

No. 21-1210

In the
Supreme Court of the United States

SCOTT COUNTY, TENNESSEE,
Petitioner,

v.

TAMMY BRAWNER,
Respondent.

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

REPLY BRIEF

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**REPLY TO BRIEF IN OPPOSITION TO
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ARGUMENT**

The undersigned assumes that Respondent was requested to file a Response in Opposition to the Petition for Writ of Certiorari in order for the Court to learn Respondent's position on the serious issues raised by the Petitioner but also in the briefs filed by the three Amicus Curiae. That did not occur.

Utilizing a bit of pejorative language, Respondent simply reiterates in its brief that either the Sixth Circuit Court of Appeals panel hearing its appeal was correct or that this action is a poor vehicle for it to use if it chooses to grant Certiorari and address the standard to be utilized in deciding the constitutional hurdles of a pretrial detainee making a denial of medical care claim. This says nothing of the total failure of Respondent to address the practical difficulties of applying a different standard of proof to post-conviction inmates and pretrial entities. Candidly, these groups often occupy the same cell, pod, or other areas as a result of classification.

Across the country, municipalities operating correctional institutions have relied on precedent established by this Court in their desire to comply with the federal constitution in dismissing inmate medical care and other issues that invariably arise from incarceration. The standard to be applied should not vary by location but rather be uniform throughout the country.

That is the very purpose of this Court. Circuit, as well as district courts, should be able to apply the law uniformly as decided by this Court.

None of these concerns were addressed by the Response. Seemingly, Respondent desires the standard to remain in flux, rather than be subject to one that is uniform. Even if the Court adopts an objective prong as done below, it should be this Court's decision, not an ad hoc decision(s) of the various circuit courts of appeal in the United States.

The entire purpose of adjudicating the case is so practitioners will understand these duties. This can only be established by clear direction from this Court.

Specifically and respectfully, Respondent's argument that the hearing of the Petition would not change the result of the panel decision is not only presumptuous, but misses the point. Respondent surprisingly acknowledges that the Sixth Circuit itself has applied an inconsistent standard since the Brawner decision. *See* Brief in Opposition at 11; *Trozzie v. Lake Cnty.*, 29 F.4th 745, 757-58 (6th Cir. 2022).

Again, this Court, not the lower courts, should decide what level of protection is or is not afforded to pretrial detainees under the Fourteenth Amendment. Thus, to say that the Petitioner and Amici only want a different outcome in Brawner is overly simplistic. To be frank, Petitioner contends that the district court's grant of a directed verdict to Scott County, Tennessee should be upheld. Yet, as Petitioner and Amici have already noted, no distinction should be made between incarcerated pretrial detainees, and post-conviction

inmates on matters of medical care and § 1983 liability. Yet, even if this Court disagrees, it, respectfully should be this Court's decision and only this Court's decision to make any pronouncements. It is certainly not the province of lower courts to mesh decisions of this Court in totally different context to do. The result has and will continue to be inconsistent.

Respondent's argument that the obvious "split" be allowed to percolate longer before Certiorari is granted makes little sense. Not only are citizens arrested, tried, and judged every day in this country, county officials must continuously make medical care decisions regarding the incarcerated daily in often uncontrolled environments.

CONCLUSION

For each and all of the foregoing reasons, it is respectfully requested that this court grant the Petition for Writ of Certiorari.

Respectfully submitted,

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