



## Supreme Court to decide if police can enter misdemeanor suspects' homes without a warrant

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The Supreme Court on Wednesday will weigh in on the circumstances where police can enter a suspect's home without a warrant.

The case, *California v. Lange*, concerns whether police have an exception to the Fourth Amendment, which protects people from searches without warrants, in cases of a suspected misdemeanor. The court in the past have identified exceptions for police in hot pursuit, but the pursued have always been felons.

This case arose after a traffic stop in California gone wrong. A highway patrolman spotted his suspect, Arthur Lange, playing loud music and honking his horn while driving. He followed Lange home, believing him to be drunk.

Outside Lange's house, the police officer turned on his lights and got out of his car. Lange pulled into his garage and began closing the door. The police officer put his foot under the door, triggering a sensor that made it go back up. He then entered the garage and charged Lange with drunk driving after he smelled alcohol on his breath.

A series of California courts ruled against Lange, who argued that the officer's tailing him home did not qualify as "hot pursuit" and that the resulting misdemeanor charge did not meet the requirements for a Fourth Amendment carve out. When Lange took the case to the Supreme Court, he argued that these decisions, if left standing, could imperil the privacy of people throughout the state.

Lange warned that the lower court rulings rejected a common law understanding of warrantless entry and that they opened the door for "officers investigating trivial offenses to invade the privacy of all occupants of a home even when no emergency prevents them from seeking a warrant."

California countered that, while Lange's fears about a sweeping rereading of the Fourth Amendment are justified, the state believes that the high court should consider misdemeanor exceptions on a case-by-case basis. And in this case, the state argued, Lange's DUI conviction should stand.

The court in the past has ruled in favor of exceptions to the Fourth Amendment. In 2011, the court ruled that police did not need a warrant in a Kentucky case where officers knocked down a

door after smelling marijuana on the other side. The court in the past, however, has held that in misdemeanor circumstances, warrantless entry “should rarely be sanctioned.”

Lange’s case comes before the court after a year where the death of George Floyd in police custody reignited a national conversation about the limits of police power. In the case of warrantless entry, many police supporters argue that officers should be given latitude to act in what are often unpredictable situations.

In a brief supporting California, the National Fraternal Organization of Police wrote that Lange’s case was an attempt to undermine the ability of police officers to do their jobs without fear of reprimand.

“When a law enforcement officer’s lawful command is challenged, ignored, or outright disobeyed, and a suspect vanishes into a home or other dwelling, the Fourth Amendment must not turn into a shield to thwart the officer’s immediate pursuit,” the group wrote.

But Lange has a sizable share of support as well. In December, seven states and the District of Columbia threw their support behind his claim, writing that protecting the privacy of state residents will foster greater trust between citizens and state officials.

A series of conservative and liberal organizations, including the American Civil Liberties Institute, the Cato Institute, and the American Conservative Union Foundation, also filed in support of Lange, writing that California’s argument showed a “lack of all sense of proportion.”

“Misdemeanors generally do not involve conduct that rises to a level society deems severe — that is what makes them only misdemeanors in the first place,” the groups wrote. “There is accordingly no need for a categorical approach that would permit police to intrude into the home in response to a misdemeanor pursuit.”