

FYI: LANGE v. CALIFORNIA

The United States Supreme Court holds that law enforcement pursuit of a fleeing misdemeanor suspect does not always qualify as exigent circumstances, justifying a warrantless entry into a home.

In *Lange v. California*, No. 20–18 (June 23, 2021), Lange drove by a patrol officer while playing loud music and honking his horn. The officer then followed Lange and soon after, turned on his overhead lights to signal that Lange should pull over. By that time, Lange was only about a hundred feet from his home. Rather than stopping, Lange continued to his driveway and entered his attached garage. The officer followed Lange into the garage. He questioned Lange and, after observing signs of intoxication, put him through field sobriety tests. A later blood test showed that Lange’s blood-alcohol content was three times the legal limit.

The trial court denied Lange’s motion to suppress and the California Court of Appeals affirmed, finding that an officer’s “hot pursuit” into the house to prevent a suspect from frustrating an arrest is always permissible under the exigent circumstances exception to the warrant requirement. The Supreme Court granted certiorari to consider whether this categorical approach is constitutional.

The Court stated that the key to resolving this issue involves two facts about misdemeanors: They vary widely, but they may be “minor.” Misdemeanors run the gamut of seriousness, with states tending to apply the misdemeanor label to less violent and less dangerous crimes. The Court noted that when a minor offense (and no flight) is involved, police officers do not usually face the kind of emergency that can justify a warrantless home entry. Adding a suspect’s flight changes the calculus, but the Court stated, not enough to justify a categorical rule. In many cases, flight creates a need for police to act swiftly. But no evidence suggests that every case of misdemeanor flight creates such a need.

Furthermore, the Court stated, its own precedents and the common law point toward assessing case-by-case the exigencies arising from misdemeanants’ flight. When the totality of circumstances shows an emergency—a need to act before it is possible to get a warrant—the police may act without waiting. Those circumstances include the flight itself. But pursuit of a misdemeanor does not trigger a categorical rule allowing a warrantless home entry.

Therefore, the Court concluded, the flight of a suspected misdemeanor does not always justify a warrantless entry into a home. An officer must consider all the circumstances in a pursuit case to



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determine whether there is a law enforcement emergency. The Court noted that on many occasions, the officer will have good reason to enter—to prevent imminent harms of violence, destruction of evidence, or escape from the home. However, when the officer has time to get a warrant, he must do so—even though the misdemeanor fled. Accordingly, because the California Court of Appeal applied the categorical rule without considering all the circumstances of the particular facts of this case, the Court vacated the California judgment and remanded the case for further proceedings.

In so holding, the Court did not hold that there is a categorical rule for fleeing felons, but only that even assuming that such a categorical rule applied to felons, the same would not be true of fleeing misdemeanants. Also, it seems clear that “flight alone” will not create the exigent circumstances justifying a warrantless entry into a fleeing misdemeanant’s home. Thus, prosecutors should be prepared to put on the record all additional evidence that justified the officer’s warrantless entry other than flight (i.e. the officer sought to prevent imminent harms of violence, destruction of evidence, or escape from the home).

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