

No. 20-634

In The
Supreme Court of the United States

FELICIA ROBINSON,
Plaintiff-Petitioner

v.

WEBSTER COUNTY, MISSISSIPPI; WEBSTER COUNTY SHERIFF'S
DEPARTMENT; TIM MITCHELL; in his official capacity;
TIM MITCHELL, in his individual capacity; SANTANA TOWNSEND,
Defendants-Respondents

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

**SHERIFF TIM MITCHELL’S, in his individual capacity
RESPONSE TO PETITION FOR WRIT OF CERTIORARI**

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QUESTION PRESENTED

Whether this case is the appropriate vehicle to review application of the state-created danger doctrine where the outcome will be inconsequential to Petitioner because she is barred from relief against the remaining respondents by *Monell* and the defense of the qualified immunity.

PARTIES TO THE PROCEEDING

Felicia Robinson is petitioner here and was plaintiff-appellant below.

Webster County, Mississippi and Sheriff Tim Mitchell, individually, are respondents here and were defendants-appellees below.

Webster County Sheriff Department, Dispatcher Santana Townsend, in her individual and official capacity, and Sheriff Tim Mitchell, in his official capacity, were defendants below but are no longer parties to these proceedings

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IN THE Supreme Court of the United States

Felicia Robinson, Petitioner,

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Webster County, Mississippi, et al., Respondents

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

SHERIFF MITCHELL’S RESPONSE TO PETITION FOR WRIT OF CERTIORARI

Sheriff Tim Mitchell, in his individual capacity, respectfully submits this Response in Opposition to Felicia Robinson’s petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS BELOW

The district court of the Northern District of Mississippi, in an unreported decision, dismissed the claims against Sheriff Tim Mitchell in his individual capacity based on a finding that no violation of Robinson’s right to due process occurred where Robinson did not have a special relationship with Mitchell and where a state-created danger theory of liability (exceptions to the general prohibition of liability for state actors based on private actors) was unavailable to Robinson within the Fifth Circuit. *See Robinson v. Webster County, Mississippi, et al*, 2020 WL 1180422 (N.D. Miss. Mar. 11, 2020). Pet. App. 8a-35a. A panel of the Fifth Circuit Court of Appeals—in an unpublished per curium opinion—affirmed that both Plaintiff’s special relationship and state-created danger theories of liability failed and as such, the dismissal of Plaintiff’s claims by the District Court

was warranted. *See Robinson v. Webster County, Mississippi, et al.*, 825 F. App'x 192 (5th Cir. 2020). Pet. App. 8a-35a.

JURISDICTION

The judgment of the Court of Appeals for the Fifth Circuit was entered on August 31, 2020. This Court has jurisdiction of the subject Petition under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Although the district court recognized that Robinson raised several constitutional claims in her original Complaint, Robinson's Petition contends she asserting a claim based on her right to due process under the Fourteenth Amendment of the United State Constitution, which provides in pertinent part, as follows:

No State shall...deprive any person of life, liberty, or property, without due process of law[.]

Robinson's constitutional claim is brought under 42 U.S.C. 1983, which provides as follows:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory of the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws,

shall be liable to the party injured in an action at law, suit in equity or other proper proceeding for redress....

STATEMENT OF THE CASE

Petitioner Felicia Robinson seeks certiorari from this Court due to dismissal of her claims arising out of alleged violations of her Fourteenth Amendment right to due process, which she asserted in her Complaint before the District Court pursuant to 42 U.S.C. § 1983. Pet. 10. More specifically, Robinson contends that the named defendants—Webster County, Mississippi; Santana Townsend, a Webster County deputy; and Sheriff Tim Mitchell, a duly-elected Webster County official—are liable under Section 1983 for having aggravated the danger she faced at the hand of her husband, Defendant Daren Patterson—a Webster County Jail (WCJ) inmate who assaulted Robinson while he was on a furlough from the jail.

As recognized by Robinson in her Petition, this "state-created danger" theory of liability--which serves as an exception to the general prohibition on liability for public officials of the acts of private individuals--has been widely rejected by the Fifth Circuit Court of Appeals. Robinson's Petition does not argue in support of the "special relationship" exception to the prohibition on liability which she argued before the District Court or the Fifth Circuit panel and which was also rejected by the lower courts, but rather asks this Court to adopt the state-created danger theory.

A. Factual Background

According to Plaintiff's Complaint, on January 10, 2014, her husband, Daren

Patterson ("Patterson"), was convicted of felony drug possession and sentenced to serve four (4) years in MDOC custody and four (4) years on post release supervision. Pet. App. 9a. Subsequently, on May 29, 2018, while on probation, Patterson allegedly caused bodily harm to a Europa Police Officer and was found in possession of methamphetamine. Pet. App. 9a. Patterson was arrested, placed in the Webster County Jail ("WCJ") and held for failing to post bond. Pet. App. 9a. Notably, none of the aforementioned involved domestic violence charges or the Petitioner, Felicia Robinson.

On or before September 1, 2018, Sheriff Mitchell made Patterson a trusty for the WCJ. Pet. App. 9a. Robinson contends that also on or about September 1, 2018, while housed in the WCJ, Sheriff Mitchell authorized a weekend jail pass for Patterson. Pet. App. 9a. During this weekend pass, according to Robinson, she and her husband had an altercation wherein he hit her and attempted to run over her with a car; nevertheless, Patterson was charged, not with assault or domestic violence, but rather Eupora Police Department charged him with "leaving the scene of an accident." Pet. App. 9a. Nevertheless, Robinson contends that Sheriff Mitchell reportedly was made aware of the incident. Pet. App. 9a.

On October 11, 2018, Sheriff Mitchell purportedly gave Patterson another "jail furlough—" this time without incident. Pet. App. 9a. Thereafter, according to Petitioner Robinson, on November 2, 2018, Sheriff Mitchell again gave Patterson a jail furlough. Pet. App. 10a. It was during this weekend pass that Robinson contends her husband subjected her to abuse. Pet. App. 10a. In particular, Ms.

Robinson alleges that on the afternoon of November 2nd, Patterson threw a beer can at her and punched her in the face. Pet. App. 10a. Later, he purportedly threatened to burn their home down and screamed at Robinson. Pet. App. 10a.

Next, Robinson alleges that at 9:23 p.m. on November 2nd, Patterson knocked a hole in the wall of her house prompting Robinson to call her relative, Defendant Santana Townsend, whom Ms. Robinson alleges was employed as a Webster County dispatch officer. Pet. App. 10a. Robinson alleges that she spoke to Townsend on Townsend's personal cell phone; however, rather than send a Deputy to Plaintiff's residence, Townsend put a trusty (an inmate) on the phone to speak to Patterson. The trusty, according to Robinson, allegedly further enraged Patterson. Pet. App. 10a.

At approximately 12:30 a.m. on November 3rd, Robinson alleges that Patterson threw her on the bathroom floor, punched her repeatedly and, ultimately, poured "Liquid Fire" on her. Pet. App. 10a. Robinson was able to escape her home momentarily. Pet. App. 10a. According to Robinson, she was unable to leave the couple's residence before Patterson entered the vehicle and insisted on accompanying her to the hospital. Pet. App. 10a-11a.

Robinson was treated locally and then transferred to a burn treatment center in Brandon, Mississippi. Pet. App. 11a. Robinson's husband, Patterson, returned to WCJ and was released from Webster County's custody some time later. Pet. App. 11a.

B. Procedural History

Robinson filed her Complaint on June 17, 2019, against Webster County, Webster County Sheriff's Department, Sheriff Tim Mitchell in both his individual and official capacities, Webster County Dispatch Officer Santana Townsend both individually and officially, as well as Petitioner Robinson's husband, Daren Patterson. Pet. App. 11a.

The district court dismissed the Sheriff's Department as a non-legal entity and improper defendant, as well as Townsend and Mitchell in their official capacities as duplicative defendants inasmuch as Robinson had also named Webster County. Pet. App. 19a-20a. Robinson failed to appeal the dismissals of Mitchell in his official capacity to the Fifth Circuit, and as such, Mitchell is only properly before this Court in his individual capacity. Pet. App. 4a.

REASONS FOR DENYING THE PETITION

Felicia Robinson petitions this Court for certiorari with the aim of reversal of the holdings of the trial and appellate courts, both of which found no constitutional violation occurred inasmuch as the violence described in Robinson's Complaint was attributable to a private (not public) actor and that a state-created danger theory of liability in such a case is generally unavailable under Fifth Circuit Court of Appeals' precedent. In support of her Petition, Robinson argues that the Fifth Circuit has adopted the minority view in a nine-to-one split of the courts of appeals on this theory of liability—with the Second, Third, Fourth, Sixth, Seventh, Eighth,

Ninth, Tenth and D.C. Circuits recognizing said state-created danger theory. *See, e.g., McClendon v. City of Columbia*, 305 F.3d 314, 324–25 (5th Cir. (2002).

Nevertheless, as argued by Respondent Sheriff Mitchell before the district court, the Fifth Circuit signaled a willingness to adopt such a theory and set forth the would-be test under such a theory of liability in *Doe ex rel. Magee v. Covington County School Dist. ex rel. Keys*, 675 F.3d 849 (5th Cir. 2012). Based on the aforementioned willingness to adopt such a theory of liability by the Fifth Circuit, certiorari review in this cause is unnecessary.

Moreover, inasmuch as granting Robinson's Petition would not change the outcome of the case, this Court should deny said Petition given that certiorari review would not be an efficient use of judicial resources.

1. The Fifth Circuit Has Set Forth a Test for the State Created Danger Exception

“[T]he Due Process Clauses generally confer no affirmative right to governmental aid, even where such aid may be necessary to secure life, liberty, or property interests of which the government itself may not deprive the individual.” *DeShaney v. Winnebago County Dep't of Social Servs.*, 489 U.S. 189, 196–97, 109 S.Ct. 998, 1003–04, 103 L.Ed.2d 249 (1989)(citations omitted). “[A] State's failure to protect an individual against private violence simply does not constitute a violation of the Due Process Clause.” *Id.* However, as recognized by this Court, a state has a constitutional duty to protect particular individuals in “certain limited circumstances” which generally involve the protection by the state of

institutionalized persons such as inmates. *See id.* at 489 U.S. at 198, 109 S.Ct. at 1004.

The Fifth Circuit has recognized and applied the exception *DeShaney* carved out, namely a "special relationship" theory of liability to the general prohibition of due process claims in the wake of the violent act of a private actor. *See McClendon v. City of Columbia*, 305 F.3d 314, 324 (5th Cir. 2002).

Robinson argued before the district court and a panel of the Fifth Circuit Court of Appeals that such a special relationship existed between she and Sheriff Mitchell, yet both courts rejected this theory. Pet. App. 26a-27a; Pet. App. 6a-7a.

Here, both the District Court and a panel of the Fifth Circuit Court of Appeals found that Robinson could not show she suffered a violation of her right to due process inasmuch as the state-created danger theory generally is not a viable theory of liability in the Fifth Circuit—as opposed to other circuits. Indeed, an en banc Fifth Circuit recognized in *Doe ex rel. Magee v. Covington County School Dist. ex rel. Keys*, 675 F.3d 849, 864 (5th Cir. 2012), that it has "never explicitly adopted the state-created danger theory." (citing *McClendon v. City of Columbia*, 305 F.3d 314 (5th Cir. 2002)).

Nevertheless, *Doe ex rel. Magee v. Covington County School Dist. ex rel. Keys*, 675 F.3d 849 (5th Cir. 2012), signaled that were the Fifth Circuit to adopt such a theory of liability, the test would be as follows: "[1] the defendants used their authority to create a dangerous environment for the plaintiff and [2] that the defendants acted with deliberate indifference to the plight of the plaintiff." *Id.* at

864 (citing *Scanlan v. Texas A&M University*, 343 F.3d 533, 537-38 (5th Cir. 2003)). Generally in the context of deliberate indifference to an "excessive risk to [] health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." *Farmer v. Brennan*, 114 S. Ct. 1970, 1979, 511 U.S. 825, 837 (1994). To establish deliberate indifference for purposes of state-created danger, according to the Fifth Circuit, the plaintiff must show that "[t]he environment created by the state actors must be dangerous; they must know it is dangerous; and ... they must have used their authority to create an opportunity that would not otherwise have existed for the third party's crime to occur." (citations omitted). *Doe ex rel. Magee*, 675 F.3d at 849 (citing *Piotrowski v. City of Houston*, 237 F.3d 567, 585 (5th Cir.2001)).

Notwithstanding its willingness to set forth the aforementioned test, the en banc court in *Doe ex rel. Magee*, ultimately found that the facts did not warrant application of said test because the underlying facts did not support a theory of state created danger—where a school district released a minor child to a non-relative who was sexually abusing the child. *Id.* at 866.

In light of the Fifth Circuit's seemingly willingness to adopt a state created danger theory of liability under circumstances which support of finding of deliberate indifference on the part of a state actor, this Court should decline to grant certiorari.

2. Certiorari Review Would Not Change the Disposition of Robinson's Claims

Even if this Court were to grant certiorari, and impose a state created danger exception for courts of the Fifth Circuit, the criteria for such a theory of liability are not met here. This Court has cautioned courts below that they "should think carefully before expending 'scarce judicial resources' to resolve difficult and novel questions of constitutional or statutory interpretation that will 'have no effect on the outcome of the case.'" *Ashcroft v. al-Kidd*, 131 S.Ct. 2074, 2080, 563 U.S. 731, 735 (2011)(citing *Pearson v. Callahan*, 555 U.S. 223, 236-42, 129 S.Ct. 808, 172 L.Ed.2d 565 (2009)). Here, the Court should heed its own admonishment inasmuch as Robinson's claims still fail under a state created danger theory because the essential element of deliberate indifference is absent from the facts.

Moreover, as argued before the District Court and a panel of the Fifth Circuit Court of Appeals, Sheriff Tim Mitchell, in his individual capacity, was entitled to qualified immunity and, as such, dismissal in his individual capacity by the district court was appropriate. *See Pearson v. Callahan*, 129 S. Ct. 808, 818, 555 U.S. 223, 237 (2009)("Qualified immunity is 'an immunity from suit rather than a mere defense to liability.')(citing *Mitchell v. Forsyth*, 472 U.S. 511, 526, 105 S. Ct. 2806, 86 L.Ed.2d 411 (1985)).

The doctrine of qualified immunity protects government officials "from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Pearson v. Callahan*, 129 S. Ct. 808, 815, 555 U.S. 223, 231

(2009)(quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982)). Qualified immunity balances two important interests—the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably. *Id.* The protection of qualified immunity applies regardless of whether the government official's error is “a mistake of law, a mistake of fact, or a mistake based on mixed questions of law and fact.” *Id.* (quoting *Groh v. Ramirez*, 540 U.S. 551, 567, 124 S.Ct. 1284, 157 L.Ed.2d 1068 (2004) (KENNEDY, J., dissenting) (quoting *Butz v. Economou*, 438 U.S. 478, 507, 98 S.Ct. 2894, 57 L.Ed.2d 895 (1978), for the proposition that qualified immunity covers “mere mistakes in judgment, whether the mistake is one of fact or one of law”).

Qualified immunity shields federal and state officials from money damages unless a plaintiff pleads facts showing (1) that the official violated a statutory or constitutional right, and (2) that the right was “clearly established” at the time of the challenged conduct. *Ashcroft v. al-Kidd*, 131 S.Ct. 2074, 2080, 563 U.S. 731, 735 (2011)(citing *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S.Ct. 2727, 73 L.Ed.2d 396 (1982)). This Court has held that “lower courts have discretion to decide which of the two prongs of qualified-immunity analysis to tackle first.” *Id.* (citing *Pearson v. Callahan*, 555 U.S. 223, 236, 129 S.Ct. 808, 172 L.Ed.2d 565 (2009)).

Sheriff Tim Mitchell argued in both the District Court and before the appellate panel that Robinson did not suffer a constitutional violation and that, even if Robinson could show she suffered a constitutional deprivation, Mitchell was

not acting contrary to clearly established law at the time in the absence of binding precedence establishing a state-created danger theory of liability.

It is the second prong of the qualified immunity inquiry which is particularly germane as to whether qualified immunity applies here, and which Plaintiff Robinson wholly failed to address. Robinson—in failing to address the qualified immunity defense at the district level or before the appellate court—arguably has waived any claims against Mitchell in his individual capacity. For the purposes of Federal Appellate Rule 28(a)(8)(A), briefing of an issue must contain "appellant's contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies...." Fed. App. R. 28(a)(8)(A). Robinson failed to brief the qualified-immunity-related defense raised by Mitchell. As such, this issue of individual-capacity immunity for Sheriff Mitchell was waived by Robinson in the appellate court below. *See Roy v. City of Monroe*, 950 F.3d 245, 251 (5th Cir. 2020)(citing *Procter & Gamble Co. v. Amway Corp.*, 376 F.3d 496, 499 n.1 (5th Cir. 2004)).

Procedural bar notwithstanding for failure to brief the issue, Robinson's theories of liability as to her claims against Sheriff Mitchell also warrant denial based on their merits.

A. No Constitutional Violation: Lack of Deliberate Indifference

The would-be test set forth in *Doe ex rel. Magee v. Covington County School Dist. ex rel. Keys*, 675 F.3d 849 (5th Cir. 2012), for state-created danger is as follows: "[1] the defendants used their authority to create a dangerous environment

for the plaintiff and [2] that the defendants acted with deliberate indifference to the plight of the plaintiff.” *Id.* at 864 (citing *Scanlan v. Texas A&M University*, 343 F.3d 533, 537-38 (5th Cir. 2003). To establish deliberate indifference for purposes of state-created danger, the plaintiff must show that “[t]he environment created by the state actors must be dangerous; they must know it is dangerous; and ... they must have used their authority to create an opportunity that would not otherwise have existed for the third party's crime to occur.” *Id.* (citations omitted).

A “state-created danger theory is inapposite without a known victim.” *Id.* at 865 (citing *Rios v. City of Del Rio, Tex.*, 444 F.3d 417, 424 (5th Cir.2006); *see also Lester v. City of Coll. Station*, 103 Fed. Appx. 814, 815–16 (5th Cir. 2004) (“[E]ven if it is assumed that the state-created-danger theory applies, liability exists only if the state actor is aware of an immediate danger facing a known victim.”) (citing *Saenz v. Heldenfels Bros., Inc.*, 183 F.3d 389, 392 (5th Cir. 1999)) (emphasis added).

Even under the facts, as alleged by Robinson's Complaint before the district court, a state-created danger theory of liability fails because Robinson cannot demonstrate deliberate indifference on the part of Sheriff Mitchell. In the facts, as alleged by Robinson's Complaint, there is nothing to support a finding that Mitchell knew Patterson was an immediate danger to Robinson, and as such Plaintiff cannot show deliberate indifference—an essential element of a state-created danger theory. In other words, a known propensity for violence on the part of Patterson cannot be equated with deliberate indifference by Mitchell in the absence of a factual basis that there was immediate danger facing—specifically—Robinson. The facts, as

pleaded in Plaintiff's Complaint, fail to establish Sheriff Mitchell had personal knowledge of such immediate danger to Robinson.

As an initial matter, Patterson was not being held on domestic violence charges, or other assault charges relating to any altercation with Robinson. According to the Complaint, on May 29, 2018, while on probation, Patterson allegedly caused bodily harm to a Europa Police Officer and was found in possession of methamphetamine. Pet. App. 9a. Due to a failure to post bond, Patterson was held at WCJ. Thus, nothing about the nature of those charges would have informed Sheriff Mitchell of a history of domestic violence involving Petitioner and her husband.

On the weekend following September 1, 2018, during which Robinson's husband, Patterson, was purportedly was released by Sheriff Mitchell, Robinson alleges that she and her husband had an altercation wherein he hit her and attempted to run over her with a car. However, Eupora Police Department charged Patterson, not with assault or domestic violence, but with "leaving the scene of an accident" Thus, again, there was nothing about the nature of the charge which would have conveyed that a domestic assault unfolded during the incident. Robinson alleges that Sheriff Mitchell was ultimately made aware of the nature of this incident involving herself and Patterson, yet nothing about this incident would have put Mitchell on notice of an immediate threat of Patterson to Robinson's safety. This is particularly so in light of the fact that the next weekend during

which Patterson was allowed to return home to Robinson on furlough, the pair cohabitated without incident. Pet. App. 9a.

It was only during that final weekend furlough of November 2, 2018, during which the assault which gives rise to Robinson's Complaint occurred. Pet. App. 9a. During the course of the domestic assault, Robinson herself admits that she did not contact Sheriff Mitchell, or even call 911, but rather contacted Santana Townsend on Townsend's personal cell phone. Pet. App. 2a. It was Townsend who failed to convey the urgency of the situation unfolding at Robinson's home. Pet. App. 2a. Sheriff Mitchell had no involvement in the failure to dispatch Webster County deputies to the Robinson/Patterson residence.

In the absence of deliberate indifference, Robinson's due process claim against Sheriff Mitchell fails and, thus, this Court should not grant the Petition for Certiorari.

B. Not Clearly Established Law

Significantly, even were this Court to grant certiorari and find that Robinson's right to due process was violated due to a state created danger by the part of Mitchell, Sheriff Mitchell, in his individual capacity would still be entitled to qualified immunity under the second prong of this Court's inquiry into his defense.

"[Q]ualified immunity operates 'to ensure that before they are subjected to suit, officers are on notice their conduct is unlawful.'" *Hope v. Pelzer*, 122 S.Ct. 2508, 2515, 536 U.S. 730, 739 (2002)(citing *Saucier v. Katz*, 533 U.S., 194, 206, 121 S.Ct. 2151, 150 L. 2d 272 (2001)). For a constitutional right to be clearly

established, its contours “must be sufficiently clear that a reasonable official would understand that what he is doing violates that right.” *Id.*

For the purposes of the second prong of the qualified immunity inquiry, “clearly established law’ should not be defined ‘at a high level of generality.’” *White v. Pauly*, 137 S.Ct. 548, 552 (2017)(citing *Ashcroft v. al-Kidd*, 563 U.S. 731, 742, 131 S.Ct. 2074, 179 L.Ed.2d 1149 (2011)). “As this Court explained decades ago, the clearly established law must be ‘particularized’ to the facts of the case.” *Id.* (citing *Anderson v. Creighton*, 483 U.S. 635, 640, 107 S.Ct. 3034, 97 L.Ed.2d 523 (1987)). “Otherwise, ‘plaintiffs would be able to convert the rule of qualified immunity ... into a rule of virtually unqualified liability simply by alleging violation of extremely abstract rights.’” *Id.* (citing *Anderson*, 483 U.S. at 639, 107 S.Ct. 3034). As noted by the Fifth Circuit in *Shumpert v. City of Tupelo*, 905 F.3d 310, 324 (5th Cir. 2018) “the theory of state-created danger is not clearly established law.”

Because state created danger theory is not and was not clearly established law at the time of the incidents about which Plaintiff complains, Mitchell's qualified immunity defense cannot be overcome by Plaintiff. Certiorari review on individual-capacity claims and Mitchell's qualified immunity defense would be an improper use of judicial resources in that the dismissal of the claims against Mitchell was proper under the relevant case law.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied, as Robinson, even under a state-created danger theory, is unable to show

that she suffered a violation of her right to due process, or that Sheriff Mitchell was not entitled to qualified immunity and dismissal in his individual capacity.

Respectfully submitted this the 20th day of January, 2021.

/s/ William R. Allen (MSB#: 100541)
Counsel for Sheriff Tim Mitchell
(in his individual capacity)

CERTIFICATE OF SERVICE

I, the undersigned of Allen, Allen, Breeland & Allen, PLLC, hereby certify that on this day, I have mailed by United States Postal Service a true and correct copy of these foregoing Response of the Defendant-Respondent Sheriff Tim Mitchell, to the following:

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This the 20th day of January, 2021.

/s/ William R. Allen
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CERTIFICATE OF COMPLIANCE

As required by the Supreme Court, I certify that Sheriff Tim Mitchell's Response to Petition for Writ of Certiorari contains 4,087 words excluding the parts of the document that are exempt.

I declare under penalty of perjury that the above and foregoing is true and correct.

Respectfully submitted this the 21th day of January, 2021.

/s/ William R. Allen (MSB#: 100541)
Counsel for Sheriff Tim Mitchell
(in his individual capacity)