US Supreme Court rules 9-0 Cranston wrong in warrantless gun seizure

The Cranston Police were wrong to seize guns without a warrant from a possibly suicidal man's home after he had already been transported to a hospital for psychological evaluation, the United States Supreme Court ruled this morning, unanimously, in a 9-0 vote. The case is *Caniglia v. Strom* (20-157).

On August 20, 2015, Edward Caniglia argued with his wife Kim in their home in Cranston. He got a handgun from the bedroom, put it on the table, and told her something like "shoot me now and get it over with." It was not loaded, but she said she didn't know that at the time. He went out for a ride while she returned the gun to the bedroom and hid its ammunition. When he got back the argument resumed, so she packed a bag and spent the night at a hotel. The next morning she was unable to reach him by telephone, so she was worried he had killed himself and called the police to ask them to accompany her back to the house to check the well-being of her husband, worried what she might find. She met with Ptlm. John Mastrati and explained the situation.

It turned out that her husband seemed fine, denying he was suicidal and saying the events of the prior night were simply him being dramatic. By this time, three other officers had arrived, Sgt. Brandon Barth, Ptlm. Wayne Russell, and Ptlm. Austin Smith. As the ranking officer, Barth determined that Mr. Caniglia posed an imminent danger to himself or others, and determined that he needed to be psychologically evaluated at a hospital. Barth decided to seize the firearms, getting telephone approval from his superior Cpt. Russell C. Henry, Jr.


Thomas W. Lyons III

In an interview with *Motif*, Caniglia's attorney Thomas Lyons, of Strauss, Factor, Laing, and Lyons, said that his client felt he had no option to refuse the evaluation. "They came to the house, they spoke with him. He said he was fine. They said they didn't believe him. They wanted him to go to the hospital for the psychological evaluation. He agreed to that, because it was also represented to him that they would not seize his handguns if he went to the hospital for the psychological evaluation and checked out okay. He went to the hospital. While he was still at the hospital, the police were still at his house, told his wife that he had agreed to the seizure of the handguns, and she showed them where they were. And they seized them," Lyons said. "Our argument was that he did not voluntarily consent, he only agreed based on the representation the police made to him that if he went to the hospital, got checked out, was okay,

they would not seize his firearms. And then when he agreed to that under duress, they nonetheless seized his firearms."

Mrs. Caniglia had not wanted the police to intervene to the extent they did, Lyons said. "His wife actually testified that all she wanted the police to do when she contacted them was just accompany her to the house to make sure Ed was okay, and if Ed was fine, that's all, she'd be fine, too. That was it. She just wanted someone to make what they call a 'wellness call' with her to make sure he was okay. And what happened was entirely unexpected to her."

Without explanation or reason, Lyons said, the police refused to return the guns for over three months until they were sued in federal court, claiming a court order was required for the return of the guns. "That was one issue on which we did prevail before Judge McConnell at the federal district court: He held that the police requiring Mr. Caniglia to go to court to get a court order to get back his guns was a violation of his procedural due process rights," Lyons said.

The key issue in the case was whether police could bypass the usual requirement for a warrant under the "community caretaking" exception to the constitutional Fourth Amendment protections against search and seizure. For the Court, Justice Clarence Thomas wrote, "Decades ago [in *Cady v. Dombrowski* (1973)], this Court held that a warrantless search of an impounded vehicle for an unsecured firearm did not violate the Fourth Amendment. In reaching this conclusion, the Court observed that police officers who patrol the 'public highways' are often called to discharge noncriminal 'community caretaking functions,' such as responding to disabled vehicles or investigating accidents. The question today is whether *Cady*'s acknowledgment of these 'caretaking' duties creates a standalone doctrine that justifies warrantless searches and seizures in the home. It does not."

Thomas' opinion for the Court was unusually short, only four pages. For Thomas, the principle was simple: a house is not a car, so a search and seizure requires a warrant.

We asked Lyons why didn't the Cranston Police just get a warrant? Mr. Caniglia was either at the hospital, or at least on his way to the hospital, with no access to his guns in his house. Lyons said it had been stipulated that there were no "exigent circumstances" requiring action so quickly that there would have been no time to obtain a warrant. Lyons said that "part of the argument that we raised was he was actually gone. He was gone like almost all day at the hospital as it turned out, waiting to see someone. So yes, they had plenty of time to get a warrant, certainly for the seizure of the guns. And for that matter, our position that we argued was they get plenty of time to get a warrant or a court order for his seizure [of Mr. Caniglia himself] because there were four police officers standing on his back deck talking with him, and he was just chatting with them and drinking his coffee. Our position was that it would not have been all that difficult for one of the four officers to leave the scene to make a phone call or otherwise get a warrant since it's not very far in Rhode Island to a judge or a magistrate."

A concurring opinion by Chief Justice John Roberts, joined by Justice Stephen Breyer, was even shorter, a single paragraph noting that prior cases allowed police officers to enter homes without warrants when there was a "need to assist persons who are seriously injured or threatened with such injury" or "an objectively reasonable basis for believing that medical assistance was needed, or persons were in danger." At oral argument on March 24, Roberts asked whether the community was relevant to deciding what was appropriate for the police to do in checking on an elderly neighbor without a warrant, humorously referencing decades-old television shows: "Could it be that, you know, somebody like Andy of Mayberry is all right because people expect him to, you know, keep track of things, but, you

know, Kojak isn't?"

Justice Samuel Alito in a five-page concurrence – one page longer than the official opinion by Thomas – takes great pains to emphasize what the Court did not decide in the instant case. "The Court holds — and I entirely agree — that there is no special Fourth Amendment rule for a broad category of cases involving 'community caretaking.' As I understand the term, it describes the many police tasks that go beyond criminal law enforcement. These tasks vary widely, and there is no clear limit on how far they might extend in the future. The category potentially includes any non-law-enforcement work that a community chooses to assign, and because of the breadth of activities that may be described as community caretaking, we should not assume that the Fourth Amendment's command of reasonableness applies in the same way to everything that might be viewed as falling into this broad category."

Alito noted that it was not only the guns that were seized but the person transported to the hospital. "Assuming that petitioner did not voluntarily consent to go with the officers for a psychological assessment, he was seized and thus subjected to a serious deprivation of liberty. But was this warrantless seizure 'reasonable'? We have addressed the standards required by due process for involuntary commitment to a mental treatment facility… but we have not addressed Fourth Amendment restrictions on seizures like the one that we must assume occurred here, i.e., a short-term seizure conducted for the purpose of ascertaining whether a person presents an imminent risk of suicide. Every State has laws allowing emergency seizures for psychiatric treatment, observation, or stabilization, but these laws vary in many respects, including the categories of persons who may request the emergency action, the reasons that can justify the action, the necessity of a judicial proceeding, and the nature of the proceeding. Mentioning these laws only in passing, petitioner asked us to render a decision that could call features of these laws into question. The Court appropriately refrains from doing so."

Alito continued, "This case also implicates another body of law that petitioner glossed over: the so-called 'red flag' laws that some States are now enacting. These laws enable the police to seize guns pursuant to a court order to prevent their use for suicide or the infliction of harm on innocent persons… They typically specify the standard that must be met and the procedures that must be followed before firearms may be seized. Provisions of red flag laws may be challenged under the Fourth Amendment, and those cases may come before us. Our decision today does not address those issues."

Lyons said, "While this doesn't rule that red flag laws *per se* are unconstitutional, I think there is still the open question as to whether any particular red flag law may or may not be unconstitutional, and if it was based on a reasoning like community caretaking and it did not require, for example, some sort of previously issued court order or warrant, then it may be in some trouble." Asked about the implication to the red flag law in RI specifically ("Red Flags: Taking Guns from the Mentally Ill", by Michael Bilow, Mar 14, 2018), Lyons said, "I know one of the concerns that was out there was whether or not you had to get a court order in advance for the seizure, and the statute as presently written does require that as well as a follow-up proceeding at which the defendant is entitled to be present to object. In terms of the vagueness of the proceeding, of the statute, I think that there may still be questions about that, but to the extent to which it's vague, that may depend on the particular circumstances of a particular case. So it's a little hard to make a general statement about that." The RI red flag law was not enacted until several years after the incident that gave rise to the Caniglia case.

Justice Brett Kavanaugh also wrote his own five-page concurrence, saying that while he agreed with the Court that there is no "community caretaking" exception to the Fourth Amendment, the "exigent

circumstances" exception would usually apply when police are trying to determine whether someone is injured or needs assistance. As noted, however, it had been agreed by the parties that there were no exigent circumstances in this particular case.

Asked how it felt to be on the winning side of a unanimous Supreme Court decision, "Well, I would say we are immensely gratified – and by 'we,' I would include our client – that the court ruled in his favor unanimously. It feels great," Lyons said. "Now, the case isn't over though, because there still may be issues to address on what they call remand, that is to say, when the case goes back down again [to the lower courts], but it means that we're still alive, still in the hunt, so to speak."

Originally the suit was brought not only against the City of Cranston, but against the individual police officers and police chief Col. Michael J. Winquist under the Civil Rights Act, and the case was dismissed against the police officers on grounds of "qualified immunity" that holds police officers cannot be held responsible for violating civil rights unless those rights have been clearly established by prior court cases. "Our position would be is that the defendants stipulated that exigent circumstances did not apply here. However, one issue, at least that remains, is so-called qualified immunity, and the district court had held, first, that our client's constitutional rights were not violated, but even if they were violated then qualified immunity would apply. The First Circuit Court of Appeals did not address that issue on appeal, and so, conceivably, the defendants may, for example, argue that they're still entitled to qualified immunity," Lyons said. "I think we have some pretty good arguments on that. It is certainly clear that the City of Cranston as the municipal entity cannot claim the benefit of qualified immunity. I think that's pluperfectly clear, and that was even something that the First Circuit, at least at oral argument, seemed to agree with, so, at least in that respect, I think we're in fairly good shape. The issue of whether the individual officers can get qualified immunity may be something that gets argued further."

Marc DeSisto, attorney for the City of Cranston, and Col. Michael J. Winquist, police chief at the time of the incident and still currently, did not respond to inquiries by press time.