No. 127037

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	On Appeal from the Appellate Court
	)	of Illinois, First District,
Plaintiff-Appellee,	)	No. 1-19-0692
	)	
	)	
v.	)	There on Appeal from the Circuit
	)	Court of Cook County, Illinois,
	)	No. 15 CR 6105
	)	
ABDULLAH ALJOHANI,	)	The Honorable
	)	Timothy Joseph Joyce,
Defendant-Appellant.	)	Judge Presiding.

**BRIEF OF PLAINTIFF-APPELLEE
PEOPLE OF THE STATE OF ILLINOIS**

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NATURE OF THE CASE

Defendant appeals from the judgment of the Illinois Appellate Court, First District, affirming his conviction for murder. No question is raised on the pleadings.

ISSUES PRESENTED FOR REVIEW

1. Whether the emergency aid exception to the warrant requirement authorized the officers' entry into defendant's apartment.

2. Whether, if the emergency aid exception did not apply, the officers reasonably believed that they could enter the apartment pursuant to the emergency aid exception and the community caretaking doctrine, such that the good faith exception to the exclusionary rule applied.

3. Whether the evidence was sufficient to convict defendant of murder.

JURISDICTION

Jurisdiction lies under Supreme Court Rules 315(a) and 612(b)(2). On September 29, 2021, this Court allowed defendant's petition for leave to appeal.

STATEMENT OF FACTS

A. Officers responding to a report of an altercation in defendant's apartment discover, upon entry, defendant's dead roommate.

In the early morning hours of March 15, 2015, Khalid Ali's wife woke him and said the two men who lived in the lone apartment above them, Abdullah Aljohani (defendant) and Talal Aljohani (no relation), were fighting.

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SupR85-86.[1] Ali heard what sounded like wrestling upstairs, followed by yelling and screaming. SupR86-87, 99. Not long before, Ali's wife had heard what sounded like someone throwing something and an expression of pain. SupR100. Defendant and Talal lived in the top apartment (on the second floor) of a three-flat in Chicago. SupR85.

Ali heard defendant calling "Talal, Talal," in a panic, then the sound of something being dragged on the floor. SupR87, 107, 113. Ali went upstairs and knocked on the back door of the upstairs apartment. SupR88. Defendant answered and said there had been a small argument, but he gave "two thumbs" up. SupR88. Ali went downstairs but returned to knock again. SupR89. Defendant answered and said Talal was in the bathroom; however, Ali could see that the only bathroom in the apartment was empty. SupR89-91. Ali asked where Talal was, and defendant said that he was talking to his family on the phone. SupR91. Ali asked again to talk to Talal, defendant repeated that Talal was talking to his family, and Ali asked if he could see him. SupR91. Defendant closed the door and said, "[D]o whatever." SupR91. Ali went back to his apartment and called the police. SupR91.

Lugo Banito, an officer in the Chicago Police Department, and his partner, Anthony Richards, responded to the report of a battery in progress at approximately 4:00 a.m. SupR17-20. Ali let them into the building and

[1] "C_," "R_," and "SupR_" denote the common law record, the report of proceedings, and the supplemental record, respectively.

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told them he had heard a loud argument in Arabic, which Ali understood, between two men on the second floor. SupR20-21; 83-84. He heard what sounded like two people wrestling, then heard one tell the other to get up and, in a panic, ask the other if he was okay; there was no response. SupR22-23, 44, R93.

Banito proceeded to the front entrance of the second-floor unit, knocked on the door, and announced his office. SupR28. Defendant opened the door about a foot and said that everything was okay. SupR29, 45. The officers asked to "speak to [defendant's] brother," and defendant replied that he was sleeping and closed the door. SupR29-30, 45.

The officers went back to the first floor, where Ali "was adamant about what had occurred," and that "something serious had occurred, that someone was seriously hurt." SupR30, 46. Ali stated that he heard someone yelling "are you okay[?] [A]re you okay[?]" and that he wanted the officers to check again. SupR46. The officers went upstairs and knocked on the top-floor apartment door once more for about five minutes. SupR31-32, 46. They received no response and told Ali to alert them if he heard anything else. SupR32.

The officers returned to their car and informed central communication that they had completed their assignment. SupR33. Still worried that something was wrong, however, they drove around to the alley on the side of the building and saw the gate between the alley and the yard and driveway

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open. SupR34-35. They proceeded through the gate and found the three-flat's garage door open, too. SupR36.

The officers looked into the garage and saw the back door of the building open. SupR37. They entered the building, went up to the top floor, and found the back door to defendant's apartment wide open, as well. SupR39. They knocked on the door, announced themselves as police officers, and received no response. SupR40. They then entered the apartment and found a man, not defendant, lying on a mattress in a bedroom. SupR41. They again announced they were police and received no response. SupR41-42. The man was unresponsive and appeared not to be breathing; the officers called for emergency services and notified their sergeant. SupR42. Defendant was no longer in the apartment. SupR42.

Investigators later determined that the victim had a large wound to his midsection, SupR131, and the medical examiner determined that the victim died of a stab wound to his abdomen, SupR167; R42. The police found a bloody steak knife with a four-inch blade on top of clothing in a nearby closet. SupR132-33. Meghan Ness, a forensic chemist with the Illinois State Police and an expert in DNA analysis, determined that the victim's DNA matched the blood on the knife, and defendant's DNA was on the knife handle. R37.

Anthony Acevez, a Chicago Police Department Officer, testified that two days later, on March 17, 2015, the police received a tip that defendant

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was near the intersection of Lawrence Avenue and Pulaski Road in Chicago, less than half a mile from the crime scene. R16. When defendant spotted Acevez in an unmarked vehicle, he and a companion ran. R18. Acevez pursued on foot until he knocked defendant and his companion over and placed defendant in custody. R17-18. The police inventoried the clothing defendant was wearing, and Ness, the forensic chemist, later determined that the victim's DNA matched a bloodstain on defendant's underwear. R36.

B. The circuit court denied defendant's motion to suppress and found him guilty of murder following a bench trial.

Defendant was indicted for first degree murder. C23-35. Before trial, he moved to suppress the evidence police obtained in the apartment, arguing at the hearing that the officers' "entry into the apartment without a warrant [was] illegal, and anything that was recovered pursuant to that illegal entry into the apartment should be suppressed." SupR12.[2] In response, the People argued that the entry fell "squarely within the emergency aid doctrine." SupR60. Officer Banito testified to the events surrounding the entry, and the circuit court credited his testimony. R66.

The circuit court denied the motion, reasoning that the entry fell within the "community caretaking exception to the prohibition against warrantless searches," comparing the case to *People v. Hand*, 408 Ill. App. 3d 695 (1st Dist. 2011). SupR69, 71. The circuit court found that "the police

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[2] The written motion to suppress does not appear in the record, nor does any written response.

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[were] not investigating a crime, but it certainly seems to be reasonable that they [were] concerned with respect to what happened, and they wanted to make sure that no one [was] in any distress." R69. "They [were] presented with [an] instance where there was some kind of physical altercation, . . . somebody was heard to say are you okay, get up, and then we've got someone who's [*sic*] conduct is not consistent with looking to demonstrate to the police that everyone is, in fact, okay." SupR70. The fact that defendant "wasn't there and that these doors were open would be one more reason for the police to suspect that perhaps someone needs their help and is in some kind of distress." SupR70-71.

During the prosecution's case, Ali testified as described above, *see supra* pp. 1-2, SupR82-SupR126, and the parties stipulated that Officer Lugo would testify as he did at the suppression hearing, *see supra* pp. 2-4, R38. Forensic investigator David Ryan testified about the photographs and evidence collected from the scene, SupR126-57, including the victim's body and the murder weapon — a steak knife — found behind a suitcase in the closet, SupR131-32. Dr. Kristin Escobar Alvarenga, the medical examiner who performed the autopsy, testified that the victim sustained injuries to the abdomen, face, neck, chest, and lower extremity, SupR161, though he had no defensive wounds, SupR166. Alvarenga testified that the cause of death was a stab wound to the abdomen that injured the liver, inferior vena cava, and aorta, and that the manner of death was a homicide. SupR167-68; SupR158-

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73. Officer Acevez testified as to his arrest of defendant after defendant's flight as described above, R15-33, and the parties entered into several stipulations, including as to the photographing of defendant and recovery of defendant's clothing after his arrest, R33-35, that police evidence technicians recovered a bloodstain from defendant's underwear and a buccal standard from defendant, R35-36, and that Ness would testify as a forensic chemist and expert in DNA analysis that the victim's DNA was present in the bloodstain on defendant's underwear and that defendant's DNA was found on the handle of the murder weapon (in addition to potentially other contributors), R36-38.

In defendant's case, the parties stipulated that the medical examiner would testify that the victim had consumed alcohol, R42-44, and that Ness would testify that she received samples from fingernail scrapings from the victim and that defendant could be excluded from one sample, but that the other sample was a mixture of at least two people but was potentially incomplete and not suitable for comparison, R45-47. Defendant did not testify. R51. In closing, defendant argued that the evidence was "consistent with him coming in to the apartment and finding his roommate in the condition that he found him and attempting to do something or attempting to render some aid," and that it was a "guess as to what happened up in that room." R66-67, 77.

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The circuit court found defendant guilty, R98, and sentenced him to 23 years in prison, C160.

C. The appellate court affirmed.

On appeal, defendant challenged the officers' warrantless entry into his apartment and the sufficiency of the evidence. The appellate court found that the emergency aid exception to the warrant requirement applied, explaining that it did "not matter whether the emergency aid exception is a subset of the community caretaking doctrine or that the trial court did not rely on this exception." *People v. Aljohani*, 2021 IL App (1st) 190692, ¶ 52. The appellate court further found that "the police acted prudently, waiting to enter until they had reasonable grounds to believe that the injured person had been abandoned and left alone." *Id.* While the officers initially indicated to Ali that they did all they could, "they had begun to suspect that something was wrong." *Id.* ¶ 54. When the officers returned to defendant's apartment and knocked for five minutes without response — despite a prompt answer minutes earlier — that, "combined with the wide-open gates and doors, gave the officers reasonable grounds to believe an injured person had just been abandoned." *Id.* In addition, the appellate court found that the evidence was sufficient to convict defendant of murder beyond a reasonable doubt. *Id.* ¶ 70.

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STANDARDS OF REVIEW

This Court reverses a trial court's findings of fact when ruling on a motion to suppress only if they are against the manifest weight of the evidence. *People v. Lindsey*, 2020 IL 124289, ¶ 14. This Court reviews de novo the legal effect of those facts. *Id.*

"In reviewing the sufficiency of the evidence in a criminal case, our inquiry is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt." *People v. Hardman*, 2017 IL 121453, ¶ 37 (quotation marks omitted).

ARGUMENT

While the Fourth Amendment generally requires a warrant for officers to enter a home without consent, an exigency obviating that obligation is the need to assist someone who is seriously injured or threatened with injury. Under this so-called emergency aid exception, officers may enter a home without a warrant to provide emergency assistance to an injured occupant.

This exception applied to the officers' entry into defendant's apartment because they reasonably believed that defendant's roommate may have suffered a serious injury and needed medical attention. Officers responded to a call in the middle of the night from a neighbor who had heard an altercation and panicked words, were greeted by defendant who would not let the officers see his roommate, then could not elicit a response from the

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apartment despite repeated knocking, and upon investigation discovered a wide open outer gate, building door, and apartment door, all of which suggested that defendant had fled and abandoned an injured person inside.

Alternatively, even if the emergency aid exception did not apply, the good-faith exception to the exclusionary rule would apply because binding precedent at the time of the officers' entry held that the officers could enter pursuant to both the emergency aid exception and the community caretaking doctrine. Although the United States Supreme Court has since held that the community caretaking doctrine does not apply to residences, *see Caniglia v. Strom*, 141 S. Ct. 1596, 1598-99 (2021), at the time of the officers' entry, they could reasonably rely on Illinois appellate court cases holding that the community caretaking doctrine authorized entries such as theirs.

Finally, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found defendant guilty of murder beyond a reasonable doubt. The evidence against defendant included his presence at the murder scene; Ali and his wife hearing what sounded like wrestling, followed by a panicked voice Ali believed to be defendant's calling "Talal, Talal," then the sound of something being dragged; defendant's admission to Ali that he there had been an argument between him and Talal; defendant lying that Talal was in the bathroom, then refusing to let Ali see Talal; defendant lying to the police that everything was okay and Talal was "sleeping" and his refusal to let them see him; defendant's flight from the

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scene, leaving the back door wide open, and his flight from police two days later; defendant's DNA on the handle of the murder weapon; and the victim's DNA in a blood stain on defendant's underwear.

I. The Emergency Aid Exception to the Warrant Requirement Authorized the Officers to Enter Defendant's Apartment.

A. Officers may enter a home when they reasonably believe an occupant may require immediate aid.

While the Fourth Amendment generally requires a warrant for officers to enter a home without consent, "because the ultimate touchstone of the Fourth Amendment is 'reasonableness,' the warrant requirement is subject to certain exceptions." *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006). Various "'exigencies of the situation'" can make "'the warrantless search . . . objectively reasonable.'" *Id.* (quoting *Mincey v. Arizona,* 437 U.S. 385, 393-394 (1978)).

"One exigency obviating the requirement of a warrant is the need to assist persons who are seriously injured or threatened with such injury." *Id.* "'The need to protect or preserve life or avoid serious injury is justification for what would be otherwise illegal absent an exigency or emergency.'" *Id.* (quoting *Mincey*, 437 U.S. at 392) (further quotation marks omitted). "Accordingly, law enforcement officers may enter a home without a warrant to render emergency assistance to an injured occupant or to protect an occupant from imminent injury." *Id.*

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Indeed, the United States Supreme Court has made clear that courts "do not question the right of the police to respond to emergency situations," and "[n]umerous state and federal cases have recognized that the Fourth Amendment does not bar police officers from making warrantless entries and searches when they reasonably believe that a person within is in need of immediate aid." *Mincey*, 437 U.S. at 392. And the Court has "repeatedly rejected" any consideration of the "officers' subjective motivations" in determining whether the entry was reasonable — an "action is 'reasonable' under the Fourth Amendment, regardless of the individual officer's state of mind, as long as the circumstances, viewed *objectively*, justify the action." *Brigham City*, 547 U.S. at 404 (emphasis in original); *see also id.* ("The officer's subjective motivation is irrelevant."). Thus, application of the emergency aid exception "does not depend on the officers' subjective intent" and "requires only an objectively reasonable basis for believing . . . that a person within the house is in need of immediate aid." *Michigan v. Fisher*, 558 U.S. 45, 47 (2009) (per curiam) (internal quotation marks and brackets omitted).

Illinois courts have similarly recognized the "emergency exception to the warrant requirement," and held that, "under this exception, police may make a warrantless entry into private premises if they reasonably believe an emergency exists." *People v. Meddows*, 100 Ill. App. 3d 576, 579-80 (5th Dist. 1981); *see also People v. McCall*, 2021 IL App (1st) 172105, ¶ 62 ("The so-

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called 'emergency aid exception' permits law enforcement to make a warrantless entry into a home in emergency situations."); *People v. Ramsey*, 2017 IL App (1st) 160977, ¶ 24 (emergency aid exception "permits a warrantless entry into a home . . . [i]f officers believe it is necessary to enter a home to render emergency assistance to an injured occupant or to protect an occupant from imminent injury") (internal quotation marks omitted). "The reasonableness of the belief that an emergency, a situation requiring immediate action, existed is determined by the entirety of all of the circumstances known to the police at the time of the entry." *Meddows*, 100 Ill. App. 3d at 580; *see also Ramsey*, 2017 IL App (1st) 160977, ¶ 24.

Here, based on the totality of the circumstances, the officers had an objectively reasonable basis to believe that a person in defendant's apartment, namely Talal, could be in need of immediate aid.

B. The officers had a reasonable basis for believing that the murder victim might be seriously injured and in need of immediate aid.

The circumstances the officers faced in this case provided an objectively reasonable basis to believe that Talal could require immediate aid. The officers responded to a call in the middle of the night from a neighbor who heard a "serious" altercation followed by panicked words, and were greeted by defendant, who would not let the officers see the other resident of the apartment and then refused to respond to the officers' subsequent knocking at the door, suggesting that the other resident might be seriously

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injured. Further investigation around back revealed an open outer gate, building door, and apartment door, also indicating that the altercation had led to an injury so severe that defendant fled without bothering to close the door, and that the injured person may have been abandoned inside without necessary aid.

Comparing the circumstances here to those in *Brigham City*, *Fisher*, and *Mincey* confirms that the officers' entry was reasonable. In *Brigham City*, the United States Supreme Court found the officers' entry "plainly reasonable" when officers responded to a 3 a.m. complaint about a loud party, heard "an altercation occurring, some kind of a fight" with "thumping and crashing" and "people yelling 'stop, stop' and 'get off me,'" proceeded around back to investigate, and could see into the kitchen where a "juvenile, fists clenched, was being held back by several adults," until he broke free and struck one of the adults, who spat blood into the sink. 547 U.S. at 400. In fact, the circumstances present in this case provided the officers with even more basis to enter than in *Brigham City*. Here, the officers similarly responded to a report of an altercation, and, unlike in *Brigham City*, they had no reason to believe that the injury was limited to spitting blood, much less that anyone remained to provide or call for emergency aid.

In *Fisher*, the Supreme Court explained that officers "do not need ironclad proof of a likely serious, life-threatening injury," as all that mattered was "whether there was an objectively reasonable basis for believing that

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medical assistance was needed, or persons were in danger." 558 U.S. at 49 (internal quotation marks omitted). In that case, the Court found that a "straightforward application" of the emergency aid exception "dictates that the officer's entry was reasonable." *Id.* at 48. "Just as in *Brigham City*, the police officers here were responding to a report of a disturbance." *Id.* Officers found a damaged truck in the driveway and Fisher "inside the house, screaming and throwing things" and with "a cut on his hands." *Id.* at 45-46. Although the officers "did not see punches thrown, . . . they did see Fisher screaming and throwing things" and "it would be objectively reasonable to believe that Fisher's projectiles might have a human target (perhaps a spouse or a child), or that Fisher would hurt himself in the course of his rage." *Id.* at 48.

Conversely, the facts of this case have far less in common with *Mincey*, where the Supreme Court held that the officers' entry was unreasonable. 437 U.S. at 393. In that case, homicide detectives entered an apartment only *after* all persons had been located and there was no possibility of an injured person inside. *Id*. Under those circumstances, the Court held, officers should have obtained a warrant before entering and beginning a four-day-long search. *Id.* Here, by contrast, Talal had not been located when the officers entered and they could have reasonably concluded that he might require emergency aid. Indeed, contrary to defendant's argument, Def. Br. 25, *Mincey* demonstrates that the officers' uncertainty about Talal's status made

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their entry into the apartment *more* reasonable than if they had already ascertained the status of all residents and learned none was in need of immediate aid. Given Ali's report to police that he had heard what sounded like a violent altercation, the fact that police had not located Talal despite calling out to him from the open back door only added to the reasonableness of their belief that someone needed aid.

In addition to being dictated by United States Supreme Court precedent, the appellate court's decision below also is consistent with the decisions of other federal and state courts across the country, which have found that the emergency aid exception applies under circumstances where officers are faced with little more an open door in unusual circumstances, and less indicia of a need for assistance than was present here.

For instance, the Texas high court held that a warrantless entry into a house was reasonable where officers "received a call from appellant's neighbors saying that they were concerned for appellant's safety because his front door had been left open even though his car was not in his driveway," and the officers subsequently "call[ed] into the house and receiv[ed] no response." *Shepherd v. State*, 273 S.W.3d 681, 684 (Tex. Ct. Crim. App. 2008). Similarly, the Ninth Circuit determined that the emergency aid exception applied when a neighbor informed officers "that a passerby had told him that he saw a young person run from a neighbor's house across the street," the officers then discovered an open rear door and observed evidence

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that a resident was or should have been at home (the lights and a television were on), and the officers received no response when they announced their presence. *Murdock v. Stout*, 54 F.3d 1437, 1439, 1441-42 (9th Cir. 1995). The Sixth Circuit "h[e]ld that the combination of a 911 hang [up] call, an unanswered return call, and an open door with no response from within the residence is sufficient to satisfy the exigency requirement." *Johnson v. City of Memphis*, 617 F.3d 864, 869 (6th Cir. 2010). And the Michigan appellate court held that officers' entry into a condominium was "justified under the emergency-aid exception" because "officers were specifically dispatched to the residence on a report of an open door to a residence blowing in the wind," which "was particularly unusual considering that it was noon, on a weekday afternoon in November in Michigan." *People v. Lemons*, 830 N.W.2d 794, 797-798 (Mich. App. Ct. 2013).

For his part, defendant argues that the officers' entry was unreasonable because no officer testified to his subjective belief that an emergency existed, *see* Def. Br. 34, but this is incorrect; as explained, the "officer's subjective motivation is irrelevant." *Brigham City*, 547 U.S. at 404. In any event, although defendant summarily asserts that "there can be little argument as to the officer's motivations," Def. Br. 34, he has not sought to, and cannot, demonstrate that the circuit court's finding that the officers were "concerned with respect to what happened, and they wanted to make sure that no one [was] in any distress," R69, was against the manifest weight of

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the evidence, *see Lindsey*, 2020 IL 124289, ¶ 14. And there is no evidence to suggest that the officers had any motive other than to ensure the safety of the apartment's residents, based on Ali's report that "someone was seriously hurt" or "seriously injured" inside the apartment. SupR46. This is confirmed by the fact that, notwithstanding defendant's suspicious behavior in the face of Ali's insistence that someone might be injured, the officers did not enter the apartment until they found the back door wide open and received no response when they announced their presence.

Defendant's argument that if "the officers were concerned about the safety and well-being of a third party in [defendant's] home, they would have acted on that concern as soon as they arrived, rather than waiting 15-20 minutes," Def. Br. 33; *see also id.* at 31 (citing *People v. Lomax*, 2012 IL App (1st) 103016, for the proposition that the "passage of time also supports a finding that there existed no reasonable grounds to believe there was an emergency"), is similarly misplaced. Again, the officers' subjective motivations are irrelevant. *Brigham City*, 547 U.S. at 404.

Regardless, *Lomax* underscores the reasonableness of the officers' actions here. In *Lomax*, the appellate court held that the officers' entry into an apartment was reasonable when 911 callers reported shots fired in a building, and one caller specified that the shots were fired in the first-floor rear unit. *Id.*¶ 36. Because the reported conduct occurred inside the apartment, the court explained, "officers would not be able to corroborate the

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facts of the 911 calls until they were inside the apartment"; accordingly, to hold that officers could not investigate reports of violence "heard *inside* the apartment would undermine the purpose of the 911 system and unreasonably delay medical attention to people in need of immediate assistance. *Id.* ¶ 43 (emphasis in original).

Much like in *Lomax*, once defendant refused to allow the officers to speak with Talal, they had no means of confirming Talal's safety without entering the apartment. Defendant's argument that the officers' decision not to immediately enter the apartment suggests that they could not reasonably believe the situation was urgent, *see* Def. Br. 31, overlooks that throughout this time the officers' investigation was ongoing, and they discovered additional evidence of an emergency: not only did defendant refuse to let them speak with Talal, defendant failed to open the door in the face of the officers' repeated knocking, and the officers discovered the wide open back gate and back door, which suggested not only that the altercation might have resulted in a serious injury leading to defendant's flight, but also that nobody remained in the apartment to help Talal or call for aid.

Defendant also cites *People v. Feddor*, 355 Ill. App. 3d 325, 331 (2d Dist. 2005), AT Br. 32-33, in which the appellate court found that the officers' entry was unreasonable, but that case does not help him, either. In *Feddor*, the court held that the officers could not have reasonably concluded that the defendant was in need of aid, because they entered his house after a witness

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reported having seen him driving away from the scene of an accident but "did not observe anything physically wrong with [him]." *Id.* at 331. Here, by contrast, the officers had no reason to believe that there was nothing "physically wrong" with Talal; on the contrary, the only information they had suggested that Talal was seriously injured and in need of aid. Moreover, to the extent that the officers' 30-40 minute delay in entering the defendant's home in *Feddor* called into question the reasonableness of their belief that he needed aid, 355 Ill. App. 3d at 327-28, the same is not true here. As explained, after defendant refused to let them speak with Talal, the officers conducted further investigation and when they obtained additional evidence that Talal might be injured and in need of help, they reasonably made the decision to enter the apartment.

In the end, defendant's position, if accepted, would put officers in an impossible bind: if they enter immediately to provide emergency aid, they risk being accused of acting rashly, while if they prudently continue their investigation and discover additional facts confirming that emergency aid is required, they face the assertion that there was no true emergency. This cannot be correct. All that is required of officers is that they act reasonably, and here they did so.

II. Because the Officers' Conduct Was Consistent with Binding Precedent, the Exclusionary Rule Should Not Apply.

Even if the emergency aid exception to the warrant requirement did not authorize the officers' entry into the apartment, applying the

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exclusionary rule would be inappropriate. Courts exclude evidence obtained in violation of the Fourth Amendment when police officers act culpably. *Davis v. United States*, 564 U.S. 229, 236 (2011). Under the good-faith exception, the exclusionary rule does not apply when officers conform their actions with precedent permitting their conduct. *People v. LeFlore*, 2015 IL 116799, ¶ 23. Here, binding precedent advised the officers that they could enter the apartment both under the emergency aid exception and the community caretaking doctrine. Because the officers thus did not act culpably by entering the apartment to check whether the victim needed aid, the exclusionary rule does not apply.

A. Excluding evidence is a last resort, inapplicable when officers act in good faith.

The exclusionary rule is a "prudential doctrine" that judges created to deter culpable Fourth Amendment violations. *Davis*, 564 U.S. at 236 (internal quotation marks omitted). "Exclusion exacts a heavy toll on both the judicial system and society at large, because it almost always requires courts to ignore reliable, trustworthy evidence bearing on guilt or innocence" — its "bottom-line effect, in many cases, is to suppress the truth and set the criminal loose in the community without punishment." *LeFlore*, 2015 IL 116799, ¶ 23. Thus, the "Supreme Court has repeatedly stated that 'exclusion has always been our last resort, not our first impulse,'" *id.* ¶ 22 (quoting *Herring v. United States*, 555 U.S. 135, 140 (2009)) (additional internal quotation marks omitted), and has explained that "for exclusion of

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the evidence to apply, the deterrent benefit of suppression must outweigh the substantial social costs," *id.* ¶¶ 22-23 (internal quotation marks omitted).

But the "deterrence rationale loses much of its force and exclusion cannot pay its way" when "police acted with an objectively reasonable good-faith belief that their conduct was lawful." *Id.* ¶ 24 (internal quotation marks and brackets omitted); *see also Heien v. North Carolina*, 574 U.S. 54, 67-68 (2014) (exclusionary rule does not apply when officer makes reasonable mistake of law). In "determining whether the good-faith exception applies, a court must ask the objectively ascertainable question whether a reasonably well trained officer would have known that the search was illegal in light of all of the circumstances." *LeFlore*, 2015 IL 116799, ¶ 25 (internal quotation marks omitted). Where, as here, binding precedent held that the officers could enter the apartment to check on the residents, the answer to that question is "no."

B. Binding precedent authorized the officers to enter the apartment via the emergency aid exception and the community caretaker doctrine.

As discussed above, the officers acted with an objectively reasonable good-faith belief that their entry into the apartment was authorized under the emergency aid exception to the warrant requirement. *See* Section I, *supra.* Binding precedent, including the decisions of the United States Supreme Court in *Brigham City*, *Mincey*, and *Fisher*, established that officers may enter a residence when they have a reasonable belief that someone

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inside is in need of immediate aid, and this occurs when there is a credible report of serious violence inside and the officers are unable to locate possible victims without entering. *See supra* pp. 13-16. Here, the officers responded to a call in the middle of the night from a neighbor who had heard an altercation followed by panicked sounds, defendant refused to allow the officers talk to Talal and then failed to answer the door when the officers returned to investigate further, and the officers' additional investigation revealed a wide open outer gate, building door, and apartment door, suggesting that defendant had fled and left Talal without aid or means of summoning help.

Not only was the officers' entry consistent with cases applying the emergency aid exception, binding precedent at the time authorized the officers to enter the apartment under the community caretaking doctrine. That doctrine authorized "searches or seizures as reasonable under the fourth amendment when police are performing some function other than investigating the violation of a criminal statute" and the action "was undertaken to protect the safety of the general public." *People v. McDonough*, 239 Ill. 2d 260, 269, 272 (2010). To be sure, the Supreme Court has recently held that there is no "freestanding community-caretaking exception" that allows officers to enter private residences in efforts "distinct from the normal work of criminal investigation" with no showing of exigent circumstances. *Caniglia v. Strom*, 141 S. Ct. 1596, 1598-99 (2021). However, prior to

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Caniglia, and at the time of the officers' entry, Illinois courts had unanimously held that the community caretaking doctrine *did* apply to homes.

For example, in *People v. Hand*, 408 Ill. App. 3d 695 (1st Dist. 2011), a father reported to police that his children were not being fed and that their mother claimed to talk with the dead, and the mother would not open the door or talk to the responding officer. *Id.* at 703. The appellate court held that the officer "was justified under the community caretaking exception to enter the defendant's apartment" out of "reasonable concern for the welfare of the children." *Id.* The relevant inquiry, the court explained, was whether the entry was a reasonable response to concerns about the well-being of those in the apartment. *Id.* at 702; *see also People v. Woods*, 2019 IL App (5th) 180336, ¶ 34 (after receiving report that an infant had been left home alone, it "was not objectively unreasonable for the officers" to enter the house and "ensure the safety of the infant before completing their community caretaking service call" even though the parents had returned).

Similarly, here, the officers were performing a function other than investigating a crime when they entered defendant's apartment: they were checking on the welfare of a possibly injured person. While defendant argues that "there is no indication in the record that the officers initiated any of their actions based on a concern for someone's well-being," Def. Br. 25, this is incorrect. The circuit court found that "the police [were] not investigating a

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crime," but rather were "concerned with respect to what happened, and they wanted to make sure that no one [was] in any distress," R69, and that finding was not against the manifest weight of the evidence. *See supra* pp. 17-18. On the contrary, the evidence showed that the officers were responding to Ali's report that "someone was seriously hurt" or "seriously injured," SupR46, and entered the apartment only after defendant refused to allow them to speak with Talal and then failed to answer the door when they returned, and the officers subsequently found the back gate and door wide open, suggesting not only that defendant had fled but that Talal was left abandoned inside.

Defendant also argues that that a warrant was required because "there is no indication in the record that the officers observed a person in a situation that would require their assistance." Def. Br. 25. But defendant cites no precedent (and there is none) for the proposition that the officers had to personally observe the person requiring assistance, as opposed to relying on the report of a credible witness like Ali. In *Hand*, for example, the officers did not see the children about whom the father reported concern, but the appellate court nonetheless held that the officers could enter the mother's home to check on the children's welfare. 408 Ill. App. 3d at 703. And in *Woods*, the court held that the officers could enter the home to ensure the infant's safety even though they had not personally witnessed anything indicating that the infant required assistance. 2019 IL App (5th) 180336, ¶ 34. Here, in addition to the information Ali provided, the officers

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personally observed defendant's suspicious behavior, then received no response to repeated knocking when they returned, and finally saw evidence that defendant had fled the scene, all reasonably suggesting that someone inside might require immediate aid.

In short, binding precedent permitted the officers to enter the apartment under both the emergency aid exception and the (now inapplicable) community caretaking doctrine. Applying the exclusionary rule here cannot deter similarly situated officers in the future, because these officers at the very least reasonably believed they were acting lawfully. The good-faith exception to the exclusionary rule thus applies.

III. Defendant Forfeited His Argument That the Officers' Actions After Discovering the Body Were Unlawful and that Argument Cannot Be Considered Now.

Defendant argues that even if the officers' entry was proper, they should have ceased their activity once they discovered Talal's body, secured the scene, and obtained a warrant. Def. Br. 35. But defendant forfeited this argument by not raising it in the trial court at the suppression hearing, *see People v. McCarty*, 223 Ill. 2d 109, 141-42 (2006); *see also People v. Hughes*, 2015 IL 117242, ¶ 44-47, and then doubly forfeited it by failing in this Court to support it with sufficient argument and citation to authority, *see* Ill. Sup. Ct. R. 341(h)(7).

As to the initial forfeiture, at the suppression hearing, "the officer was not asked a single question concerning any subsequent search after the

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discovery of the body, and the defense made no arguments to the trial court that the scope of any such search exceeded any applicable exception." *Aljohani*, 2021 IL App (1st) 190692, ¶ 61; *see also* SupR12 (defendant arguing only that the evidence "was recovered pursuant to that illegal entry"). "As a result," the appellate court explained, "the trial court made no finding on this issue." *Id.* In addition, there is no evidence in the record regarding the officers' conduct after discovering the body and, in particular, no evidence that the officers did not obtain a warrant.[3] Because "defendant, who bore the burden of proof at the suppression hearing . . . offered no evidence in this regard," that "alone is enough to decide the . . . question against him." *See People v. Lindsey*, 2020 IL 124289, ¶ 28; *see also People v. Brooks*, 2017 IL 121413, ¶ 22 ("defendant must make a *prima facie* showing that the evidence was obtained by an illegal search or seizure," which "means that the defendant has the primary responsibility for establishing the factual and legal bases for the motion to suppress," and also "the ultimate burden of proof remains with the defendant"). Defendant's failure to establish the factual or

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[3] Even if defendant had established that the officers did not obtain a warrant prior to searching the apartment, which he failed to do, that could not require exclusion of most of the key evidence, such as the blood stain containing the victim's DNA that was found on the underwear defendant was wearing when he was apprehended. Moreover, the evidence recovered from the apartment would be subject to the inevitable discovery exception to the exclusionary rule, "[g]iven that a thorough investigation into the violent murder . . . was underway" and the body was discovered in the apartment. *People v. Mitchell*, 189 Ill. 2d 312, 343 (2000); *see also People v. Sutherland*, 223 Ill. 2d 187, 228 (2006) (inevitable discovery exception applied when there was "[l]ittle doubt" that a warrant would have been issued).

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legal bases for this argument in the circuit court thus precludes a reviewing court from resolving it in his favor.

Moreover, even if defendant had not forfeited this argument in the trial court, he forfeited it this Court by failing to provide sufficient argument and citation to authority. Ill. Sup. Ct. R. 341(h)(7) (appellant's brief must contain argument, "which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on"; "[p]oints not argued are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing"). Defendant's entire argument on this point relies on a single case, *People v. Kulpin*, 2021 IL App (2d) 180696, which he concedes "did not take up the issue" and merely "noted" that the officers in that case secured a warrant after discovering the murder victim's body. Def. Br. 35. Thus, not only did defendant fail to preserve this argument below, his argument to this Court does not comply with Rule 341(h)(7).

IV. The Evidence Was Sufficient to Convict Defendant of Murder.

Defendant argues that the evidence against him was insufficient to find him guilty of murder beyond a reasonable doubt, arguing primarily that the appellate court incorrectly stated (before correcting the error in a modified opinion) that defendant's DNA on the handle of the murder weapon came from blood, as opposed to another source. Def. Br. 36. But the

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appellate court's initial misstatement is of no moment, and the evidence against defendant was more than sufficient to convict.

"In reviewing the sufficiency of the evidence in a criminal case, our inquiry is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt." *People v. Hardman*, 2017 IL 121453, ¶ 37 (quotation marks omitted). "All reasonable inferences from the evidence must be drawn in favor of the prosecution." *Id.* "Further, circumstantial evidence that meets this standard is sufficient to sustain a criminal conviction." *People v. Jackson*, 2020 IL 124112, ¶ 64. And "it is not necessary that the trier of fact find each fact in the chain of circumstances beyond a reasonable doubt. Rather, the trier of fact must find only that the evidence taken together supports a finding of the defendant's guilt beyond a reasonable doubt." *Id.* ¶ 70.

Defendant argues that it is unremarkable that his DNA was on the handle of a kitchen knife and that there was insufficient evidence tying him to the crime — in other words, that the evidence did not show that it was he who stabbed Talal. Def. Br. 38-39. But the DNA evidence on the murder weapon was just one piece of the evidence against defendant, which also included: his presence at the murder scene at the time of the murder, as confirmed by Ali and the officers, with nobody else but the victim there, SupR29-32, 40-41, 88-91; Ali and his wife hearing what sounded like

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wrestling, followed by a panicked voice Ali believed to be defendant's calling "Talal, Talal," then the sound of something being dragged, SupR87, 107, 113; defendant's admission to Ali that he and Talal had argued, SupR88; defendant's evasive responses to Ali, including lying about Talal being in the bathroom and then refusing to let Ali see Talal, SupR89-91; defendant's lying to the officers that everything was okay and Talal was "sleeping," and then refusing to let them see him, SupR29-30, 45; defendant's flight from police, first from the scene and then again two days later, SupR34-40, R17-18; and Talal's DNA in a blood stain on defendant's underwear. R36.

Viewing this evidence in the light most favorable to the prosecution, a rational trier of fact could have found the evidence sufficient to convict defendant beyond a reasonable doubt.

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CONCLUSION

This Court should affirm the judgment of the appellate court.

March 2, 2022

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service, is 31 pages.

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STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

PROOF OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On March 2, 2022, the foregoing **Brief of Plaintiff-Appellee People of the State of Illinois** was at the same time (1) filed with the Clerk of the Supreme Court of Illinois, using the court's electronic filing system, and (2) served by transmitting a copy from my e-mail address to the e-mail addresses of the persons named below:

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