No. 18-1172

In The Supreme Court of the United States

TYNISA WILLIAMS,

Petitioner,

v.

CITY OF CLEVELAND, OHIO,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Sixth Circuit

BRIEF IN OPPOSITION

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QUESTION PRESENTED

Whether the Sixth Circuit properly applied existing Supreme Court precedent in deciding that the City of Cleveland, Ohio was entitled to summary judgment in its favor on a Fourth Amendment challenge to intake procedures for detainees at a municipal jail facility based upon the particularized facts and evidence presented in this case.

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STATEMENT OF THE CASE

This case arises from a 2009 complaint that alleged a Fourth Amendment challenge to the intake procedures at the City of Cleveland's House of Corrections ("HOC"). In her Complaint, Petitioner Tynisa Williams ("Williams") alleges that she was subjected to a group strip search and compulsory delousing when she was admitted to the HOC on October 30, 2009. A summary of the material facts relating to the HOC's intake procedures are described more fully in the Sixth Circuit's decision and will not be repeated herein. *See Williams v. City of Cleveland*, 907 F.3d 924, 931 (6th Cir. 2018) (copy attached to Petition, App. 8-10).

In her Statement of the Case, Williams largely ignores the undisputed evidence that was filed by City of Cleveland about the HOC's intake procedures. As the Sixth Circuit observed, the undisputed evidence in the record establishes that HOC's intake procedures merely involved a quick "visual observation" of incoming detainees for contraband or injury, and did not involve a visual body cavity search. (App. 9). Moreover, the challenged delousing procedure (which was discontinued in April 2010) merely involved the spraying of a light mist from a distance of 3-4 feet that did not hit any detainees with any kind of force. (App. 9, 23). Thus, as the Sixth Circuit described, the pre-2010 delousing procedure was a "brief, painless and necessary" procedure that "was instituted for health and safety reasons" in order "to prevent lice, crabs, bugs, [and] insects from coming" into the facility. *Id.*

The Petitioner's Statement of the Case also ignores the evidence submitted by the City to explain the reasons for the HOC's intake procedures. While the HOC often performed the clothing exchange process with groups of 2 or 3 incoming detainees at a time, the City's witnesses explained that this practice did not occur in all cases, but depended on the total number of detainees arriving at the facility at any given time. (App. 21). In so doing, the Sixth Circuit found that the City's witnesses provided legitimate health and safety reasons for why they needed to speed up the intake process during high-volume hours. *Id.* Moreover, it found that Williams "has not provided evidence questioning the legitimacy of the City's proffered justification." *Id.* Accordingly, based upon a proper application of the constitutional standard established by this Court, the Sixth Circuit concluded that Cleveland was entitled to summary judgment in its favor. (App. 17-22).

Similarly, with respect to the pre-2010 delousing procedures, the Sixth Circuit found that the City's witnesses provided substantial justifications that were "reasonably related to the cleanliness and habitability of the HOC." (App. 24). Moreover, the Sixth Circuit found that the City's witnesses provided "good reasons" for why they did not allow detainees to self-apply the solution because "they could not trust the inmates to follow instructions and any failure to comply would potentially lead to community infestations." (App. 23-24). Thus, based upon the particularized facts and evidence presented, the Sixth Circuit determined that the

City also was entitled to summary judgment on the delousing claim. *Id.*

REASONS FOR DENYING THE PETITION

Petitioner has not presented compelling reasons to grant a petition for writ of certiorari under S. Ct. R. 10. The Sixth Circuit's decision does not conflict with a decision of this Court or any court of appeals nor does it raise an important federal question that has not been settled by this Court. Rather, the Opinion merely follows existing Supreme Court precedent to conclude that the City of Cleveland was entitled to summary judgment in its favor based upon the particular facts and evidence presented in this case. Accordingly, given that the Sixth Circuit's opinion properly states for the applicable rule of law, the Petition does not present the type of legal issue that might warrant Supreme Court review. *See* S. Ct. R. 10 ("a petition for writ of certiorari is rarely granted when the asserted error consists of . . . the misapplication of a properly stated rule of law").

I. THE SIXTH CIRCUIT PROPERLY APPLIED EXISTING SUPREME COURT PRECEDENT IN DETERMINING THAT CLEVELAND WAS ENTITLED TO SUMMARY JUDGMENT IN ITS FAVOR.

The sole claim alleged by Williams in this case is based upon the allegation that the HOC's pre-2010

intake procedures violated the Fourth Amendment of the United States Constitution. In discussing the "reasonableness" test that governs this type of Fourth Amendment claim, this Court has held that the applicable constitutional standard "is not capable of precise definition or mechanical application." *Bell v. Wolfish*, 441 U.S. 520, 559, 99 S.Ct. 1861, 60 L.Ed.2d 447 (1979). Rather, it depends on particular facts and circumstances relating to the search at issue, including "the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted." *Id.*

In this regard, it is well established that state and local governments have a strong and legitimate interest in "the effective management of the detention facility." *Bell*, 441 U.S. at 540. The Supreme Court therefore has repeatedly emphasized that "prison officials have broad administrative and discretionary authority over the institutions they manage and that lawfully incarcerated persons retain only a narrow range of protected liberty interests." *Hewitt v. Helms*, 459 U.S. 460, 467, 103 S.Ct. 864, 74 L.Ed.2d 675 (1983). As the Court explained in *Florence v. Bd. of Chosen Freeholders of Cty. of Burlington*, 566 U.S. 318, 131 S.Ct. 1816, 179 L.Ed.2d 772 (2011), "[m]aintaining safety and order at these institutions requires the expertise of correctional officials, who must have substantial discretion to devise reasonable solutions to the problems they face." *Id.* at 326. Thus, the Supreme Court has repeatedly "confirmed the importance of deference to correctional officials and explained that a regulation impinging on

an inmate's constitutional rights must be upheld 'if it is reasonably related to legitimate penological interests.'" *Id.* (citing *Turner v. Safley*, 482 U.S. 78, 79, 107 S.Ct. 2254, 96 L.Ed.2d 64 (1987)).

This highly deferential standard of review does not allow the judiciary to second-guess the management decisions of prison officials or "ignore the realities of prison operations." *Florence*, 566 U.S. at 328. Rather, as the Court stated in *Florence*, "[t]he task of determining whether a policy is reasonably related to legitimate security interests is 'peculiarly within the province and professional expertise of correctional officials,'" and "in the absence of *substantial evidence* in the record to indicate that the officials have exaggerated their response to these considerations courts should ordinarily defer to their expert judgment in such matters." *Id.* at 328 (citations omitted) (emphasis added).

Here, the Sixth Circuit properly applied this existing precedent by analyzing the merits of the Fourth Amendment claim based upon the individualized facts and circumstances surrounding the alleged search, and then balancing the alleged intrusion against the City's proffered justifications for its intake procedures. In so doing, the Sixth Circuit properly followed this Court's opinions in *Florence* and *Bell* to conclude that it must afford "significant deference" to the City's reasons for its intake procedures, and properly cited this Court's opinion in *Turner* in stating that the HOC's intake procedures should be upheld if they are "reasonably related to legitimate penological interests." (App.

18-19) (quoting *Florence*, 566 U.S. at 322-323, *Bell*, 441 U.S. at 547, and *Turner*, 452 U.S. at 89).

In her Petition, Williams does not argue that the Sixth Circuit did not accurately set forth the rule of law that governs Fourth Amendment claims in the prison context. While she argues that the Sixth Circuit "ignored" certain evidence in the record, this argument misconstrues the evidence in the record and does not present the type of legal issue that might warrant Supreme Court review. *See* S. Ct. R. 10 ("a petition for writ of certiorari is rarely granted when the asserted error consists of . . . the misapplication of a properly stated rule of law"). Moreover, it fails to afford the type of deference that must be afforded to jail officials, as Supreme Court precedent requires. Accordingly, the Court should deny the Petition because it improperly asks this Court to engage in a highly fact-based and particularized inquiry into the specific evidence presented in this case in order to determine whether the Sixth Circuit misapplied a properly stated rule of law. *Id.*

II. THE SIXTH CIRCUIT'S DECISION DOES NOT CREATE AN INTER-CIRCUIT CONFLICT.

In her Petition, Williams also argues that there is an alleged "conflict" between the circuit and district courts that have considered similar Fourth Amendment claims relating to allegations of group strip searches in the prison context. (Petition, pg. 12). This

is not true. Most of the cases cited by Williams are consistent with the Sixth Circuit decision because they also followed existing Supreme Court precedent to affirm the grant of summary judgment or dismissal of a Fourth Amendment strip search claim based upon the particularized facts alleged or shown in each case. *See*, *e.g.*, *Sumpter v. Wayne County*, 868 F.3d 473 (6th Cir. 2017) (upholding county jail's decision to conduct group strip search based upon the specific evidence presented in that case); *Story v. Foote*, 782 F.3d 968, 973 (8th Cir. 2015) (following Supreme Court precedent to affirm grant of motion to dismiss because "Story has not alleged sufficient facts to support a plausible claim" against a corrections officer); *McCreary v. Richardson*, 738 F.3d 651, 656-660 (5th Cir. 2013) (affirming summary judgment on alleged Fourth Amendment strip search claim based upon the specific evidence presented in that case).

Moreover, in the cases where the appellate courts ruled in the plaintiff's favor, the courts did not adopt or apply a different rule of law. Rather, they also followed existing Supreme Court precedent to conclude, *based upon the particularized evidence presented in each case*, that there were genuine issues of fact that denying summary judgment. *See Harris v. Miller*, 818 F.3d 49, 62 (2d Cir. 2016); *Mays v. Springborn*, 575 F.3d 643, 649 (7th Cir. 2008). Indeed, in this case, the Sixth Circuit did not establish any new rule of law that would conflict with existing Supreme Court precedent. Thus, there is no need for this Court "to clarify" the relevant constitutional standard because it already

established the applicable rule of law in *Florence*, *Turner*, *Bell*, and the other Supreme Court decisions that were cited and followed in the Sixth Circuit's decision. Accordingly, the Court should conclude that the Petition does not present compelling reasons to justify Supreme Court review.

CONCLUSION

Petitioner has not established any compelling reason to grant the Petition. The Sixth Circuit's decision does not create a circuit conflict nor raise an important question of federal law. Rather, it merely applies existing Supreme Court precedent to the particularized facts and evidence presented in this case. Accordingly, Respondent respectfully requests that the Court deny the Petition.

Respectfully submitted,

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