

No. A-_____

In the Supreme Court of the United States

BRYCEN DENNIS SCOFIELD,
PETITIONER

v.

STATE OF OREGON,
RESPONDENT

*APPLICATION FOR AN EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI TO THE OREGON SUPREME COURT*

**PETITIONER’S APPLICATION TO THE
HONORABLE ELENA KAGAN AS CIRCUIT JUSTICE**

UNOPPOSED APPLICATION FOR EXTENSION OF TIME

To the Honorable Elena Kagan, Associate Justice of the United States Supreme Court and Circuit Justice for the Oregon Supreme Court:

In accordance with Supreme Court Rules 13.5, 22, 30.2 and 30.3, Applicant Brycen Scofield respectfully requests that the time to file a writ of certiorari be extended for 30 days, up to and including October 31, 2025. After the Oregon Court of Appeals affirmed Applicant’s convictions in a precedential opinion, the Oregon Supreme Court denied Applicant’s petition for review on July 3, 2025. Absent an extension of time, the petition would be due on October 1, 2025. The jurisdiction of this Court is based on 28 U.S.C. § 1257 and 2101(d). The State of Oregon consents to this request. Copies of the Oregon Court of Appeals precedential opinion and the Oregon Supreme Court’s order denying Scofield’s Petition for Review are included with this application. *See Appendix* (cited as “App.”).

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is the July 3, 2025, decision of the Oregon Supreme Court that denied Applicant’s petition for review from the precedential decision from the Oregon Court of Appeals in *State of Oregon v. Brycen Dennis Scofield*, Case No. S071856. In *State v. Scofield*, 338 Or. App. 190, 565 P.3d 869 (2025), the Oregon Court of Appeals affirmed Scofield’s murder conviction on direct appeal from a conditional guilty plea on Oregon state charges. In his appeal, Scofield argued that the trial court erred in failing to grant a motion to suppress evidence obtained following a warrantless search of Scofield’s home. Scofield argued that the search violated his Fourth Amendment right against unreasonable search and seizure (as well as parallel state rights), and that the emergency aid exception did not apply because, at the time of the warrantless search, police lacked a lawful basis to search the location under the “emergency aid” exception under the Fourth Amendment to the United States Constitution. The Oregon Court of Appeals rejected that challenge, holding that the warrantless search was justified under the emergency aid exception.

Scofield petitioned the Oregon Supreme Court for review. That petition was denied on July 3, 2025. App-7.

JURISDICTION

The Oregon Supreme Court’s order denying review was issued on July 3, 2025. This Court has jurisdiction over any timely filed petition in this case pursuant to 28 U.S.C. §§ 1257(a) and 2101(d). Under Supreme Court Rule 13.1, a petition for certiorari is due to be filed on or before October 1, 2025. As required by Rule 13.5, this application is being filed more than 10 days before the petition is due.

BACKGROUND

This petition arises from a warrantless entry into, and search of, Scofield's home in September 2021. An associate of defendant's called 9-1-1 to report that he and his brother had witnessed defendant assault a person in defendant's apartment with a hammer. App. 2. The caller reported that there was blood "everywhere" and that the victim might be dead. *Id.* The caller, who waited more than 20 minutes after leaving the apartment, provided his name and contact information but incorrectly identified the name of the apartment complex. *Id.* Two bicycle officers located the correct complex and other police arrived at defendant's apartment and corroborated the details provided by the caller. *Id.* Police also observed defendant putting up a barrier over his back door and barricading himself in his residence. *Id.* at 2-3. At that point, officers were communicating on a single radio channel, known as "code 33" that is reserved for emergencies; when the emergency dissipates, law enforcement cancels "code 33." After additional time passed, police were able to call defendant on his cell phone and convince him to come outside. When defendant exited his apartment, he was arrested and subject to an immediate search incident to arrest that revealed no weapons. *Id.* at 3.

By that point, an hour had passed since the initial 911 call, nearly 90 minutes since the 911 caller left defendant's apartment. Police then decided to search defendant's apartment without a warrant citing the emergency aid exception under the state and federal constitutions. *Id.* at 3-4.

Inside the apartment, police first "cleared" the area by doing an initial sweep of the downstairs and upstairs. Police did not observe evidence of a hammer attack in their initial sweep but did notice a refrigerator lying on the floor. Once the initial sweep was complete, Lieutenant Cromwell, the officer in charge, reported to fellow officers that "we're not seeing any evidence

of a hammer slaying.” Because the emergency had dissipated, Cromwell then called out on the radio that officers “can lift code 33.”

Despite police’s belief that the emergency dissipated, Cromwell ordered officers to recheck certain areas, including the refrigerator he noticed on the way up. *Id.* In the absence of any justification that searching the refrigerator was necessary to render aid to an individual in need, Officer Jackson, another police officer involved in the sweep, opened the refrigerator, lifted a piece of cardboard that was blocking his view, and found the victim inside with a bloodied head. *Id.* Cromwell ordered Jackson to “close it up,” and Jackson said that they needed to check and make sure that the victim was not alive. *Id.* Jackson checked the victim but could not find a pulse. *Id.*

Defendant was charged with second-degree murder and related offenses. Defendant moved to suppress the evidence from, *inter alia*, the search of his apartment and argued the emergency aid exception did not justify opening the refrigerator after the circumstances giving rise to the exigency dissipated. *Id.* at 3-4. After the trial court denied his motion, defendant entered a conditional guilty plea and appealed, raising the same arguments he made in the trial court.

The Oregon Court of Appeals affirmed Scofield’s conviction and, as it applies to the Fourth Amendment, reasoned that officers held an objectively reasonable belief that the exception applied because:

“Emergency dispatch received a 9-1-1 phone call from a named eyewitness to an assault, and police corroborated several details the witness had provided. At the time the police arrived at defendant's apartment, defendant was barricading himself inside and refused to come out. After entering defendant's home, police had not yet located the victim when they saw the refrigerator lying on the floor, as

well as blood and cleaning fluid nearby. Given the information available to police at the time, they could reasonably believe that there was a victim of a hammer assault inside the refrigerator in need of their aid.”

Id. at 4-5. For those reasons, that court held Scofield’s “federal arguments thus fail” and cited *Bringham City, Utah v. Stuart*, 547 U.S. 398, 403 (2006) (emergency aid exception to Fourth Amendment’s warrant requirement allows entry when it is objectively reasonable to believe that entry is necessary “to assist persons who are seriously injured or threatened with such injury”). *Id.* at 5 n. 1.

This case presents important questions that are largely aligned with the question presented in *Case v. Montana*, 24-624. This Court granted certiorari in *Case*, on June 2, 2025, and oral argument is scheduled for October 15, 2025. Like *Case*, this case presents important questions about the scope and contours of this court’s “emergency aid exception” to the Fourth Amendment’s warrant requirement. Oregon Appellate courts understand this court’s jurisprudence to permit warrantless searches under the emergency aid exception, even when no officer believed that any exigency-based justification permitted the warrantless search. The Oregon Court of Appeal’s decision—and the Oregon Supreme Court’s denial of review—reflects the broad confusion in lower courts regarding the scope and contours of the Fourth Amendment’s emergency aid exception. The Oregon Court of Appeal’s reasoning suggests that warrantless searches are permissible in circumstances where officers lacked probable cause to conduct a search in a particular location. Yet, urgency is the hallmark of exigent circumstances and, particularly, the exception allowing officer “to render *emergency* assistance to an injured occupant or to protect an occupant from *imminent* injury.” *Caniglia v. Strom*, 593 U.S. 194, 198 (2021) (citation omitted). Nor does the record support any finding that there was exigency here: after the initial sweep of the house, officers announced that there was not “any evidence of a

hammer slaying” and called off “code 33”—the channel dedicated to emergency situations. After confirming there was no person in need of emergency aid, officers continued to search the home, including the closed refrigerator. Indeed, there is no dispute that officers waited nearly an hour after the 911 call was made before entering Scofield’s home. Because “circumstances are exigent only when there is not enough time to get a warrant,” *Caniglia*, 593 U.S. at 203 (Alito, J., concurring), that delay confirms that the exception outlined in *Caniglia* are inapplicable here. Notably, in Oregon, warrants can be procured “in a matter of minutes, not hours.” *State v. McCarthy*, 369 Or 129, 147, 501 P.3d 478 (2021).

Like *Case*, No. 24-624, the questions presented here go to the core of Fourth Amendment protections. Given the sanctity of the home, the baseline rule is that law enforcement cannot enter a home without a search warrant issued by a magistrate upon probable cause. *Lange v. California*, 594 U.S. 295, 303 (2021). The exceptions to the search-warrant requirement—such as exigent circumstances and hot pursuit—are “jealously and carefully drawn.” *Id.* The decision here provides an important opportunity for the Court to provide further guidance on the limitations and requirements for officers seeking to enter a home for purportedly non-criminal reasons.

REASONS FOR GRANTING AN EXTENSION

Scofield retained undersigned counsel for purposes of filing a petition for certiorari. Counsel was not involved in the proceedings below and requires additional time to familiarize himself with the record, research the complex issues presented in this case, and prepare a petition that will be most helpful to the Court. The legal issues in this case implicate this Court’s substantial Fourth Amendment precedents concerning police officers’ community caretaking

functions and the exigent circumstances and emergency aid exceptions. Preparing the petition will require a close study of those precedents.

In addition, undersigned counsel had substantial professional commitments over the past several weeks and will need to continue balancing commitments until the petition is filed. For those reasons, additional time is required to prepare the petition. The State of Oregon consents to the requested extension of time.

CONCLUSION

For the foregoing reasons, Applicant requests that the time to file a writ of certiorari in the above-captioned matter be extended 30 days to and including October 31, 2025.

Respectfully submitted,

Zachary J. Stern
Counsel of Record
Zachary J. Stern, PC
1900 Hines St. SE Suite 110
Salem, Oregon 97302
zsstern@zsstern.com