

No. 19-127

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In The  
**Supreme Court of the United States**

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ANMARIE CALGARO,

*Petitioner,*

v.

ST. LOUIS COUNTY, MINNESOTA, et al.,

*Respondents.*

—◆—  
**On Petition For A Writ Of Certiorari  
To The United States Court Of Appeals  
For The Eighth Circuit**

—◆—  
**BRIEF IN OPPOSITION FOR  
RESPONDENT ST. LOUIS COUNTY, MINNESOTA**

—◆—  
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## BACKGROUND

In this action under 42 U.S.C. § 1983 (2012), Anmarie Calgaro claims that St. Louis County violated her rights as a parent under the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution in connection with her child’s receipt of general assistance under the Minnesota General Assistance Act, Minn. Stat. §§ 256D.01–.21 (2016), and related administrative rules adopted by the Minnesota Department of Human Services, Minn. R. 9500.1200–.1270 (2017).<sup>1</sup> (See Pl.’s Verified Compl. for Declaratory Relief and Injunction.)

In May 2017, the United States District Court for the District of Minnesota granted our motion for judgment on the pleadings with respect to this claim, ruling that Calgaro’s complaint fails to state a claim upon which relief can be granted because it does not contain sufficient factual allegations indicating that the alleged due-process violations were caused by a policy or custom of St. Louis County, as required under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), and other precedents addressing local-government liability under § 1983. (Pet’r’s App. 19–22.)

In March 2019, the United States Court of Appeals for the Eighth Circuit affirmed the District Court’s ruling that the complaint contains insufficient factual allegations regarding *Monell’s* policy-or-custom requirement and therefore fails to state a plausible claim

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<sup>1</sup> Calgaro also asserted other claims against St. Louis County and individual-capacity claims against a county official, Linnea Mirsch, that are not at issue here.

against St. Louis County under § 1983. (Pet’r’s App. 5–6.) It also determined that Calgaro’s requests for declaratory and injunctive relief—but not her request for damages—became moot when her child turned eighteen, the age of majority under Minnesota law, Minn. Stat. §§ 645.45–.452 (2018), a few months after the District Court granted our motion and entered judgment. (Pet’r’s App. 8–9.)

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## ARGUMENT

All or nearly all aspects of the questions set out in Calgaro’s petition for a writ of certiorari are directed toward the scope and meaning of the Due Process Clause in the context of the parent-child relationship. (Pet’r’s Pet. i–ii.) As we explained above, however, the District Court and the Eighth Circuit disposed of Calgaro’s claim against St. Louis County based on her clear failure to make plausible factual allegations regarding the statutory policy-or-custom element of a *Monell* claim under § 1983 and a straightforward application of the mootness doctrine to the undisputed fact that her child became a legal adult while the appeal was pending. (Pet’r’s App. 5–6, 8–9, 19–22.) Neither court had occasion to look beyond these mundane, threshold issues and decide or even consider the merits of the due-process questions identified in the petition. (*Id.* at 1–26.) The due-process portion of the petition should be denied on this ground, as this Court generally “do[es] not decide in the first instance issues not

decided below.”<sup>2</sup> *Nat’l Collegiate Athletic Ass’n v. Smith*, 525 U.S. 459, 470 (1999); accord *Cutter v. Wilkinson*, 544 U.S. 709, 718 n.7 (2005) (explaining that this is “a court of review, not of first view”).

To the limited extent, if any, that the petition is directed toward the pleading and mootness questions that *were* decided by the District Court and the Eighth Circuit, it should be denied because the lower courts’ rulings on these garden-variety issues do not implicate any of the considerations governing review on certiorari in Sup. Ct. R. 10 or otherwise warrant review by this Court.



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<sup>2</sup> We are making this objection to consideration of the due-process questions pursuant to the fourth sentence of Sup. Ct. R. 15.2, which provides, “Any objection to consideration of a question presented based on what occurred in the proceedings below, if the objection does not go to jurisdiction, may be deemed waived unless called to the Court’s attention in the brief in opposition.”

**CONCLUSION**

The Petition should be denied to the extent it relates to Calgaro's claim against St. Louis County.

Dated: August 21, 2019

Respectfully submitted,

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