

No.19-1416

In the

UNITED STATES SUPREME COURT

MATEUSZ FIJALKOWSKI,

Petitioner

v.

M. WHEELER, *et al.*,

Respondents

On Petition for Writ of *Certiorari* to the
United States Court of Appeals for the Fourth Circuit

REPLY BRIEF

Counsel of record
Victor M. Glasberg
Victor M. Glasberg & Associates
121 S. Columbus Street
Alexandria VA 22314
703.684.1100 / Fax: 684.1104
vmg@robinhoodsq.com

Petitioner Mateusz Fijalkowski offers the following two points in response to the arguments set forth in respondents' brief in opposition to his petition for writ of *certiorari*:

1. The case below was decided on a motion to dismiss. Accordingly, it is the well-pleaded allegations of the complaint that set forth the factual predicate for judicial action. It was for this reason that petitioner included a copy of his complaint as appendix C to his petition. Petitioner respectfully refers the Court to that complaint (including, specifically, the video referenced and incorporated therein at ¶26), rather than characterizations of counsel, for establishing the operative facts on the basis of which the legal matter before the court is to be determined.

2. Precisely because this is not a case involving the need for a law enforcement officer to make a "split second" life-or-death decision, the instant case offers an opportunity to consider the function and application of a qualified immunity rule that has not only facilitated the use of excessive force, but been regularly transformed into a vehicle for denying relief to victims of violations of constitutional and federal rights of every sort simply because a prior case, relatively on point, did not so hold.

Respectfully submitted,

MATEUSZ FIJALKOWSKI,

By counsel

Dated: July 27, 2020

Counsel for Petitioner:

//s// Victor M. Glasberg

Victor M. Glasberg

Victor M. Glasberg & Associates

121 S. Columbus Street

Alexandria, VA 22314

703.684.1100 / Fax: 703.684.1104

vmg@robinhoodesq.com