

No. 21-047

In the Supreme Court of the United States

Gina Grace Stone,

Petitioner,

v.

United States of America,

Respondent.

On Writ of Certiorari to the United States Court of Appeals
for the Fifteenth Circuit

Brief for Respondent

Janell Thompson
Office of the United States Attorney
One Prosecution Loop
Post Office Box 5
Alamo City, Alamo 78228
Email: jthompson25@stmarytx.edu
Telephone: 210-436-3523

Attorney for the Respondent

March 6, 2022

QUESTIONS PRESENTED

1. When executing an arrest warrant in a residence later determined not to be that of the warrant target, is probable cause that the target resided in and was present at the residence required?
2. Did law enforcement have sufficient evidence to establish the required level of certainty that the warrant target resided and was present at 401 West Deerfield Court at the time of entry?

TABLE OF CONENTS

QUESTIONS PRESENTED..... i

TABLE OF CONENTS ii

TABLE OF AUTHORITIES iv

CITATIONS TO THE OPINION BELOW vi

STATEMENT OF JURISDICTION vi

STANDARD OF REVIEW vi

PROVISIONS INVOLVED..... vi

STATEMENT OF CASE..... 1

SUMMARY OF ARGUMENTS 3

ARGUMENTS..... 4

I. The Fourth Amendment's focus on reasonableness supports the evidentiary standard of reasonable belief to determine a warrant target's residence and presence when executing an arrest warrant. 4

A. The Fourth Amendment protects from unreasonable search and seizure in civil and criminal contexts..... 5

1. Reasonableness governs searches and seizures, particularly in ambiguous or dangerous situations..... 5

2. A reasonable search may be supplemented by a warrant based upon probable cause..... 8

B. Authorities regularly use the reasonable belief evidentiary standard to balance an individual's privacy while maintaining community safety. 8

1. The reasonable belief evidentiary standard ensures public safety in American communities in both civil and criminal contexts..... 9

2. Law enforcement utilizes the reasonable belief evidentiary standard to swiftly balance between public safety and privacy rights. 10

C. *Payton* held reasonable belief as the correct evidentiary standard when determining an arrest warrant subject's residence and presence. 11

1. *Payton* preserves the reasonable belief evidentiary standard as proper for apprehending an arrest warrant target who is present in his private residence. 11

2. Reasonable belief combines a "totality of the circumstances" and a commonsense approach to arrest warrant execution..... 12

3. Reasonable belief allows law enforcement to navigate bright line rules when inevitable ambiguities exist in determining an arrest warrant suspect's residence..... 13

D. The modern emphasis on warrants narrows law enforcement’s ability to apply the Fourth Amendment in all aspects of American society. The Framers intended the Fourth Amendment to protect from invasive government intrusion into private homes, but not to inhibit law enforcement’s ability to protect communities.	14
II. Law enforcement possessed sufficient evidence to meet the appropriate standard of reasonable belief to execute an arrest warrant at 401 W. Deerfield Court.	16
A. Law enforcement efforts created reasonable belief the warrant target resided at 401 W. Deerfield Court.	16
1. Law enforcement aggressively pursued the warrant target based upon updated information about his location.	16
2. Law enforcement launched the investigation following a corroborated tip from a reliable confidential informant.	17
3. Federal and local law enforcement from over three jurisdictions vetted information for over three days.	18
B. Law enforcement reasonably believed the warrant target was present at 401 W. Deerfield Court when the arrest warrant was executed.	20
1. Law enforcement pursued substantial lead information about the warrant target’s white truck.	20
2. Law enforcement conducted surveillance and reasonably believed warrant target was present at 401 W. Deerfield Court.	21
3. Law enforcement observed activity consistent with high-end party drugs at 401 W. Deerfield Court.	22
C. The facts of the instant case maintain the appropriateness of the reasonable belief evidentiary standard. The case highlights the ambiguity that exists between <i>Payton</i> and <i>Steagald</i> standards. Upholding the reasonable belief standard in arrest warrant execution provides authorities room to maneuver in an ever-changing policing landscape.	23
CONCLUSION	24
CERTIFICATE OF SERVICE	25

TABLE OF AUTHORITIES

Cases

Boyd v. United States, 116 U.S. 616 (1886) 15

Brinegar v. United States, 338 U.S. 160 (1949)..... 13

Hill v. California, 401 U.S. 797 (1971) 6

Illinois v. Gates, 462 U.S. 213 (1983)..... 18

Illinois v. Rodriguez, 497 U.S. 177 (1990) 6, 7, 9, 13

Johnson v. United States, 333 U.S. 10 (1948)..... 8, 9

Maryland v. Buie, 494 U.S. 325 (1990) 12

Maryland v. Garrison, 480 U.S. 79 (1987)..... 6

New Jersey v. T.L.O., 469 U.S. 325 (1985)..... 7, 9, 10

Payton v. New York, 445 U.S. 573 (1980) passim

Segura v. United States, 468 U.S. 796 (1984)..... 22

Skinner v. Railway Labor Executives’ Ass’n, 489 U.S. 602 (1989)..... 10

Steagald v. United States, 451 U.S. 204 (1981)..... passim

Terry v. Ohio, 392 U.S. 1 (1968)..... 6, 7, 10, 17

United States v. Gorman, 314 F.3d 1105 (9th Cir. 2002)..... 12, 19

United States v. Lauter, 57 F.3d 212 (2d Cir. 1995)..... 14

United States v. Leon, 468 U.S. 897 (1984)..... 7

United States v. Magluta, 44 F.3d 1530 (11th Cir. 1995) passim

United States v. Route, 104 F.3d 59 (5th Cir. 1997)..... 10, 19

United States v. Sokolow, 490 U.S. 1 (1989)..... 12, 19, 22

<i>United States v. Thomas</i> , 429 F.3d 282 (D.C. Cir. 2005)	12, 17
<i>United States v. Vasquez-Algarin</i> , 821 F.3d 467 (3d Cir. 2016).....	12, 18, 20
<i>United States v. Veal</i> , 453 F.3d 164 (3d Cir. 2006).....	20
<i>United States v. Watson</i> , 423 U.S. 411 (1976)	15
<i>Valdez v. McPheters</i> , 172 F.3d 1220 (10th Cir. 1999).....	12, 14, 21
<i>Wilson v. Layne</i> , 526 U.S. 603 (1999).....	12
<i>Winston v. Lee</i> , 470 U.S. 753 (1985).....	7, 9, 10
 Statutes	
18 U.S.C. § 922(g)(3)	3
 Other Authorities	
Silas J. Wasserstrom & Louis Michael Seidman, <i>The Fourth Amendment as Constitutional Theory</i> , 77 GEO L. J. 19 (1989).....	8
Akhil Reed Amar. <i>Fourth Amendment First Principles</i> . 107 HARV. L. REV. 757 (1994)	5
Cynthia Lee, <i>The Future of “Reasonableness” Analysis: When Is a Search or Seizure Justified?</i> 81 MISS. L.J. 1133 (2012)	5
Thomas K. Clancy, <i>The Fourth Amendment’s Concept of Reasonableness</i> , UTAH L. REV., 977 (2004)	5
 Constitutional Provisions	
U.S. CONST. amend. IV	vi, 4, 5, 8

CITATIONS TO THE OPINION BELOW

The United States Court of Appeals for the Fifteenth Circuit's Opinion and Order upholding the lower court's decision is unreported but may be found at J.A. 70. The United States District of Court for the District of Alamo's Memorandum Opinion and Order denying Defendant's Motion to Suppress was unreported but may be found at J.A. 67.

STATEMENT OF JURISDICTION

The United States Court of Appeals for the Fifteenth Circuit entered judgment on November 1, 2020. J.A. 70. Petitioner timely filed a Petition for Writ of Certiorari, which this Court granted on December 31, 2021. J.A. 73. This Court's jurisdiction rests on 28 U.S.C. § 1254(1).

STANDARD OF REVIEW

This Court reviews a district court's findings of fact for clear error and its legal conclusions *de novo*.

PROVISIONS INVOLVED

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. CONST. amend. IV.

STATEMENT OF CASE

High-end party drug trafficking is a serious problem in Alamo and the Gulf Coast. Joint Appendix, 17. In 2017, federal authorities began a multi-year, multi-agency taskforce to curb an increase in the MDMA and cocaine trade. *Id.* at 5, 17. On August 8, 2018, federal authorities were tipped to the location of a subject of the taskforce, Bo Boudreaux. *Id.* at 17. Both the federal Drug Enforcement Agency (DEA) and the United States Marshals worked quickly to coordinate with local Alamo law enforcement to corroborate this violent Alamo drug dealer's location and arrest him. *Id.* at 8, 17. Federal authorities hoped Boudreaux's arrest would give them greater insight into the lethal high-end party drug trafficking ring. *Id.* at 17.

Boudreaux was well-known to local and federal authorities as a gang member and drug dealer. J.A. 3. On December 31, 2017, Boudreaux fled a bar in Mission National Park after beating an innocent bystander who bumped into him. *Id.* at 4. The bystander's injuries were serious, and a federal arrest warrant was issued for Boudreaux on January 8, 2018. *Id.* at 1, 5.

On August 8, 2018, a reliable confidential informant (CI) provided a tip on the arrest warrant target's location and federal authorities worked quickly to locate his residence. J.A. 17. Law enforcement spent several days scouring public records and traffic violations for any trace of the target's whereabouts. *Id.* at 18-19. Next, they visited at the target's former girlfriend and spoke with his former parole officer but were unsuccessful in locating the target's residence. *Id.*

On August 10, 2018, taskforce members identified 401 W. Deerfield Court as the target's likely residence. J.A. 19. The identification was based off several leads the CI gathered on August 8, 2018, at a party he attended with the target. *Id.* at 18. The CI observed the target driving a white truck and overheard the target state he was staying at a "big house" in an affluent Alamo City neighborhood called Deerfield. *Id.* Soon thereafter, law enforcement identified a Deerfield neighborhood residence with a white truck parked out front that matched the CI's description of the target's vehicle. *Id.* at 19.

Next, law enforcement surveilled the residence over a period of twenty-four hours and interviewed a neighbor. J.A. 20. The neighbor confirmed that many unknown people came and went from the 401 W. Deerfield Court residence. *Id.* Specifically, the neighbor confirmed a photo of the warrant target was the man he had seen at the residence and driving the white pickup parked in front of the residence. *Id.*

Law enforcement did not approach the residence on August 10, 2018, because they feared the target would flee. J.A. 20. Instead, members of the task force asked local Alamo law enforcement to conduct nighttime surveillance at 401 W. Deerfield Court. *Id.* They confirmed the white truck remained out front all night and reported the residence was hosting a loud party, consistent with the high-end party drug activity the task force was investigating. *Id.*

As a result of the investigation, the task force executed the arrest warrant on the morning of August 11, 2018. J.A. 20. In the process of trying to apprehend the

warrant target, law enforcement executed an arrest warrant at 401 W. Deerfield Court and subsequently realized that the target was not residing at the residence. *Id.* at 22. While securing the premises and detaining its occupant, law enforcement found a firearm and an illegal marijuana stash belonging to the petitioner and arrested her for violation of 18 U.S.C. § 922(g)(3). *Id.*

The petitioner moved to suppress evidence of the search in the Fifteenth District Court on April 26, 2019. J.A. 40. The Fifteenth District Court denied the petitioner's motion to suppress on May 15, 2019. *Id.* at 67. The petitioner pleaded guilty to one count of 18 U.S.C. § 922(g)(3) possession of a firearm by unlawful user of a controlled substance on September 24, 2019 and was sentenced to federal imprisonment for two years. *Id.* at 68-69. On November 1, 2020 the petitioner lost her appeal in the United States Court of Appeals for the Fifteenth District. *Id.* at 70, 72. This Court granted writ of certiorari on December 31, 2021. *Id.* at 73.

SUMMARY OF ARGUMENTS

I. The Fifteenth Circuit is correct in holding reasonable belief as the proper evidentiary standard for executing an arrest warrant at the arrest warrant target's residence when he is believed to be present. Law enforcement actions may be limited by requiring the unnecessarily strict evidentiary standard of probable cause. Redundant application of the probable cause standard sets a dangerous precedent to limit the government's ability to provide Fourth Amendment protections in civil and criminal contexts.

The reasonable belief standard allows for uncertain situations that law enforcement encounter daily and ensures authorities balance individual privacy while maintaining public safety. Law enforcement can never be certain of the persons present within a residence, and thus reasonable belief is the evidentiary standard required to execute an arrest warrant.

II. Law enforcement actioned the tip on the warrant target because they had reasonable belief this violent criminal resided and was present at 401 W. Deerfield Court. The taskforce was a large multi-agency, multi-year investigation run by experienced law enforcement professionals. Members of Special Agent Nguyen's team pursued many different leads, vetted reliable leads, and spent hours surveilling the residence. Law enforcement conducted themselves to the best of their ability and completed their due diligence in obtaining evidence to fulfill the reasonable belief evidentiary standard.

ARGUMENTS

I. The Fourth Amendment's focus on reasonableness supports the evidentiary standard of reasonable belief to determine a warrant target's residence and presence when executing an arrest warrant.

The Fourth Amendment forbids the unreasonable search and seizure of a person, their home, belongings, and papers. U.S. CONST. amend. IV. Next, the text states should a warrant be issued, it must meet the stricter evidentiary standard of probable cause. *Id.* The warrant must also be reviewed by a judicial magistrate and provide details about the place or persons to be searched. *Id.* This Court

acknowledged the individual characteristics and functions of the Reasonableness Clause and the Warrant Clause. *Payton v. New York*, 445 U.S. 573, 584 (1980).

Consequently, the text of the Fourth Amendment raises reasonableness above the requirement of a warrant. Akhil Reed Amar. *Fourth Amendment First Principles*. 107 HARV. L. REV. 757, 759 (1994). Reasonableness is always required in searches and seizures. See *id.* The reasonable belief evidentiary standard stems from reasonableness. See Cynthia Lee, *The Future of “Reasonableness” Analysis: When Is a Search or Seizure Justified?* 81 MISS. L.J. 1133, 1134 (2012).

A. The Fourth Amendment protects from unreasonable search and seizure in civil and criminal contexts.

The Fourth Amendment is applicable in both criminal and civil contexts. Thomas K. Clancy, *The Fourth Amendment’s Concept of Reasonableness*, UTAH L. REV., 977 (2004). As a result of the Fourth Amendment’s broad remit, criminal and civil holdings may inadvertently color one other. See Amar, *supra* at 770. Consequently, American jurisprudence must hold to consistent and comprehensible Fourth Amendment analyses by prioritizing reasonable search and seizure. Amar, *supra* at 759.

1. Reasonableness governs searches and seizures, particularly in ambiguous or dangerous situations.

The Fourth Amendment aims to protect Americans from unreasonable searches and seizures by the government. U.S. CONST. amend. IV. The protection has consistently been translated by this Court to require reasonable search or seizure. See Amar, *supra* at 759. The reasonableness of a search is critical for law

enforcement in its daily interactions with the public. See *Terry v. Ohio*, 392 U.S. 1, 20 (1968). More simply, by maintaining the lower evidentiary standard of reasonable belief, law enforcement protects the public while also respecting an individual's rights. *Id.* at 27.

The reasonable belief evidentiary standard allows for ambiguity and misidentification in the application of arrest warrants. *Maryland v. Garrison*, 480 U.S. 79, 88 (1987). In *Garrison*, this Court held an honest misunderstanding by the police was still considered a reasonable action. *Id.* at 87-88 (citing *Hill v. California*, 401 U.S. 797, 799 (1971) in which law enforcement apprehended the wrong man at a suspect's home). Reasonable searches are based on information available to law enforcement at the time the arrest warrant is issued. *Garrison*, 480 U.S. at 85. As such, law enforcement makes a "reasonable effort" to determine the veracity of the leads, but mistakes will occur. *Id.* at 88. Reasonableness provides law enforcement a realistic approach to search and seizures. See *id.*

This Court held that reasonableness guides searches when law enforcement does not know the identity and status of every person present at a residence during an arrest warrant execution. *Illinois v. Rodriguez*, 497 U.S. 177, 186 (1990). In *Rodriguez*, law enforcement had reasonable belief the person granting consent to search a home was a resident, learning later their belief was mistaken. *Id.* at 179-80. Nonetheless, this Court held law enforcement only needed to apply an objective standard of reasonableness to the individual's claim. *Id.* at 186. The *Rodriguez* Court further stated that the Fourth Amendment does not prohibit reasonable

government searches of private citizens. *Id.* at 183 (holding the Fourth Amendment does not guarantee searches will not ever occur, only that they must not be unreasonable).

Additionally, reasonableness will guide search and seizures when there is potential for bodily harm. *Winston v. Lee*, 470 U.S. 753, 759 (1985). A search becomes unreasonable if it would cause physical harm, even if a search meets the probable cause standard needed for a warrant. *Id.* at 756, 759 (highlighting the unreasonableness of a physical search of the suspect's body that could be potentially fatal). Furthermore, reasonableness guides law enforcement to protect themselves from physical harm. *Terry*, 392 U.S. 23. This Court acknowledged when law enforcement anticipate danger, they are reasonable to proactively search an individual for weapons to ensure both parties' safety. *Id.*

Finally, reasonableness outweighs all other elements of the Fourth Amendment and is not secondary to a warrant. Amar, *supra* at 759. This Court consistently ruled reasonable searches to be more important than a warrant, stating that a warrant issued under probable cause is not "irreducible" to a reasonable search. *New Jersey v. T.L.O.*, 469 U.S. 325, 340-341 (1985). Neither are warrants always correct. See *United States v. Leon*, 468 U.S. 897, 899 (1984) (cautioning a warrant may be so "facially deficient" that law enforcement would be negligent to execute it). Therefore, reasonableness must prevail in a search and is not dependent upon a warrant requirement. Amar, *supra* at 759.

2. A reasonable search may be supplemented by a warrant based upon probable cause.

As a result of the Fourth Amendment's bifurcated text, the Reasonableness and Warrant Clauses are often in tension. See Amar, *supra* at 763. The Reasonableness Clause forbids the government's ability to conduct unreasonable search and seizure, while the Warrants Clause requires any issued warrant to meet the evidentiary standard of probable cause. Silas J. Wasserstrom & Louis Michael Seidman, *The Fourth Amendment as Constitutional Theory*, 77 GEO L. J. 19, 20 (1989). Thus, the Warrants Clause is optional as it states ". . . no Warrants shall issue, but upon probable cause . . ." U.S. CONST. amend. IV. The Framers wrote "but" instead of "must", thereby mandating reasonable searches while making warrants optional. Amar, *supra* at 774. Therefore, reasonable search and seizure remains more important. *Supra*.

Nevertheless, a warrant supplements a search by providing a neutral third-party's judgement that criminal action has occurred. *Johnson v. United States*, 333 U.S. 10, 14 (1948). Warrants are issued at the stricter evidentiary level of probable cause and enhance a reasonable search or seizure. See *id.* at 17. As a result, warrants consider law enforcement's expert opinion, yet also remind of the responsibility to serve the public under the law rather than trying to be above the law. *Id.* at 13, 17.

B. Authorities regularly use the reasonable belief evidentiary standard to balance an individual's privacy while maintaining community safety.

Reasonable searches and seizures are determined by balancing tests. See *Winston*, 470 U.S. at 759. A balancing test weighs the public safety concerns of a community against an individual’s Fourth Amendment privacy protections. *Id.* Properly implemented, it requires consideration regarding the reasonableness of “intrusion” into an individual’s privacy. *Id.* at 762. When pitting public safety against privacy, law enforcement must calculate on each occasion whether an individual has viable privacy expectations. *Id.* at 767 (citing many holdings when an individual’s privacy rights are at a lower expectation or subject to minimal government intrusion).

The Fourth Amendment holds the home in high regard. *Payton*, 445 U.S. at 589. Nevertheless, this Court has held that intrusions into more private areas may be reasonable if authorities are able to provide a “substantial justification” for their actions. *Winston*, 470 U.S. at 767. Moreover, this Court has stressed that crime occurring in a home still poses a “grave concern” to society. *Johnson*, 333 U.S. at 14. Finally, this Court has held that potential intrusions into a residence by law enforcement are an “inconvenience,” but not a breach of Fourth Amendment rights. *Rodriguez*, 497 U.S. at 184.

1. The reasonable belief evidentiary standard ensures public safety in American communities in both civil and criminal contexts.

American authorities conduct on the spot balancing tests while ensuring public safety in administrative and civil contexts. See Clancy, *supra* at 977. Balancing tests determined by reasonable belief weigh an individual’s privacy against the need for community order. *T.L.O.*, 469 U.S. at 337. To illustrate, this

Court recognized the need for school authorities to independently balance student privacy versus the public order concern of controlling drug usage among student populations. *Id.* at 339. Additionally, this Court held the reasonable belief standard was proper to require railway workers to submit to regular alcohol and drug testing. *Skinner v. Railway Labor Executives' Ass'n*, 489 U.S. 602, 633 (1989).

The need for reasonable belief in criminal balancing tests is even more conspicuous. See *Winston*, 470 U.S. at 759. Balancing tests are critical to law enforcement's success against criminals. See *Steagald v. United States*, 451 U.S. 204, 225 (1981) (Rehnquist, J., dissenting) (commenting on a criminal's propensity to act erratically). Furthermore, American criminals have a historic and continuing proclivity for guns and knives. *Terry*, 392 U.S. at 24 (noting the dangers law enforcement daily experiences while attempting to ensure a community's safety). Law enforcement must approach their daily duties holding such a balancing calculus in mind. See *id.*

2. Law enforcement utilizes the reasonable belief evidentiary standard to swiftly balance between public safety and privacy rights.

Balancing tests save law enforcement valuable time. *United States v. Route*, 104 F.3d 59, 62 (5th Cir. 1997). Law enforcement must act instantaneously to keep criminals from escaping. *Payton*, 445 U.S. at 619 (White, J., dissenting). Often, criminals attempt to destroy evidence in certain circumstances. *Id.* at 618. By maintaining reasonable belief as the appropriate evidentiary standard for executing an arrest warrant, law enforcement does not squander time obtaining repetitive

guidance when a judicial official has already determined a suspect's danger to his community. *Steagald*, 451 U.S. at 226. (Rehnquist, J., dissenting).

C. *Payton* held reasonable belief as the correct evidentiary standard when determining an arrest warrant subject's residence and presence.

Only forty years ago, this Court ruled warrantless searches of a felon's residence unconstitutional. *Payton*, 445 U.S. at 602. The *Payton* court established law enforcement may execute an arrest warrant if they have "reason to believe" he is present in his own residence. *Id.* at 603. *Payton* created a method for law enforcement to navigate an evolving standard, as Justice Powell described the less stringent arrest warrant as a stopgap between ". . . zealous officer and the citizen." *Id.* at 602.

Payton's reason to believe is the reasonable belief evidentiary standard applied to the location of a suspect's residence and belief of his presence. *Id.* at 603. The *Payton* Court stated that the arrest warrant's probable cause standard provided an adequate basis to make a suspect to open his home to law enforcement. *Id.* at 602-603. The less stringent reasonable belief standard allows law enforcement to enter a suspect's residence to execute the arrest warrant. *Id.* at 603. Law enforcement also must have reasonable belief that the suspect is present at his residence when they execute the arrest warrant. *Id.*

1. *Payton* preserves the reasonable belief evidentiary standard as proper for apprehending an arrest warrant target who is present in his private residence.

Since *Payton*, this Court has consistently upheld reasonable belief is the appropriate evidentiary standard to determine the two-prong test of residence and

presence. *See, e.g., Maryland v. Buie*, 494 U.S. 325, 330 (1990); *Wilson v. Layne*, 526 U.S. 603, 610 (1999). Lower courts have relied upon *Payton* to consistently interpret reasonable belief as the appropriate lower evidentiary standard of *Payton*'s residence and presence prongs. *E.g., United States v. Magluta*, 44 F.3d 1530, 1534-1535 (11th Cir. 1995); *United States v. Thomas*, 429 F.3d 282, 286 (D.C. Cir. 2005); *Valdez v. McPheters*, 172 F.3d 1220, 1225 (10th Cir. 1999).

Yet, tension exists between the circuit courts on the proper evidentiary standard to apply to *Payton*'s residence and presence prongs. *United States v. Vasquez-Algarin*, 821 F.3d 467, 474 (3d Cir. 2016). Although many circuit courts interpret reason to believe as reasonable belief, some circuits equate reason to believe as probable cause for both *Payton* residence and presence prongs. *Id.*; *United States v. Gorman*, 314 F.3d 1105, 1111 (9th Cir. 2002). The lower courts look to this Court to weigh in on the circuit split and determine if the reasonable belief evidentiary standard is still proper to apply to *Payton*'s residence and presence prongs. *See Vasquez-Algarin* 821 F.3d at 476.

2. Reasonable belief combines a “totality of the circumstances” and a commonsense approach to arrest warrant execution.

The reasonable belief evidentiary standard relies on the totality of circumstances. *United States v. Sokolow*, 490 U.S. 1, 9 (1989). This Court held that a reasonable suspicion of criminal wrongdoing can be established by combining factors. *Id.* In addition, this may be called “objective reasonableness,” and it does not require a single dispositive piece of evidence for proving either residence or presence. *Valdez*, 172 F.3d at 1225-26.

Certainly, the reasonable belief evidentiary standard is rooted in common sense. *Magluta*, 44 F.3d at 1536. In *Magluta*, the lower court argued for law enforcement's ability to survey their surroundings and make an informed decision. *Id.* at 1535. It stated law enforcement should utilize the reasonable belief evidentiary standard to instantaneously assess if an arrest warrant target is present in his own residence. *Id.* This "common sense approach" does not necessitate absolute certainty, yet instead relies on the practicality of the reasonable belief standard. See *id.* at 1536.

3. Reasonable belief allows law enforcement to navigate bright line rules when inevitable ambiguities exist in determining an arrest warrant suspect's residence.

With *Payton*, this Court established arrest warrant procedure for a target known to be present at his private residence. *Id.* at 603. In *Steagald*, it set law enforcement's procedure for executing an arrest warrant when the warrant target was visiting a known third-party residence. *Id.* at 212. The instant case provides this Court an opportunity to uphold *Payton*'s reasonable belief evidentiary standard as valid for arrest warrant execution, even if execution occurred at a mistaken address. See *Rodriguez*, 497 U.S. at 184.

Fortunately, the reasonable belief standard allows for uncertainty. See *Brinegar v. United States*, 338 U.S. 160, 176 (1949); See *Rodruigez*, 497 U.S. at 186. This Court has held that Constitution is not violated if law enforcement erroneously enters a residence, provided the underlying search was reasonable. *Rodriguez*, 497 U.S. at 186. Since Americans do not live in "hermetically-sealed" homes, criminal

suspects often move from one residence to another residence. *Valdez*, 172 F.3d at 1225. As a result, the reasonable belief standard allows law enforcement the flexibility to follow their intuition when the status of the suspect's residence falls between the *Payton* and *Steagald* standards. *Id.*

To illustrate, the Second Circuit interpreted the reasonable belief standard to guide real world implementation of arrest warrant executions. See *United States v. Lauter*, 57 F.3d 212, 215 (2d Cir. 1995). The lower court noted that if law enforcement believed that a suspect had changed addresses, they were not required to return to the judge to update the address on the arrest warrant. *Id.* Accordingly, the arrest warrant was meant to identify the warrant target for the authorities, but not to determine his address. *Id.* This case typifies routine arrest warrants that law enforcement executes between the bright lines of the *Payton* and *Steagald* cases. See *id.*

D. The modern emphasis on warrants narrows law enforcement's ability to apply the Fourth Amendment in all aspects of American society. The Framers intended the Fourth Amendment to protect from invasive government intrusion into private homes, but not to inhibit law enforcement's ability to protect communities.

The modern attempt to require probable cause for every aspect of a warrant's execution is incorrect. Amar, *supra* at 761. This places a cumbersome burden on law enforcement, as functionally they would need to obtain a search warrant before executing an arrest warrant. See *Steagald*, 451 U.S. at 226 (Rehnquist, J., dissenting). Consequently, suspects could easily evade capture and limited law enforcement resources would be further strained. *Id.* at 225.

Although the text of the Fourth Amendment mentions a warrant, it was specifically referencing a general warrant. *Boyd v. United States*, 116 U.S. 616, 625-26 (1886). The Founding Fathers were originally opposed to broad British-issued general warrants. *Id.* at 626. These general warrants specifically lacked details, so that agents of the British crown could use them throughout the colonies to tax smuggled goods or confiscate libelous pamphlets. *Id.* at 625-626.

Historically, English common law viewed civil and criminal cases very differently. *Payton v. New York*, 445 U.S. at 604 (White, J., dissenting). If a person committed a criminal offense, authorities were allowed by common law tradition to arrest without a warrant. *Id.* at 605. This tradition was so well established by the original thirteen states' statutes, the federal government was pressured to include it in federal laws. *United States v. Watson*, 423 U.S. 411, 420 (1976) (noting the colonial authorities' decisions to apprehend a felon without a warrant). Nonetheless, it was pressure from states that contributed to the recent trend to require warrants before an arrest or search. *Payton*, 445 U.S. at 599. The *Payton* Court noted that societal trends pressured its decision. *Id.* at 600.

These fluctuating trends illustrate how the reasonable belief evidentiary standard remains the more stable standard. See *Steagald v. United States*, 451 U.S. 204, 231 (1981) (Rehnquist, J., dissenting) (criticizing the majority's push for a stricter evidentiary standard would complicate future policing efforts and obfuscate judicial rulings). As a warrant is the only thing that demands the stricter probable cause evidentiary standard, it seems impractical to limit law enforcement's ability

to execute an arrest warrant. See Amar, *supra* at 758. Law enforcement would benefit to prioritize the reasonableness of a search. See Amar, *supra* at 759.

II. Law enforcement possessed sufficient evidence to meet the appropriate standard of reasonable belief to execute an arrest warrant at 401 W. Deerfield Court.

Law enforcement required evidence at the reasonable belief evidentiary standard to execute an arrest warrant at 401 W. Deerfield Court. *Payton* at 603. Authorities needed reasonable belief that warrant target was present in his own residence when they executed the arrest warrant on August 11, 2018. J.A. 20. Law enforcement acted on a reliable tip, spent large amounts of taxpayer money and manpower and to corroborate their leads. *Id.* They executed the arrest warrant in good faith after researching publicly available information, tracking down leads and conducting surveillance. *Id.* at 18-19.

A. Law enforcement efforts created reasonable belief the warrant target resided at 401 W. Deerfield Court.

The warrant target exhibited violent behavior, making his arrest and apprehension of greater importance to the government. J.A. 17, 23. Special Agent Nguyen's investigation was part of a larger multi-year, multi-state joint task force effort to dismantle high end party drug trafficking. *Id.* at 17. Law enforcement endeavored to find the warrant target and reasonably believed they had located his private residence. *Id.* at 21.

1. Law enforcement aggressively pursued the warrant target based upon updated information about his location.

Law enforcement acted upon the most updated information available on the warrant target's location. J.A. 17. Complicated narcotics investigations require an agile response from law enforcement, particularly when an investigation has stalled. *Magluta*, 44 F.3d at 1532. The warrant target became a higher priority within the investigation when law enforcement received information about his residence in August 2018, almost eight months after his arrest warrant was issued. J.A. 17. Special Agent Nguyen's taskforce began vetting leads as soon as they received information. *Id.* at 18.

Initially, law enforcement expended significant efforts to corroborate warrant target's location. J.A. 20. Authorities must establish a "systematic official inquiry" to meet the reasonable belief standard. *Thomas*, 429 F.3d at 286. The taskforce managed to coordinate between the DEA, the United States Marshals, and the local Alamo police force. J.A. 17, 20.

Next, law enforcement scoured the arrest warrant for further leads on the target's location. J.A. 18. This echoes the ruling in *Terry* which instructs authorities to obtain an arrest or search warrant whenever possible. *Terry*, 392 U.S. at 20. By operating with an arrest warrant, law enforcement respected the evidentiary standard of probable cause to establish the warrant target's actions as criminal. J.A. 17. Subsequently, they used the arrest warrant to compare against new lead information they were receiving. *Id.* at 18.

2. Law enforcement launched the investigation following a corroborated tip from a reliable confidential informant.

Law enforcement launched an investigation following a tip from a confidential informant (CI). J.A. 17. CIs often play a key role in law enforcement investigations. See *Illinois v. Gates*, 462 U.S. 213, 230 (1983). The “veracity” of a CI’s information must be weighed collectively to determine their worthiness. *Id.* As the CI previously cooperated to lessen the penalty for his own criminal activity, it stands to greater reason his most recent information would be precise as to lessen his own sentence. J.A. 18, 25. Furthermore, the CI consistently provided information resulting in criminal conviction rate of over fifty percent. *Id.* at 25.

Next, law enforcement considered the CI’s “basis of knowledge” for his information about the warrant target. *Gates*, 462 U.S. at 230; J.A. 17. Often CIs have direct access to criminals and thus their information is precise. *Gates*, 462 U.S. at 245. The CI’s basis of knowledge came from him overhearing the arrest warrant target’s conversation at a party the CI was also attending. J.A.18. Special Agent Nguyen’s team was able to further corroborate the several details provided by the CI to reasonably believe that his information was credible. See *Gates*, 462 U.S. at 230; J.A. 19.

3. Federal and local law enforcement from over three jurisdictions vetted information for over three days.

Federal and local law enforcement from multiple jurisdictions vetted the CI’s information about the warrant target for over three days. J.A. 18. Law enforcement must make a marked effort to independently corroborate a confidential informant’s information. *Vasquez-Algarin*, 821 F.3d at 480. The taskforce in the instant case

seriously investigated the warrant target based off many different types of leads. J.A. 18.

For instance, law enforcement reviewed local traffic violations in hopes of validating the warrant target's residence. J.A. 18. Authorities regularly use publicly available information to build a case against a criminal. *Gorman*, 314 F.3d at 1107. The taskforce utilized further federal resources by interviewing the target's prior parole officer, Bill Adama, and followed his suggestion to check for the warrant target at a former girlfriend's separate residence. J.A. 18.

Next, law enforcement sought to corroborate the CI's tip with public records to prove that the warrant target lived at the Stone residence, even though a name listed on records is not solely indicative of the residents at a particular address. J.A. 19. Occasionally, law enforcement cull public records to verify a suspect's address. See *Route*, 104 F.3d at 62. Indeed, this Court has acknowledged that criminals will evade law enforcement by remaining unlisted on public records. *Sokolow*, 490 U.S. at 4. Special Agent Nguyen's team established that an Issa Stone was listed as 401 W. Deerfield Court's owner on property and utilities records. J.A. 19. They accounted for the discrepancy as a criminal's reluctance to be traced and reasonably believed it possible for the warrant target to be an unlisted household member. *Id.*

The petitioner may question law enforcement for failing to obtain a search warrant for 401 W. Deerfield Court on the night of August 10, 2018. J.A. 20. However, the instant case is distinct from other cases in which law enforcement had opportunity to return to a judicial magistrate for a search warrant. *Vasquez-Algarin*

821 F.3d 470. The taskforce was justifiably concerned the warrant target would not be present upon their return to the residence as he had successfully evaded law enforcement for eight months. J.A. 4. Law enforcement acted upon available information to execute the arrest warrant. *Id.* at 20.

B. Law enforcement reasonably believed the warrant target was present at 401 W. Deerfield Court when the arrest warrant was executed.

Law enforcement attempted to verify the warrant target's presence at the residence. J.A. 20. They believed in good faith that the warrant target was present on the morning of August 11, 2018, based off significant leads regarding the target's truck, surveillance conducted by law enforcement, and eyewitness accounts. *Id.*

1. Law enforcement pursued substantial lead information about the warrant target's white truck.

The taskforce vetted the CI's most significant lead, the white truck, by attempting to corroborate the arrest warrant target's links to one Jefferson Pearce listed on the truck's registration. J.A. 19. Law enforcement may use vehicles to link a suspect to a particular residence. See *United States v. Veal*, 453 F.3d 164, 166 (3d Cir. 2006). In *Veal*, authorities established a husband's presence at an address based off his wife's car registration, however the distinguishing factor was that the husband and wife shared a surname. *Id.* Nevertheless, Special Agent Nguyen's team deduced that the target could be borrowing Mr. Pearce's truck, since the CI had informed them of the target's propensity to change vehicles. J.A. 19. This

caused law enforcement to reasonably believe that the target was using the white truck parked in front of 401 W. Deerfield Court. *Id.* at 20.

2. Law enforcement conducted surveillance and reasonably believed warrant target was present at 401 W. Deerfield Court.

Law enforcement thoroughly surveilled 401 W. Deerfield Court for the warrant target. J.A. 19. Authorities conduct surveillance to corroborate a suspect's address as supplied from a confidential informant. See *Magluta*, 44 F.3d at 1532. In the instant case, law enforcement from several agencies provided surveillance of the warrant target's residence. J.A. 20.

Not only did law enforcement conduct surveillance, but they also supported their investigation with supplementary eyewitness information. J.A. 20.

Eyewitnesses generate and confirm leads and law enforcement rely on such information to amplify their own surveillance. *Valdez*, 172 F.3d at 1223; *Magluta*, 44 F.3d at 1532. While surveilling 401 W. Deerfield Court, a neighbor positively confirmed the warrant target's presence at the residence and usage of a white truck after the taskforce showed him the target's photograph. J.A. 20. The eyewitness commented the residence was frequented by different people "coming and going" during the day and night. *Id.* With eyewitness confirmation and a holistic picture of the activities of 401 W. Deerfield Court, law enforcement reasonably anticipated the warrant target to reside at the address. *Id.*

After a year of investigation, Special Agent Nguyen's taskforce was quite familiar with drug dealers and illicit drug activity. J.A. 17. Furthermore, criminals in the drug trade are adept at hiding from authorities and law enforcement must

presume that their surveillance techniques are being tracked by their targets. *Magluta*, 44 F.3d at 1535. Special Agent Nguyen acknowledged this fact several times in his testimony and this information led to the decision to execute the arrest warrant on the morning of August 11, 2018. J.A. 20.

Law enforcement reasonably believed the warrant target was present at 401 W. Deerfield Court. J.A. 21. It is sensible to believe that the intentions of law enforcement are mostly honest. In *Segura v. United States*, this Court found that law enforcement would not illegally execute the warrant lest the evidence be excluded, or they become civilly liable for damages. *Segura v. United States*, 468 U.S. 796, 812 (1984). There is nothing to indicate that law enforcement in the instant case conducted themselves any differently. J.A. 21.

3. Law enforcement observed activity consistent with high-end party drugs at 401 W. Deerfield Court.

Finally, law enforcement met the reasonable belief standard to establish the warrant target's presence at the residence, after they observed activity consistent to a high-end party drug ring. J.A. at 20. Authorities may reasonably believe their suspicions, if they synthesize multiple pieces of information to reach a conclusion. *Sokolow*, 490 U.S. at 9. A neighbor informed law enforcement that 401 W. Deerfield Court different people were constantly seen coming and going from the residence. J.A. 20. Further police surveillance on the evening of August 10, 2018, confirmed the residences hosted well-attended parties. *Id.* The confidential informant heard warrant target admit to living in a big house. *Id.* at 18. All these factors confirmed

law enforcement's belief that the warrant target could be running a high-end party drug ring out of the residence. *Id.* at 20.

C. The facts of the instant case maintain the appropriateness of the reasonable belief evidentiary standard. The case highlights the ambiguity that exists between *Payton* and *Steagald* standards. Upholding the reasonable belief standard in arrest warrant execution provides authorities room to maneuver in an ever-changing policing landscape.

The appropriate evidentiary standard when establishing the presence and residence of an arrest warrant subject is reasonable belief. *Payton*, 445 U.S. at 603. An arrest warrant has already received a judicial magistrate's concurrence that there is probable cause to believe the arrest warrant target is complicit in a crime. *Id.* at 602. Hence, the reasonable belief evidentiary standard simply identifies the arrest warrant suspect's residence and his presence at that residence. *Id.* at 603.

Furthermore, law enforcement's actions in the instant case were not a knowing violation of *Steagald's* holding. J.A. 20. Therefore, law enforcement reasonably believed the warrant target resided at 401 W. Deerfield Court and their investigation into the matter provided sufficient evidence to uphold the reasonable belief standard. *Id.*

CONCLUSION

For the foregoing reasons, the United States pray that this Court affirm the Fifteenth Circuit's judgement and deny the petitioner's motion to suppress evidence as reasonable belief is the accepted evidentiary standard for establishing the presence and residence of an arrest warrant subject.

Dated this 6th day of March, 2022.

Respectfully Submitted,
/s/ Janell Thompson
Janell Thompson
Office of the United States Attorney
One Prosecution Loop
Post Office Box 5
Alamo City, Alamo
Email: jthompson25@stmarytx.edu
Telephone: 210-436-3523
Counsel for Respondent

CERTIFICATE OF SERVICE

Undersigned counsel for Respondent certifies that this brief has been prepared and served upon all opposing counsel in compliance with the Rules of the Supreme Court of the United States by certified mail on the 6th day of March 2022 to:

John Doe
211 West 47th Street, Suite 316
Alamo City, Alamo 78267
Email: jdoe@nelsonmurdock.com
Telephone: (512) 645-1978
Counsel for the Petitioner

/s/ Janell Thompson
Janell Thompson
Office of the United States Attorney
One Prosecution Loop
Post Office Box 5
Alamo City, Alamo
Email: jthompson25@stmarytx.edu
Telephone: 210-436-3523
Counsel for Respondent