

Biden Administration Urges Supreme Court To Let Cops Enter Homes And Seize Guns Without A Warrant

The U.S. Supreme Court on Wednesday will hear oral argument in *Caniglia v. Strom*, a case that could have sweeping consequences for policing, due process, and mental health, with the Biden Administration and attorneys general from nine states urging the High Court to uphold warrantless gun confiscation. But what would ultimately become a major Fourth Amendment case began with an elderly couple's spat over a coffee mug.



People view the Supreme Court building from behind security fencing on Capitol Hill in Washington, ... [+] ASSOCIATED PRESS

In August 2015, 68-year-old Edward Caniglia joked to Kim, his wife of 22 years, that he didn't use a certain coffee mug after his brother-in-law had used it because he "might catch a case of dishonesty." That quip quickly spiraled into an

hour-long argument. Growing exhausted from the bickering, Edward stormed into his bedroom, grabbed an unloaded handgun, and put it on the kitchen table in front of his wife. With a flair for the dramatic, he then asked: “Why don’t you just shoot me and get me out of my misery?”

Perhaps unsurprisingly, the tactic backfired and the two continued to argue. Eventually, Edward took a drive to cool off. But when he returned, their argument flared up once again. This time, Kim decided to leave the house and spend the night at a motel. The next day, Kim phoned home. No answer.

Worried, she called the police in Cranston, Rhode Island, and asked them to perform a “well check” on her husband and to escort her home. When they arrived, officers spoke with Edward on the back deck. According to an incident report, he “seemed normal,” “was calm for the most part,” and even said “he would never commit suicide.”

However, none of the officers had asked Edward any questions about the factors relating to his risk of suicide, risk of violence, or prior misuse of firearms. (Edward had no criminal record and no history of violence or self-harm.) In fact, one of the officers later admitted he “did not consult any specific psychological or psychiatric criteria” or medical professionals for his decisions that day.

Still, police were convinced that Edward could hurt himself and insisted he head to a local hospital for a psychiatric evaluation. After refusing and insisting that his mental health wasn’t their business, Edward agreed only after police (falsely) promised they wouldn’t seize his guns while he was gone.

Compounding the dishonesty, police then told Kim that Edward had consented to the confiscation. Believing the seizures were approved by her husband, Kim led the officers to the two handguns the couple owned, which were promptly seized. Even though Edward was immediately discharged from the hospital, police only returned the firearms after he filed a civil rights lawsuit against them.

Critically, when police seized the guns, they didn’t claim it was an emergency or to prevent imminent danger. Instead, the officers argued their actions were a form of “community caretaking,” a narrow exception to the Fourth Amendment’s warrant requirement.



UNITED STATES - JANUARY 7: The U.S. Supreme Court is seen on Thursday, January 7, 2021. (Photo By ... [+] CQ-ROLL CALL, INC VIA GETTY IMAGES)

First created by the Supreme Court nearly 50 years ago, the community caretaking exception was designed for cases involving impounded cars and highway safety, on the grounds that police are often called to car accidents to remove nuisances like inoperable vehicles on public roads.

Both a district and appellate court upheld the seizures as “reasonable” under the community caretaking exception. In deciding Caniglia’s case, the First Circuit U.S. Court of Appeals acknowledged that “the doctrine’s reach outside the motor vehicle context is ill-defined.” Nevertheless, the court decided to extend that doctrine to cover private homes, ruling that the officers “did not exceed the proper province of their community caretaking responsibilities.”

Siding with law enforcement, the First Circuit noted that a police officer “must act as a master of all emergencies, who is ‘expected to...provide an infinite variety of services to preserve and protect community safety.’” By letting police operate without a warrant, the community caretaking exception is “designed to give police elbow room to take appropriate action,” the court added.

In their opening brief for the Supreme Court, attorneys for Caniglia warned that

“extending the community caretaking exception to homes would be anathema to the Fourth Amendment” because it “would grant police a blank check to intrude upon the home.”

That fear is not unwarranted. In jurisdictions that have extended the community caretaking exception to homes, “everything from loud music to leaky pipes have been used to justify warrantless invasion of the home,” a joint amicus brief by the ACLU, the Cato Institute, and the American Conservative Union revealed.

This expansion could also have perverse effects and disincentivize people from calling for help. As that brief noted, “When every interaction with police or request for help can become an invitation for police to invade the home, the willingness of individuals to seek assistance when it is most needed will suffer.”

But in its first amicus brief before the High Court, the Biden Administration glossed over these concerns and called on the justices to uphold the First Circuit’s ruling. Noting that “the ultimate touchstone of the Fourth Amendment is ‘reasonableness,’” the Justice Department argued that warrants should not be “presumptively required when a government official’s action is objectively grounded in a non-investigatory public interest, such as health or safety.”

“The ultimate question, in this case, is therefore not whether the respondent officers’ actions fit within some narrow warrant exception,” their brief stated, “but instead whether those actions were reasonable,” actions the Justice Department felt were “justified” in Caniglia’s case.

As a fail-safe, the Justice Department also urged the Supreme Court to uphold the lower court ruling on qualified immunity grounds, arguing that the officers’ “actions did not violate any clearly established law so as to render the officers individually liable in a damages action.”

But the Biden Administration, along with the courts that have extended the community caretaking exception, overlook a key component of the Fourth Amendment: the Security Clause. After all, the Fourth Amendment opens with the phrase, “the right of the people to be secure.”

In an amicus brief, the Institute for Justice noted that “to the Founding generation, ‘secure’ did not simply mean the right to be ‘spared’ an unreasonable search or seizure” but also involved “harms attributable to the potential for

unreasonable searches and seizures.” Expanding the community caretaking exception to “allow warrantless entries into peoples’ homes on a whim,” argued the IJ brief, “invokes the arbitrary, looming threat of general writs that so incited the Framers” and would undermine “the right of the people to be secure” in their homes.

The IJ brief further argued that extending the “community caretaking” exception to the home would “flatly contradict” the Supreme Court’s prior rulings, which “has only discussed community caretaking in the context of vehicle searches and seizures.” In those cases, “the animating purpose for the exception [was] to allow officers to remove damaged or abandoned vehicles that pose a risk to public safety.” By contrast, the IJ amicus asserted, “that justification is entirely absent” when it comes to homes.

“The Fourth Amendment protects our right to be secure in our property, which means the right to be free from fear that the police will enter your house without warning or authorization,” said Institute for Justice Attorney Joshua Windham. “A rule that allows police to burst into your home without a warrant whenever they feel they are acting as ‘community caretakers’ is a threat to everyone’s security.”

Nick Sibilla

Follow

I’m a writer and legislative analyst at the Institute for Justice (IJ), a public interest law firm. As a member of IJ’s Communications team, I regularly write op-eds and blog about economic liberty, private property rights, the First Amendment, and judicial engagement. On the legislative side, I’ve worked with state and federal lawmakers from both parties to overhaul civil forfeiture and occupational licensing, securing landmark reforms in California, Colorado, the District of Columbia, Nebraska, and New Hampshire. My columns at Forbes.com have been cited by several law review journals, the Center for American Progress, the Heritage Foundation, The Economist, SCOTUSblog, and the Council of the District of Columbia Committee on the Judiciary and Public Safety. Outside of Forbes, my work has appeared in The Atlantic, The New York Times, The Wall Street Journal, The Washington Post, New York Post, Barron’s, The Guardian, Slate, Wired, Reason, and numerous newspapers nationwide.

Source:

<https://www.forbes.com/sites/nicksibilla/2021/03/23/biden-administration-urges-supreme-court-to-let-cops-enter-homes-and-seize-guns-without-a-warrant/?sh=df9cec12829f>

[Disclaimer]