

# SCOTUS May Redefine Parameters for Warrantless Searches of Homes

February 3, 2021 - The Fourth Amendment to the Constitution guarantees that people will be free from unwarranted government searches. But in 1973, the US Supreme Court found there was a "community caretaking" exception. To date, that exception has been largely been limited to vehicle searches. When a cop pulls you over, if he sees something illegal in your vehicle the car can be entirely searched in most states under the premise that you might be a danger to yourself or others. But a court in Massachusetts has now expanded the community caretaking exception to allow for the search of one's home without a warrant. And that court's decision will be reviewed at the US Supreme Court in March.

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Caniglia v. Strom is a case that involves guns and an argument between husband and wife. During the argument, Edward Caniglia pulled out an unloaded gun, set it on a table and said to his wife, "Why don't you just shoot me and get me out of my misery." The next day, his wife reported him to authorities. He agreed to a mental evaluation at a local hospital and was released the same day. But while he was at the hospital, police went to his home and took his gun without a search warrant. Although Caniglia was never found guilty of anything and the people who examined him determined that he was not a threat, the gun was never returned to him so he sued. So far, the courts have ruled against him.

This case is important to anyone concerned with privacy and government overreach. Caniglia's attorneys have made the point that using the same theory that the police used here, had he threatened to hang himself they could have justified a warrantless search to remove any rope they could find in the house. Allowing a warrantless search for any reason is a very slippery slope.

The case will be heard on March 24th. A ruling on it is likely to be handed down in late May or June.  
by Jim Malmberg

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