State v. Peoples (Group Discussion).

*State v. Peoples*, [2022 MT 4](https://juddocumentservice.mt.gov/getDocByCTrackId?DocId=377890) (briefed and argued by Kathryn Hutchison) [Opening Brief](https://juddocumentservice.mt.gov/getDocByCTrackId?DocId=331891) [Reply Brief](https://juddocumentservice.mt.gov/getDocByCTrackId?DocId=350506) [Summary](https://docs.google.com/document/d/1K04kCg-VN_QCqvfW8Oc_WmzgOW3DIni0nVryZwAO6k4/edit) [Article in the Missoulian](https://missoulian.com/news/local/montana-supreme-court-rules-in-favor-of-state-in-missoula-warrantless-search/article_75497b95-1524-5507-9b34-5d2d141415b3.html)

1. Why did the Court order oral argument?
2. What was different for the dissent? Did the arguments putting race in context persuasive to the dissent or did it hurt the client?
3. Did the Supreme Court’s framing and choice of lens influence the narrative in the Missoulian? Why didn’t the framing in People’s papers come through in the Missoulian article?
4. How, if at all, did [Justice Sandefur](https://en.wikipedia.org/wiki/Dirk_Sandefur)’s past experience in law enforcement influence the outcome?

Footnote 22: Similarly without record support other than the mere fact of his race, Peoples further suggests in passing for the first time on appeal that the officers treated him in a racially discriminatory manner. We will not indulge this unsupported and unpreserved assertion raised for the first time on appeal.

* • • • **II**

**Was the arguments putting race in context persuasive to the dissent or did it hurt People's chances of prevailing on appeal?**

 [Peoples Opening](https://juddocumentservice.mt.gov/getDocByCTrackId?DocId=331891)

 [Peoples Reply](https://juddocumentservice.mt.gov/getDocByCTrackId?DocId=350506)

 [Missoulian Article](https://missoulian.com/news/local/montana-supreme-court-rules-in-favor-of-state-in-missoula-warrantless-search/article_75497b95-1524-5507-9b34-5d2d141415b3.html)

 [People Opinion](https://juddocumentservice.mt.gov/getDocByCTrackId?DocId=377890)

 [Summary](https://docs.google.com/document/d/1K04kCg-VN_QCqvfW8Oc_WmzgOW3DIni0nVryZwAO6k4/edit)

**Search of probationer’s home upheld under the Montana Constitution over challenges to the manner of the search**

*State v. Peoples*, [2022 MT 4](https://juddocumentservice.mt.gov/getDocByCTrackId?DocId=377890) (Flathead; Judge Allison), Aff’d, J. Sandefur (briefing and argument by Kathryn Hutchison)

          Peoples, a Black 60-year-old, was on probation for drug-related convictions from eighteen years prior and struggled with addiction.  His probation officer received a report from a previously reliable source that he was using and had potentially overdosed.  There was also a separate unconfirmed and uncorroborated report that there was a lot of blood in Peoples’ apartment, supposedly linked to an unrelated recent homicide.  Twenty-four hours later, the probation officer and three other officers (including one U.S. marshal), went to Peoples’ apartment purportedly to follow up on the personal drug use report.  After he did not answer the door, a key was obtained from the landlord and the officers entered with firearms drawn.  Inside, Peoples was naked on his bed and a meth baggie was seen nearby.  Peoples was handcuffed and his apartment was searched for 30 minutes before a police officer arrived and directed officers to allow Peoples to get dressed.  During revocation proceedings, Peoples filed a motion to suppress the meth obtained from the search on the grounds that as a home-visit, the probation officer did not have authority to enter his home without his permission, and Peoples’ right to be free from unreasonable searches and seizures was violated.  He appealed the denial of that motion.

          The Court upheld the district court’s ruling that the warrantless entry and search of Peoples’s home was lawful under the probation search exception of the Montana Constitution.  The Court’s lengthy opinion goes in-depth on different aspects, including various standards for a lawful probation search.  The Court concluded Montana’s probation system, Peoples’s conditions, his history, and the drug use report resulting in objectively reasonable particularized suspicion of a violation of probation and the criminal law and that corresponding evidence would be in his apartment, and, under the totality of the circumstances, entry into Peoples’s home was reasonable.

          The Court rejected Peoples’s argument challenging the manner of entry and his 30-minute nude detention as unconstitutional.  The Court recognized the “over-arching reasonableness requirement” of the federal and Montana constitutions requires the manner of execution of a search or seizure be “reasonable in relation to the reason that justified the search or the seizure in the first place.”  But the Court relied on limitations in the record to conclude the record did not show evidence of oppressing or harassing intent.  For purposes of argument, the Court went on to conclude that, even if the search’s manner was unreasonable, the exclusionary rule under the Montana and federal constitutions would not apply since the manner of entry and the 30-minute detention were not the “cause-in-fact” of the meth discovery.

          Justice Gustafson (joined by Justice McKinnon) dissented.  The dissent concluded the Montana constitution requires the State to show a warrantless search or seizure was narrowly tailored to further a compelling government interest.  Here, the officers exceeded the scope of the probation search warrant exception by the manner of the search.  The dissent looked to Peoples’s probation conditions, the pre-planned forced entry with a U.S. federal marshal, the lack of exigent circumstances, and leaving Peoples’s naked on his bed for a half hour, and concluded the level of intrusion exceeded its justification.  The dissent provided a “full[er] picture” on the record limitations, which were due to other government offices resisting providing information on the homicide.  The dissent would also have concluded the Montana Constitution required suppression of the drug evidence, citing the history of the exclusionary rule in Montana and Montana’s heightened constitutional privacy right, as well as the rule’s deterrence purposes.

**Opening Argument page 2:**

Arthur Ray Peoples is a Black man. (D.C. Doc 53 at 1.)  . . . In 2018, Arthur was sixty-two years old and still serving his 2003 sentence on probation. In March, a team of government agents with guns drawn forced entry into Arthur’s home and shackled him, naked, on his bed, leaving him there for thirty minutes while they scrutinized his home. They found a small quantity of methamphetamine on Arthur’s bedstand.

REPLY PAGE 8 - 9

In his dispositional hearing, Arthur remembered the terrifying day and recalls relevant excerpts here:

…They busted my door with guns, I’m laying on the floor -- or I'm laying on my bed, whatever,

I'm laying there, not once did anyone ask me was I okay.

...this is supposed to be a wellness check? Seriously?...

 . . .

…Law enforcement bursting its way through my front door unannounced, it’s outrageous, pointing guns at my head, verbally abusing me into submission is downright disrespectful and dehumanizing...

. . .

[P.O.]. . .secured the building and had me sit down in my bed naked, handcuffed…

. . .

…The first and only concern for my well-being came from one of the officers asking me, the handcuffs, are they on too tight? At that point I’m sitting there naked, Bethel angled behind

 me and scooped up something and left the room…

 . . .

-- I mean I work hard in my community, I attend church, I take kids to church, I do the best I can, but I am a drug addict.

. . .

They treated me like I’m some dangerous criminal.

In his opening brief, Arthur’s descriptions reflect these same terrifying and degrading experiences that he recounted to the district court. The State would have this Court disregard his testimony as “exaggerated.” (Appellee Br. at 16.) Arthur asks that this Court instead review the record from his perspective and take his experience- one that is disproportionately high among Black men- seriously. *See, Washington  v. Lambert*, 98 F.3d 1181, 1187-88 (9th Cir. 1996) (“the burden of aggressive and intrusive police action falls disproportionately on African-American, and sometimes, Latino, males”). If even one of the four officers had been wearing a body camera, this Court could see for itself how forcefully the officers opened Arthur’s door, how quickly or aggressively they entered his home, how loudly they announced themselves prior to doing so, and precisely how long it was before they re-holstered their weapons. The State’s preferred version of the facts has no more credibility that any other.

Likewise, this Court should not take Arthur’s prolonged nudity as lightly as the State. (Appellee Br. at 17.) It is not a petty indignity to be surprised by four police officers while naked in your own bed, and senselessly left shackled and nude for at least half an hour while they-and more arriving officers- scour your home. *Terry v. Ohio*, 392 U.S. 1, 17, (1968). The judiciary has a “traditional responsibility to guard against” such “over-bearing [and] harassing” police conduct. *Terry*, 392 U.S. 1, 15. (1968).

**THE DISSENTING OPINION:**

**OPINION PARA 63:**  Going beyond the planning and entry, the probation officers violated Peoples’s constitutional rights during the administrative probationary search by shackling Peoples naked on his bed while they “rummage[d] through [Peoples’s] belongings,” Moody, ¶ 24, for over half an hour before the arrival of a police officer from the City of Missoula Police Department. The near immediate request from that officer upon his arrival on the scene to clothe Peoples highlights the condition in which the probation officers kept Peoples served no legitimate law enforcement, rehabilitative, or public safety purpose and did not serve any compelling government interest. Any argument to the contrary is specious at best. Such conduct showed either callous disregard for human dignity or an intent to harass and intimidate Peoples.