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NCLA Calls on SCOTUS to Block Warrantless Exception to Home Search and Seizure

Wayne Torcivia v. Suffolk County, New York, et al.

Washington, DC (July 6, 2022) – The New Civil Liberties Alliance, a nonpartisan, nonprofit civil liberties group, filed an [amicus brief](#) with the U.S. Supreme Court in *Torcivia v. Suffolk County, New York, et al.*, in support of a petition for certiorari urging the high court to resolve a circuit court split regarding whether and when a “special-needs exception” to the Fourth Amendment justifies home entry and seizure by the government without a warrant.

NCLA argues that the U.S. Court of Appeals for the Second Circuit erred in its conclusion, and disregarded the precedent set by the Supreme Court when it upheld the “special-needs exception.” Petitioner Wayne Torcivia has no history of mental illness and was suspected of no crime, but the police proceeded to enter his home 12 hours after he was removed from his residence and seized his lawfully-owned firearms from a locked safe without judicial authorization or his consent.

The Supreme Court has made it clear that the Fourth Amendment protects an individual’s privacy in a variety of settings—no setting is more clearly defined than that bounded by the unambiguous physical dimensions of an individual’s home. The Second Circuit misread the Supreme Court’s use of the “special needs” phrase. Other than for prisoners on probation, the Supreme Court has not applied a “special needs” argument to permit a warrantless home entry and seizure in the absence of exigency or consent—neither of which was present here. Once Mr. Torcivia was removed from his home, the firearms locked in his safe were not an immediate danger to himself or others. The high court should review and reverse the Second Circuit’s decision.

NCLA released the following statement:

“We hope the Supreme Court will grant certiorari and once again make it known to the lower courts that the Constitution designates the judiciary to be a control on this police power to enter and seize. The constitutional rule is plain and clear. Absent exigency or homeowner consent, the executive may not enter a home and seize property without a warrant.”

— **Brian Rosner, Senior Litigation Counsel, NCLA**

For more information visit the *amicus* page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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