resident's home itself." *Id.* at 513. *See also State v. Weber*, 887 N.W.2d 554, 560 n.5 (Wis. 2016) (noting that the defendant's "garage was protected under the Fourth Amendment as curtilage of his home"); *State v. Davis*, 798 N.W.2d 902, 908 (Wis. Ct. App. 2011) ("As a general matter, it is unacceptable for a member of the public to enter a home's attached garage uninvited. We do not think this premise is subject to reasonable disagreement. This premise is true regardless [of] whether an overhead or entry door is open.").

Intermediate appellate courts in several other states have come to the same conclusion. *See Corey v. State*, 739 S.E.2d 790, 795 (Ga. Ct. App. 2013) ("[W]e conclude that Corey's garage should be placed under the home's 'umbrella' of Fourth Amendment protection."); *State v. Dugan*, 276 P.3d 819, 824 (Kan. Ct. App. 2012) (describing a police officer's entry into the garage as a "governmental breach of a private residence" requiring a warrant); *State v. Daggett*, 575 S.W.3d 799, 802 (Mo. Ct. App. 2019) (including garages as part of the curtilage, thus requiring a warrant); *State v. Cooper*, 1997 WL 593754, *2 (Ohio Ct. App. 1997) ("[L]ike the home itself, a garage is not subject to search without a warrant unless one of the few, specific exceptions to the warrant rule applies."); *State v. Bowling*, 867 S.W.2d 338, 341 (Tenn. Ct. Crim. App. 1993) ("Society has recognized that the resident of a home usually

has a reasonable expectation of privacy in a garage."); *State v. Dyreson*, 17 P.3d 668, 672 (Wash. Ct. App. 2001) (noting that "[t]he Fourth Amendment's 'umbrella' of protection extends to a home's curtilage" and that "the shed/garage lies within the curtilage of appellants' residence").

In short, nearly every court that has addressed the question has decided that the attached garage in a single-family home enjoys the same constitutional protection as the rest of the home. Unless there is an exception to the warrant requirement, the police need a warrant to enter the garage.

B. Courts in a few jurisdictions hold that the police do not need a warrant to enter the garage.

On the smaller side of the split are a handful of decisions allowing the police to enter the garage without a warrant, on the theory that there is a lesser expectation of privacy in an attached garage than in other parts of a house.

The **D.C. Circuit** holds that "[a] garage is not a house, nor is it a dwelling or home. We suggest that a garage is perhaps deserving of more strict protection than an open field a hundred yards from a home, … but certainly the protection afforded is something less than that afforded [a] dwelling." *United States v. Wright*, 449 F.2d 1355, 1362 (D.C. Cir. 1971). In *Wright*, the court permitted the warrantless search of a garage, over the objection of the dissenting judge, who would have treated a garage and a bedroom identically for Fourth Amendment purposes. *Id.* at 1369 (Wright, J., dissenting) (noting that because of the court's decision, "in many homes

now a 'plain view' of the bedroom, as well as the garage, is available to resourceful peepers").

The **Hawaii Supreme Court** also gives less protection to garages than to the rest of the home. In *State v. Phillips*, 382 P.3d 133, 150 n.11 (Haw. 2016), a case involving the police's warrantless entry into a garage, the court "d[id] not reach whether an exception to the warrant requirement was present." Instead, the court held that no warrant was required because the defendant's "actions demonstrate that he did not take precautions to insure his privacy in the garage." *Id.* at 150. The court rejected the dissenters' view that a "garage undoubtedly qualifies as curtilage," and that a warrantless search of a garage therefore violates the Fourth Amendment in the absence of an exception to the warrant requirement. *Id.* at 171-72 (Nakayama, J., concurring and dissenting).

The **South Carolina Supreme Court** takes the same view. In *In re Bazen*, 272 S.E.2d 178, 178 (S.C. 1980), the court held that the police could enter the defendant's garage without a warrant or an exception to the warrant requirement. The court reasoned that the defendant "had ample opportunity to in some manner demonstrate an expectation of privacy in the garage. Instead, he did nothing." *Id.*

The Illinois Appellate Court agrees that garages receive less Fourth Amendment protection than homes because there is a lower expectation of privacy in a garage. *See People v. James*, 200 N.E.3d 430, 440 (Ill. App. Ct. 2021) ("Because defendant cannot establish a fourth amendment privacy interest in the garage, he cannot establish that the police violated his rights when they entered the garage absent a

warrant."); *People v. Hobson*, 525 N.E.2d 895, 898 (Ill. App. Ct. 1988) ("[W]hen defendant opened the overhead door of the garage and thereby exposed its interior to the view of any member of the public that might happen by on the sidewalk or in the alley immediately adjacent to the garage, he abandoned any legitimate expectation of privacy in the garage and its contents.").

In the decision below, the North Dakota Supreme Court joined this side of the split. The court reasoned that because the attached garage was "the most direct access to the home's threshold," App. 10a, the police could enter the garage without a warrant. The court implicitly rejected the point made in the dissenting opinion, a point that has been accepted by most courts—that an attached garage "is an intimate part of a person's residence" and is therefore protected by the Fourth Amendment, just like the rest of the home. *Id.* at 12a.

This conflict among the lower courts is not caused by factual differences among the cases. Most of the courts in the majority expressly hold that the police *always* need a warrant to enter an attached garage (in the absence of an exception to the warrant requirement), because an attached garage is per se either part of the home or part of the curtilage which the public lacks an implied license to enter. As the California Supreme Court summed up this view, "[u]nder the Fourth Amendment, a warrantless search of [an attached garage] is unreasonable per se unless it falls within a recognized exception to the warrant requirement." *Robles*, 3 P.3d at 314. Or as the Ninth Circuit more memorably explained, "[s]imply put, a person's garage is as much a part of

his castle as the rest of his home." *Oaxaca*, 233 F.3d at 1158.

If the Golbergs lived in most other states, the police would not have been allowed to barge into their garage without a warrant. If this case had been in federal court rather than state court, once again the police would not have been allowed to enter their garage without a warrant. The Court should grant certiorari to resolve this conflict among the lower courts.

II. The decision below is wrong.

Certiorari is also warranted because the decision below is wrong. The attached garage in a single-family home receives the same Fourth Amendment protection as the rest of the home.

A. The Court's decisions have consistently protected an attached garage as part of the home under the Fourth Amendment. In *Lange v. California*, 594 U.S. 295, 298-99 (2021), for example, the Court considered whether the pursuit of a fleeing misdemeanor suspect categorically qualifies as an exigent circumstance permitting the police to enter a home without a warrant. The events in *Lange* took place entirely in the suspect's attached garage, after the officer followed him home and questioned him there. *Id.* at 299. The Court described this event as "a warrantless *home* entry." *Id.* (emphasis added). The Court concluded that no categorical rule allowed the officer to enter the garage, because "we are not eager—more the reverse—to print a new permission slip for entering the *home* without a warrant." *Id.* at 303 (emphasis added). Three justices wrote separate opinions, all of which likewise assumed that the at-

tached garage was part of the home. *See id.* at 314 (Kavanaugh, J., concurring) (describing the case as involving "warrantless entry into a home"), 319 (Thomas, J., concurring in part and concurring in the judgment) (describing the case as involving the police's "chase [of] a fleeing person into a home"), 322 (Roberts, C.J., concurring in the judgment) (describing the case as involving "warrantless entry into a home").

Lange was no innovation. At least as far back as *Taylor v. United States*, 286 U.S. 1 (1932), the Court has assumed that a garage is part of the home for Fourth Amendment purposes. In *Taylor*, the Court reversed a Prohibition-era conviction because "agents acting without warrant had entered and searched the garage adjacent to [the defendant's] residence." *Id.* at 3. The Court held that "the action of the agents was inexcusable" and violated the Fourth Amendment. *Id.* at 6.

The Court's treatment of attached garages is consistent with the original meaning of the Fourth Amendment, which protects "[t]he right of the people to be secure in their … houses." At common law, a dwelling-house was understood to include smaller buildings associated with the dwelling, such as stables, barns, sheds, and outhouses. When Blackstone defined burglary, for example, he explained that "if the barn, stable, or warehouse be parcel of the mansionhouse, though not under the same roof or contiguous, a burglary may be committed therein; for the capital house protects and privileges all its branches and appurtenants, if within the curtilage or homestall." 4 William Blackstone, *Commentaries on the Laws of England* 225 (Oxford, 1769). *See also*

2 Joel Prentiss Bishop, *Commentaries on the Criminal Law* 58-59 (6th ed. 1877) ("The term 'dwelling-house' also includes the entire cluster of buildings, not separated by a public way, which are used for purposes connected with habitation. For example, it may include a barn."); *State v. McCall*, 4 Ala. 643, 644 (1843) ("[T]he term 'dwelling house,' comprehends all buildings within the curtilage or inclosure.").

B. An attached garage is part of the home, under both the property-based and privacy-based approaches to the Fourth Amendment.

1. Under the property-based approach, the police need a warrant to enter an attached garage, because they "physically occup[y] private property for the purpose of obtaining information." *United States v. Jones*, 565 U.S. 400, 404 (2012). The police trespass on private property when they enter an attached garage just like when they enter any other room in the house.

If an attached garage were not part of the home, it would be part of the curtilage, so the police would still need a warrant to enter. *Collins v. Virginia*, 584 U.S. 586, 600 (2018) ("So 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."). An attached garage easily satisfies each part of the four-factor standard for curtilage established in *United States v. Dunn*, 480 U.S. 294, 301 (1987): the garage is physically integrated with the home, it is included within an enclosure surrounding the home, it is used for similar activities to those that take place in the home, and residents typ-

ically take steps to protect the interior of their garages from observation by people passing by.

While the public has an implied license to enter one part of the curtilage, the front porch, to knock on the front door, *Florida v. Jardines*, 569 U.S. 1, 8 (2013), there is no such license for the public to enter an attached garage. *Bovat v. Vermont*, 141 S. Ct. 22, 24 (2020) (Gorsuch, J., respecting the denial of certiorari) (noting that the police "exceeded the scope of their implied license to approach the front door by heading to the garage"). Salespeople and other members of the public would feel welcome to stand on the front porch and ring the bell, but not to enter the garage. A homeowner who sees a stranger walking into her garage would not think "how nice, it must be the Girl Scouts selling cookies." She would call 911 to report an intruder.

2. The police also need a warrant to enter a garage under the privacy-based approach to the Fourth Amendment. *See Katz v. United States*, 389 U.S. 347 (1967). People who live in single-family homes have a reasonable expectation of privacy in their attached garages. Even a homeowner who keeps nothing but a car in the garage reasonably expects the garage to be free from the prying eyes of the public and the police. An attached garage is enclosed by the same exterior walls that protect the rest of the home.

And we use garages for much more than cars. Families use them to store all sorts of things—furniture, tools, toys, exercise equipment, and the like. Many families use the garage as an extra room—a playroom for the children, a "man cave," a home gym, a home office, or even an additional bedroom. *See* Jeanne E. Arnold and Ursula A. Lang,

Changing American Home Life: Trends in Domestic Leisure and Storage Among Middle-Class Families, 28 J. of Fam. & Econ. Issues 23, 41-42 (2006).

The garage is also a place where residents feel safe to develop their ideas in privacy. Disney, Amazon, Apple, and Google are just a few of the major companies that were famously started in garages. Olivia Erlanger and Luis Ortega Govela, *Garage* 72, 90 (2018). So many successful bands began their careers by practicing in garages—from the Kinks to the Ramones to Nirvana—that the "garage band" is a cliché in the music business and "garage rock" is a recognized genre of music. *See* Seth Bovey, *Five Years Ahead of My Time: Garage Rock from the 1950s to the Present* (2019). People treat their attached garage as part of their home. They are places where residents have a reasonable expectation of privacy.

Under either approach to the Fourth Amendment, the majority side of the split gets it right. The police need a warrant (or an exception to the warrant requirement) to enter the attached garage in a single-family home.

C. The court below erred in holding that the police could enter the Golbergs' attached garage without a warrant.

The court below placed great weight on the fact that the Golbergs posted no "express signage warning unexpected guests that they were unwelcome in the garage." App. 9a. But visitors do not need a "no trespassing" sign to know that they may not barge into other people's garages, the same way no one

needs a "no trespassing" sign to know they may not enter another's bedroom.

Nor can the officer's entry into the garage be justified as part of a "knock and talk." To initiate a valid "knock and talk," the police must knock on an *exterior* door, just like any other member of the public, not an interior door like the one connecting the garage to the kitchen. *See Kentucky v. King*, 563 U.S. 452, 469 (2011) ("When law enforcement officers who are not armed with a warrant knock on a door, they do no more than any private citizen might do."). Here, one of the social workers accompanying the officer knocked first on such an exterior door. App. 2a. When no one answered, any license to approach expired. The officer and the social workers should have left rather than walking into the Golbergs' garage and heading for the kitchen. *See Jardines*, 569 U.S. at 8 ("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.").

The court below also erred in justifying the officer's entry into the garage as "the most direct access to the home's threshold." App. 10a. The construction taking place at the Golbergs' house does not change the Fourth Amendment's requirements. The home's threshold was the exterior garage door, not the interior door leading from the garage to the kitchen. And in any event, the police have no right to take the most direct path to a house. If they did, they could tromp through flower beds to walk a straight line from the sidewalk to the front door. The police merely have the same implied license as any other member of the public to reach the exterior of a

house. This license does not include a right to march through the garage.

III. This is an important issue, and this case is an excellent vehicle for resolving it.

This issue is important because it arises so often. The many cases constituting the split (discussed above in section I) are only the tip of the iceberg. Just counting federal district court decisions available on Westlaw, the issue also arose in these cases: *Kryston v. Burns*, 2025 WL 2608653, *5 (N.D. Ala. 2025) ("[E]nclosed garages have a reasonable expectation of privacy."); *Theis v. Van Der Stad*, 2025 WL 2408679, *3 (D. Minn. 2025) ("Theis alleges that defendants violated the Fourth and Fourteenth Amendments by unlawfully entering his garage and subsequently arresting him on the basis of information gathered as a result of that unlawful entry."); *United States v. Shapiro*, 2024 WL 3520280, *7 (D. Conn. 2024) ("[T]he garage was so intimately tied to the [Shapiros'] home itself that it should be placed under the home's umbrella of Fourth Amendment protection.") (citation and internal quotation marks omitted); *Wheelock v. Nitzschke*, 760 F. Supp. 3d 835, 846 n.14 (N.D. Iowa 2024) ("[I]t is clearly established that an attached garage is considered part of the curtilage of a home and is a constitutionally-protected space requiring either a warrant or an exception to the warrant requirement to enter."); *Purcell v. City of Fort Lauderdale*, 753 F. Supp. 3d 1308, 1326 n.9 (S.D. Fla. 2024) ("A garage that's attached to the home itself and has an outside door that can be closed to maintain privacy is a part of the home

for Fourth Amendment purposes.") (citation and internal quotation marks omitted); *United States v. Dejoie*, 2024 WL 1507745, *7 n.3 (M.D. La. 2024) ("If the garage at the Oakley Address, which was attached to the residence, is not simply part of the home itself for Fourth Amendment purposes, it is at least curtilage, which is afforded the same protections as the home under the Fourth Amendment."); *United States v. Ramer*, 2023 WL 5368858, *4 (N.D. Ind. 2023) ("[T]he Court finds that the officers illegally entered the garage."); *Copeland v. Sadler*, 2021 WL 6124560, *6 (E.D. Mich. 2021) ("[A] garage that is physically attached to a home—such as the garage at issue here—is part of the curtilage of that home."); *Tuinstra v. Bonner Cty.*, 2021 WL 2534983, *7 (D. Idaho 2021) ("The Fourth Amendment has drawn a firm line at the entrance to the house. Absent exigent circumstances or other exceptions, that threshold may not reasonably be crossed without a warrant. This firm line unambiguously extends to attached garages.") (citation and internal quotation marks omitted); *Fodrey v. City of Rialto*, 2019 WL 4137611, *4 (C.D. Cal. 2019) ("[T]he garage is part of the home's curtilage and therefore protected by the Fourth Amendment."); *United States v. House*, 2019 WL 6842418, *2 (D. Mont. 2019) ("There is little disagreement an attached garage is within the curtilage of the home, entitling it to the Fourth Amendment's highest protection."); *Weber v. Hove*, 2019 WL 1208802, *2 (W.D. Wis. 2019) ("Weber moved to suppress the evidence obtained as a result of Dorshorst's following him into his garage without a warrant"); *Loveless v. McCorkle*, 2018 WL 4509068, *5 (S.D. Ind. 2018) ("[A] home's attached garage is subject to the Fourth Amendment's prohibition against unrea-

sonable searches and seizures."); *Conroy v. Caron*, 275 F. Supp. 3d 328, 342 (D. Conn. 2017) ("If a fenced-in yard warrants the protection of the Fourth Amendment, there can be no doubt that an attached garage equally does so."); *United States v. Ratcliff*, 202 F. Supp. 3d 1295, 1303 (N.D. Ala. 2016) ("It would press the imagination to consider Ratcliff's attached garage not part of the curtilage or subject to the Fourth Amendment's protections of the home."); *Rozycki v. City of Champlin*, 2016 WL 7493619, *9 (D. Minn. 2016) ("Rozycki's garage was part of the constitutionally-protected curtilage."); *United States v. Soza*, 162 F. Supp. 3d 1137, 1153 (D.N.M. 2016) ("[C]urtilage is part of the home like a basement, balcony, or attached garage is part of the home."); *Thompson v. Village of Monee*, 110 F. Supp. 3d 826, 845 (N.D. Ill. 2015) ("Thompson focuses on the fact that his attached garage was private property and within the curtilage of his home."); *United States v. McKenzie*, 2015 WL 13840885, *6 (N.D.N.Y. 2015) ("The Fourth Amendment protects as 'houses' places such as garages."); *Lingo v. City of Salem*, 2014 WL 1347468, *8 (D. Or. 2014) (warrantless entry to carport violates Fourth Amendment); *Mallory v. City of Riverside*, 35 F. Supp. 3d 910, 929 (S.D. Ohio 2014) ("[T]he garage is part of the curtilage to Plaintiff's home and under the umbrella of the Fourth Amendment protections."); *United States v. Castro*, 959 F. Supp. 2d 1205, 1211 n.1 (W.D. Mo. 2013) ("Castro's attached garage is considered part of his residence for purposes of Fourth Amendment protection."); *United States v. Powell*, 2012 WL 12897985, *1 (S.D.W. Va. 2012) ("Courts have long considered attached garages to be part of the home."); *Hordych v. Borough of North East*, 2011 WL

3021736, *7 (W.D. Pa. 2011) ("Plaintiffs' attached garage fell within the curtilage of their home and thus was afforded the same Fourth Amendment protections as their home."); *United States v. Kittrell*, 2011 WL 2746252, *9 (D. Ariz. 2011) ("[N]o reason exists to distinguish an attached garage from the rest of a residence for Fourth Amendment purposes.") (internal quotation marks omitted); *Croal v. United Healthcare of Wisconsin, Inc.*, 2009 WL 913641, *12 (E.D. Wis. 2009) ("[A]n attached garage is within the curtilage of the home, and thus entitled to the cloak of protection that the Fourth Amendment throws over the house.") (brackets and internal quotation marks omitted); *Roybal v. City of Albuquerque*, 2007 WL 9709833, *5 (D.N.M. 2007) ("Officers Trujillo and Martinez entered the garage of Plaintiff's home without a warrant. Plaintiff contends that this entry was a violation of the Fourth Amendment.").

The issue no doubt arises even more often in state trial courts, whose decisions are typically not available on Westlaw.

This issue recurs so frequently because garages are so common. In 2024, 89% of newly completed single-family homes featured garages, most of which held two cars or more. National Ass'n of Home Builders, *Parking Trends in Newly Completed Single-Family Homes, 2024* (Sept. 11, 2025).[2] The federal government reports that two-thirds of U.S. housing units (including apartments as well as houses) have a garage or a carport. U.S. Dep't of Energy,

[2] https://eyeonhousing.org/2025/09/parking-trends-in-newly-completed-single-family-homes-2024/.

FOTW #1268, December 12, 2022: As of 2021, Two-Thirds of U.S. Housing Units Had a Garage or Carport, Improving Opportunities for EV Adoption.[3]

This case is the ideal vehicle for addressing the question presented. The facts are simple: The police entered the Golbergs' attached garage without a warrant and walked through it so they could reach the door connecting the garage and the kitchen. There is no hint of consent, exigent circumstances, or any other exception to the warrant requirement. There are no other issues left in the case. Resolution of the question presented will be outcome-determinative, because all the physical evidence the police found in the house would have to be suppressed if their entry into the garage was unlawful.

This case also has the advantage of being on direct appeal. The Court could not address this issue on habeas. *Stone v. Powell*, 428 U.S. 465 (1976). And while the issue could in theory arise in a suit under 42 U.S.C. § 1983, a case in that posture would be cluttered with antecedent questions relating to qualified immunity. In our case, by contrast, the issue is cleanly presented. It is hard to imagine that the Court will encounter a better vehicle than this case.

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[3] https://www.energy.gov/eere/vehicles/articles/fotw-1268-december-12-2022-2021-two-thirds-us-housing-units-had-garage-or.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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