No. 21-1552

In the
Supreme Court of the United States

CENTRAL SPECIALTIES, INC.,
Petitioner,

v.

JONATHAN LARGE,
Respondent.

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

BRIEF IN OPPOSITION

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September 28, 2022

QUESTION PRESENTED

Whether the Eighth Circuit correctly held that a county engineer who prevented two trucks from exceeding the posted weight limit on a county road, and called law enforcement to enforce that posted weight limit, was entitled to qualified immunity because his conduct did not violate any clearly established federal law.

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INTRODUCTION

This case is an exceptionally poor candidate for review of the question presented in the petition. In the decision below, the Eighth Circuit applied settled law to hold that respondent Jonathan Large ("Large"), the county engineer responsible for maintenance and upkeep of the county roads in Mahnomen County, Minnesota, was entitled to qualified immunity on the federal constitutional claims brought by petitioner Central Specialties, Inc. ("CSI"). The Eighth Circuit found that qualified immunity was warranted because Large did not violate any clearly established federal right when he prevented two CSI trucks that he believed were above the posted weight limit from driving on and potentially damaging a Mahnomen County road. In reaching that conclusion, the Eighth Circuit specifically rejected the contention that Large had engaged in an unlawful stop, finding no evidence in the record to show that the trucks were not free to depart at any time.

CSI does not ask this Court to review the Eighth Circuit's determination that Large did not conduct an unlawful traffic stop or detain the trucks—presumably because it realizes that such a hopelessly factbound question plainly is not certworthy. Instead, CSI asks this Court to grant review to decide whether to add a new "threshold scope-of-authority inquiry" to the established qualified immunity test, Pet.21, under which a state official could only claim qualified immunity if his actions were within the scope of his state-law authority. But as even a cursory reading of the Eighth Circuit's opinion shows, that question was neither presented nor considered below, because the

Eighth Circuit concluded that Large did not conduct any stop that would have exceeded his state-law authority. Nothing in the Eighth Circuit's opinion remotely addresses the issue of whether a state official who exceeds his state-law authority can nonetheless claim qualified immunity, much less "join[s] the Tenth [Circuit]" in any purported split on that issue. *Contra* Pet.i. As such, even if this Court were inclined to address the question raised in the petition, this case would provide no opportunity to do so. In fact, this case would be an extraordinarily poor vehicle to address *any* question about qualified immunity, because the Eighth Circuit's analysis makes clear that no constitutional violation occurred *at all*—and so Large would be entitled to judgment in his favor *regardless* of whether qualified immunity applies.

The decision below is also entirely correct. CSI does not dispute that no case from any court holds or even suggests that Large's actions here violated any clearly established federal right, such that a reasonable official in Large's position would have known his actions were unlawful. Instead, CSI attempts to evade the qualified immunity inquiry completely, by arguing that qualified immunity should not apply because (CSI says) Large exceeded his authority under state law. Again, that argument simply disregards the Eighth Circuit's determination that Large did *not* conduct an unlawful stop, which CSI has not asked this Court to review. In any event, this Court has already explicitly held in *Davis v. Scherer*, 468 U.S. 183 (1984), that whether a state official is entitled to qualified immunity does *not* depend on whether that official violated any state-law restrictions on his authority. That is for good reason:

because otherwise, the qualified-immunity inquiry would require federal courts to grapple with thorny questions of state law, as plaintiffs would routinely assert that the state official who allegedly violated their federal constitutional rights was acting in excess of her state-law authority. CSI cannot persuasively distinguish *Davis* from this case, or justify forcing federal courts to undertake that state-law inquiry, and its other purported justifications for its novel "threshold scope-of-authority inquiry" are equally unavailing.

For similar reasons, this case does not present any question of exceptional importance. The Eighth Circuit's fact-intensive qualified immunity ruling does not have any broader ramifications beyond this case, and CSI does not ask this Court to review the actual basis for that ruling in any event. CSI's claim that the decision below somehow affords broader immunity to state officials who exceed their authority under state law is facially incorrect, and explicitly refuted by the decision below itself. The petition for certiorari should be denied.

STATEMENT OF THE CASE

A. Factual Background

1. This case arises from a road construction project in northern Minnesota. In late 2016, the Minnesota Department of Transportation (MnDOT) awarded a contract to CSI to perform road work on State Highway 59, which crosses Mahnomen County. Pet.App.2a. As part of its contract, CSI proposed that certain existing county roads should be designated as "haul roads," which CSI would use to haul construction material to and from the project site.

Pet.App.2a. Although CSI was responsible under the contract for proposing which roads should be used as haul roads, the contract also made clear that MnDOT retained the ultimate authority to determine which roads would be designated as haul roads for the project. Pet.App.2a.

The "haul road" designation is important to local road authorities in Minnesota. As a general matter, each county in Minnesota is responsible for the maintenance and upkeep of all county roads within its boundaries. Pet.App.2a. When MnDOT designates a road as a haul road for a construction project, however, that road is transferred to the jurisdiction of MnDOT for the duration of the project, and is no longer under the purview of the county in which the road is located. Pet.App.2a; *see* Minn. Stat. §161.25. MnDOT then becomes responsible for maintaining the road during the project, and repairing any damage done by heavy construction vehicles. At the end of the project, MnDOT is responsible for restoring the haul road to as good a condition as it was in before it was designated as a haul road, after which MnDOT will revoke the haul road designation and restore jurisdiction over the road to the county. Pet.App.2a; *see* Minn. Stat. §161.25. In practice, however, additional expenses related to deterioration of the road from its use as a haul road are often difficult to ascertain, which often leaves the county with the responsibility to pay for additional repairs. Pet.App.3a. As a result, counties have a significant interest in the selection of haul roads within their boundaries. Pet.App.2a.

2. In April 2017, MnDOT held a routine preconstruction meeting that was attended by MnDOT, CSI, Large, and others involved in the project. Pet.App.3a. At that meeting, CSI announced that it intended to ask MnDOT to designate three Mahnomen County roads—namely, County State Aid Highways ("CSAH") 5, 6, and 10—as haul roads on which CSI intended to haul loads of up to 80,000 pounds (40 tons), well over existing county weight restrictions. Pet.App.3a. Large, who as the County Engineer of Mahnomen County was responsible for the maintenance and upkeep of all county roads, objected to the proposed designation of CSAH 5, 6, and 10 as haul roads because those roads were already in generally poor condition and could not sustain CSI's proposed loads over the course of the construction project. Pet.App.3a. In addition, Large objected to CSI's proposal to designate CSAH 5 and 10 as haul roads because those roads were scheduled to undergo extensive repairs later in 2017. Pet.App.3a.

MnDOT conducted testing of the roads at issue based on Large's stated concerns, and confirmed Large's belief that the roads were in generally poor condition that could be exacerbated by use as haul roads. Pet.App.3a. MnDOT consequently rejected CSI's proposal to designate CSAH 5, 6, and 10 as haul roads with a 40-ton weight limit. Pet.App.4a. Instead, MnDOT designated only portions of CSAH 5 and 10 as haul roads, with a 9-ton weight limit, and CSAH 6 as a haul road with a 7-ton weight limit. Pet.App.4a. CSI was therefore responsible for arranging with Mahnomen County for the use of any other roads in the county, and for maintenance to repair any damage its trucks might do to those roads. *See* Pet.App.29a

(quoting terms of CSI's contract with MnDOT that made CSI responsible for "[a]rranging for the use of [r]oads not under the jurisdiction of [MnDOT]," and "[p]erforming any maintenance and restoration" and "[p]aying any fees, charges, or damages assessed by [Mahnomen County] as a condition of using such [r]oad"). CSI never made any such arrangement with Mahnomen County. *See* Pet.App.4a.

3. After construction began, CSI notified Large and MnDOT that it intended to use portions of CSAH 6 and 10 that were not designated as haul roads as a return route for its empty trucks. Pet.App.4a. Large responded by reiterating to CSI that it was required to use designated haul roads for all truck trips, regardless of whether trucks were loaded or unloaded, and noting that CSI did not have any agreement with Mahnomen County that would allow it to use a non-designated route. Pet.App.4a. MnDOT likewise informed CSI that CSI could not use non-designated roads without reaching agreement with Mahnomen County on their use. Pet.App.4a, 33a. CSI nevertheless notified Mahnomen County and MnDOT in writing that it intended to start sending its trucks over the roads at issue despite MnDOT's explicit refusal to designate the relevant portions as haul roads and despite the absence of any agreement with Mahnomen County. Pet.App.4a.

On the morning of July 18, 2017, the Mahnomen County Board of Commissioners approved a change in the weight limit on CSAH 10, lowering it from a 5-ton axle weight limit to a 5-ton total weight limit. Pet.App.4a. Sometime before noon on that same day, Mahnomen County workers posted signs indicating

the revised weight restriction. Pet.App.4a-5a. Large also spoke with the MnDOT project manager to advise him of the change, and asked him to inform CSI of the change as well, which the MnDOT project manager did in an email sent to CSI at 1:19 p.m. Pet.App.5a.

Shortly after 2:00 p.m., Large observed two CSI trucks driving on CSAH 10 in an area where Mahnomen County workers were conducting road work. Pet.App.5a. Large was unable to tell whether the trucks were loaded or unloaded, but concluded that even an unloaded truck would be in violation of the reduced weight restriction. Pet.App.5a. According to CSI, Large exited his marked Mahnomen County vehicle and motioned to the trucks to pull over. Pet.App.5a. The trucks complied with Large's request, and he informed the drivers that they could not haul on this road, pointing to a sign showing the new weight restriction. Pet.App.5a. Large also called law enforcement and told the drivers to wait until law enforcement arrived. Pet.App.5a. When state troopers arrived, they weighed the vehicles, cited the driver of the first CSI truck for exceeding the posted weight limit, and then allowed both drivers to leave. Pet.App.5a-6a. According to the driver of the second truck, other large trucks driving on the same road were allowed to proceed without being stopped. Pet.App.6a.

B. Procedural History

1. CSI proceeded to file this action against Large and Mahnomen County in federal district court, bringing federal claims under §1983 for violation of the Fourth and Fourteenth Amendments and state-law claims of tortious interference with contract and

trespass to chattel.[1] Pet.App.6a. Specifically, CSI alleged that Large violated the Fourth Amendment by making the CSI trucks pull over and telling CSI's drivers to wait for law enforcement, and that Mahnomen County was liable as Large's employer. Pet.App.6a. CSI also alleged that Large deprived CSI of equal protection and due process by selectively changing and selectively enforcing the county road weight limits and by failing to provide adequate notice of the change, and again asserted that Mahnomen County was liable as Large's employer. Pet.App.6a.

At the close of discovery, Large and Mahnomen County moved for summary judgment on all of CSI's claims, which the district court granted. Pet.App.6a; *see* Pet.App.27a-50a. As to CSI's Fourth Amendment claim, the district court determined that Large was entitled to qualified immunity because even assuming that Large had seized the trucks, the duration of the seizure was reasonable and Large, with his responsibilities as County Engineer, had sufficient reason to investigate the trucks after witnessing what he believed to be a violation of the posted weight limits. Pet.App.6a-7a; *see* Pet.App.37a-39a. In addition to the absence of any constitutional violation, the district court also determined that it was not clearly established that only a law enforcement officer could ask for commercial activity to come to a brief

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[1] CSI also filed a separate suit against MnDOT in state court for rejecting its proposed haul road designations in light of Large's concerns about the structural integrity of the roads that CSI wanted to use. *See* Minnesota Court File No. 44-CV-19-137. That case is still pending.

halt to ensure compliance with local laws. Pet.App.7a; *see* Pet.App.39a.

The district court also found that Large was entitled to qualified immunity on CSI's Fourteenth Amendment due process and equal protection claims. Pet.App.7a-8a; *see* Pet.App.39a-45a. As to the due process claim, the court concluded that CSI failed to show any constitutional violation because its assertion that it had no notice of the changed weight limit was unsupported, and in any event CSI presented no authority recognizing a right to pre-deprivation notice in the context of a changed highway weight limit. Pet.App.7a; *see* Pet.App.40a-41a. The district court also concluded that it was not clearly established that a county could not change its weight restrictions based on specific indications that its roads would be used for increased loads or traffic. Pet.App.7a; *see* Pet.App.41a-42a. As to the equal protection claim, the district court determined that CSI failed to show a constitutional violation because Large had a rational basis to stop the trucks given the road's condition, the fact that the road was not a haul road, and CSI's stated intention to nevertheless use the road for hauling. Pet.App.7a; *see* Pet.App.43a-44a. The district court also concluded that it was not clearly established that every road restriction must be enforced, and that CSI had presented no evidence from which a jury could properly conclude that other companies were treated differently from CSI. Pet.App.7a-8a; *see* Pet.App.44a. Finally, the court concluded that CSI's state-law claims also failed. Pet.App.8a; *see* Pet.App.45a-50a.

2. CSI appealed to the Eighth Circuit, which affirmed in an opinion by Judge Shepherd joined by Judge Smith, finding that Large was entitled to qualified immunity on CSI's constitutional claims. The court explained that under the "familiar two-prong framework" for qualified immunity, courts must ask (1) "'whether the plaintiff has stated a plausible claim for violation of a constitutional or statutory right'" and (2) "'whether the right was clearly established at the time of the alleged infraction.'" Pet.App.9a (quoting *Kulkay v. Roy*, 847 F.3d 637, 642 (8th Cir. 2017)). Applying that test, the court found that Large was easily entitled to qualified immunity, because "CSI simply presents no case that comes close to demonstrating that the rights it alleges were violated were clearly established." Pet.App.11a.

Contrary to what the petition suggests, the Eighth Circuit specifically rejected the contention that its decision effectively "sanctioned the deputization of county engineers to perform traffic stops," and explained that "[t]he record does not bear this out." Pet.App.11a. Instead, the record showed that "[a]lthough Large impeded the CSI trucks' progress on the highway, Large did not conduct a traffic stop or detain the drivers." Pet.App.11a; *see id.* (explaining that a person "has been 'seized' within the meaning of the Fourth Amendment only if, in view of all the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave" (quoting *United States v. Dortch*, 868 F.3d 674, 677 (8th Cir. 2017)). In particular, "Large motioned for the CSI drivers to pull over and called law enforcement for assistance, but there is no evidence in the record that the CSI drivers were not free to simply

turn around and drive away before law enforcement arrived." Pet.App.11a-12a. "Moreover, the record demonstrates that any detention or seizure occurred at the hands of law enforcement," as "it was law enforcement who cited one of the CSI drivers and who kept the same drivers on the side of the road until the ultimate conclusion of their investigation, a fact further evidenced by Large's departure from the scene before law enforcement concluded their investigation and released the drivers." Pet.App.12a.

Put simply, "[t]he record reflects that Large, as County Engineer with responsibility for oversight of county roads, merely prevented the CSI trucks from traveling on a county highway before the drivers complied with his request to wait for the arrival of law enforcement." Pet.App.12a. That record, the Eighth Circuit determined, "does not support" the "notion that Large's conduct amounted to an unlawful traffic stop." Pet.App.12a. "Under the unique circumstances of this case," the court concluded, "we cannot say that it was clearly established that Large, a county engineer tasked with oversight of all county roads, could not prevent trucks that he had reason to believe were operating above the posted weight limit from passing over and damaging the roadway or could not call law enforcement to investigate compliance with the new, reduced weight restrictions." Pet.App.11a.

The Eighth Circuit reached a similar conclusion with respect to CSI's Fourteenth Amendment claims, explaining that it was not clearly established that Large and Mahnomen County "could not change the weight restrictions in response to CSI's stated intention to use the CSAHs despite the lack of

designation as a haul road," or that Large could not "seek law enforcement's assistance in investigating CSI's trucks' weights after the weight limit change and CSI's stated intention to use the roads despite the reduction in weight limit." Pet.App.12a-13a. "Far short of this standard, we find *no* cases considering this issue, or even cases considering remotely similar facts." Pet.App.13a. The Eighth Circuit therefore affirmed the district court's decision to grant summary judgment to Large on qualified immunity grounds.[2]

3. Judge Grasz dissented in part, claiming that qualified immunity "is not applicable here" because Large had no authority under state law for his actions. Pet.App.21a. According to the dissent, before engaging in the qualified immunity inquiry, the court should first have "review[ed] the statutes governing county engineers in Minnesota" to determine whether Large's actions were authorized under those statutes. Pet.App.22a. Because, in Judge Grasz's view, "making traffic stops and seizing vehicles and their drivers" falls outside Large's authority under state law, he would have held that Large could not claim qualified immunity. Pet.App.20a.

In reaching that conclusion, Judge Grasz recognized that his characterization of the underlying facts disagreed with the panel majority, which had

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[2] The Eighth Circuit also affirmed the district court's summary judgment for Mahnomen County on the alternative ground that a county cannot be held liable under §1983 based solely on a theory of respondeat superior, and affirmed its summary judgment for Large and Mahnomen County on CSI's state-law claims as well. Pet.App.13a-19a. CSI does not challenge these rulings in its petition.

found "no evidence in the record" to show that Large made a traffic stop or detained the drivers. Pet.App.20a n.3. But Judge Grasz simply refused to accept the majority's understanding of the record, insisting instead that "[v]iewing the facts in the light most favorable to CSI, this was in fact a stop and detention." Pet.App.20a n.3.

4. CSI subsequently filed a petition for rehearing en banc. The Eighth Circuit denied that petition, with only Judge Grasz voting in favor of rehearing. Pet.App.51a.

REASONS FOR DENYING THE PETITION

The petition should be denied for at least three reasons. First, the decision below simply does not present the question that CSI seeks to raise in its petition: namely, whether a state official can claim qualified immunity when he acts outside the scope of his authority under state law. That question is not implicated here, because as the Eighth Circuit's decision makes clear, the undisputed record evidence shows that Large did *not* exceed his authority under state law. Contrary to CSI's repeated assertions, the Eighth Circuit explicitly determined that Large did *not* conduct a traffic stop or detain the drivers—a determination that CSI does not ask this Court to reconsider. In light of that determination, the question of whether Large *might* have been able to claim qualified immunity *if* he had exceeded his authority under state law is simply irrelevant to this case. And in any event, the outcome of this case would be the same regardless of whether Large could claim qualified immunity, because the Eighth Circuit's

analysis also makes clear that there was no underlying constitutional violation at all.

Second, the decision below is also correct. CSI does not dispute that no case from any court establishes that Large's conduct actually violated any federal constitutional rights. Instead, CSI argues that this Court should add a new "step zero" to the qualified immunity inquiry, and hold that a state official can only claim qualified immunity if his conduct comported with his authority under state law. But this Court has already explicitly rejected the argument that federal qualified immunity depends on state-law authority or restrictions, and for good reason: because the approach that CSI advocates would routinely enmesh federal courts in difficult state-law inquiries. Even if the question had been presented, the Eighth Circuit would not have erred by rejecting that seriously mistaken approach.

Finally, the decision below does not present any issue of compelling importance. The question that CSI raises is not even implicated by the Eighth Circuit's decision, which instead turns on that court's reading of the undisputed record (which CSI does not ask this Court to review). Contrary to what CSI suggests, the decision below does not afford any special protection to state officials who exceed their authority under state law, and it fully comports with settled precedent. This Court should deny review.

I. The Decision Below Does Not Present The Question Raised In The Petition.

CSI asks this Court to grant certiorari in this case to add a new prong to the qualified immunity inquiry, by holding that a government official cannot claim

qualified immunity if he acted outside the scope of his authority under state law. But as the Eighth Circuit's decision below makes abundantly clear, that question was neither presented nor passed on by the majority below. CSI's contrary assertions misrepresent both the record and the actual holding of the decision below. Even in the unlikely event that this Court were interested in further complicating the qualified immunity inquiry in the manner that CSI suggests, it should wait for a case in which the question that CSI raises is actually presented and was actually passed on below. *See, e.g.*, *Byrd v. United States*, 138 S.Ct. 1518, 1527 (2018) (this Court is "a court of review, not of first view," and so finds it "generally unwise to consider arguments in the first instance" that the lower courts "did not have occasion to address"); *Town of Chester v. Laroe Estates, Inc.*, 137 S.Ct. 1645, 1652 n.4 (2017) ("[I]n light of … the lack of a reasoned conclusion on this question from the Court of Appeals, we are not inclined to resolve it in the first instance."); *City & Cty. of S.F. v. Sheehan*, 575 U.S. 600, (2015) ("The Court does not ordinarily decide questions that were not passed on below."); *Cutter v. Wilkinson*, 544 U.S. 709, 718 n.7 (2005) ("Because these [arguments] were not addressed by the Court of Appeals, and mindful that we are a court of review, not of first view, we do not consider them here.").

1. CSI's distortions of the record begin on the very first page of its petition, with its preamble to what it claims is the question presented. According to CSI, the Eighth Circuit's decision below "joined the Tenth [Circuit]" by holding that a government official can claim qualified immunity even when acting outside his state-law authority, and so "granted qualified

immunity to a county engineer who conducted traffic stops, in clear violation of his authority under Minnesota law." Pet.i. That description has no basis in reality.

To begin with, nothing in the decision below "join[s] the Tenth [Circuit]" on the issue of whether qualified immunity is affected by state-law limitations on a government official's authority. *Contra* Pet.i. In fact, nothing in the decision below addresses that issue at all. The decision below nowhere holds or even suggests that a government official can claim qualified immunity even when he is acting far outside the scope of his authority under state law. Nor does it endorse (or even cite) the Tenth Circuit's view on that issue—or, for that matter, any other Tenth Circuit decision. *See* Pet.App.1a-19a (never citing any Tenth Circuit case).

That is because the decision below had no need to address that question. Contrary to what CSI claims in its question presented, the decision below did not "grant[] qualified immunity to a county engineer who conducted traffic stops, in clear violation of his authority under Minnesota law." *Contra* Pet.i. In fact, the Eighth Circuit explicitly *rejected* that characterization of the facts, expressly determining that Large "did *not* conduct a traffic stop or detain the drivers" because "there is no evidence in the record that the CSI drivers were not free to simply turn around and drive away," Pet.App.11a-12a (emphasis added); *see also* Pet.App.12a ("The record does not support the dissent's notion that Large's conduct amounted to an unlawful traffic stop."). Instead, the Eighth Circuit concluded, the record shows that Large

"merely prevented the CSI trucks from traveling on a county highway," consistent with "his authority as County Engineer … to close or control traffic on the highway in question." Pet.App.12a.[3] CSI's assertion that the decision below allowed Large to act "in clear violation of his authority under Minnesota law" is thus pure fiction. *Contra* Pet.i.

In short, without regard to the question whether Large had authority to seize or detain the trucks—an issue the majority had no reason to reach—nothing in either federal law or Minnesota law suggests that Large, "a county engineer tasked with oversight of all county roads, could not prevent trucks that he had reason to believe were operating above the posted weight limit from passing over and damaging the roadway." Pet.App.11a. Because Large did not exceed his authority under state law, this case simply does not present the question of whether a government official can claim qualified immunity when acting "in clear violation of his [state-law] authority." *Contra* Pet.i.

2. For the same reason, this case does not implicate CSI's claimed circuit split on this issue. According to CSI, only the Eighth Circuit (in the decision below) and the Tenth Circuit (in *Cummings*

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[3] In fact, as the district court recognized, Large's actions were no more than a highway worker or even a private citizen might have had authority to do under Minnesota law under similar circumstances. *See* Pet.App.39a ("A flagger in a work zone may stop vehicles, hold vehicles in place, and direct vehicles to proceed when it is safe." (quoting Minn. Stat. §169.06, subd. 4a)); *id.* (recognizing that Minnesota law "authoriz[es] an arrest by [a] private person under limited circumstances" (citing Minn. Stat. §629.37)).

v. Dean, 913 F.3d 1227 (10th Cir. 2019)) allow defendants to claim qualified immunity even when they exceed their authority under state law, while seven other circuits deny qualified immunity in those circumstances. But as already explained, the decision below does *not* hold that a defendant can claim qualified immunity when acting outside the scope of his state-law authority, *contra* Pet.18-19; instead, it merely rejects the premise that Large exceeded his authority, *see* Pet.App.11a-12a. In fact, CSI recognizes that the Eighth Circuit has previously "den[ied] qualified immunity in cases where officials exceeded their authority." Pet.19-20 n.4 (citing *Johnson v. Phillips*, 664 F.3d 232, 239 (8th Cir. 2011), and *Hawkins v. Holloway*, 316 F.3d 777, 787-88 (8th Cir. 2003)). Nothing in the decision below comes anywhere near suggesting that the Eighth Circuit panel intended to depart from those prior decisions. *See, e.g.*, *United States v. Anderson*, 771 F.3d 1064, 1066 (8th Cir. 2014) ("It is a cardinal rule in our circuit that one panel is bound by the decision of a prior panel." (brackets omitted)). Finally, as already noted, it is simply implausible to suggest the decision below abandoned established circuit law in favor of Tenth Circuit law when it never cited a Tenth Circuit case for any proposition, let alone one that would deviate from Eighth Circuit law.

So too for CSI's purported sub-split in the majority view, between circuits that focus on whether state law actually authorizes the official's conduct and those that focus on whether a reasonable official would have believed it authorizes that conduct. *See* Pet.10-16. These purported "ambiguities" in the language used in different circuits, "however potentially

fascinating to legal scholars," would have no effect on the outcome of this case (or, as far as the petition shows, any other case). *Estate of Cummings v. Davenport*, 906 F.3d 934, 943 (11th Cir. 2018). Under any approach, as the Eighth Circuit correctly understood, Large's actions here were within the scope of his (actual and reasonably understood) authority under state law and not contrary to any clearly established federal law. Pet.App.11a-12a. The result of this case would therefore be the same in any circuit, which once again makes it a poor candidate for further review. *Contra* Pet.20-21.

3. In the end, CSI's quarrel with the decision below is not over whether a government official can claim qualified immunity when he exceeds his state-law authority—a question that the decision below did not address—but over whether Large in fact conducted an unlawful traffic stop that exceeded his authority. *Compare* Pet.App.11a ("Large did not conduct a traffic stop or detain the drivers."), *with* Pet.i (Large "conducted traffic stops, in clear violation of his authority under Minnesota law"); Pet.2 (Large "ordered [the trucks] to stop, and detained them for over three hours"). But CSI does not ask this Court to review the Eighth Circuit's determination that there was no unlawful stop here, and for good reason: because that kind of factbound request for error correction is precisely the kind of petition this Court has no interest in granting. *See* Sup. Ct. R. 10 ("A petition for a writ of certiorari is rarely granted when the asserted error consists of erroneous factual findings or the misapplication of a properly stated rule of law."). CSI does not claim that the Eighth Circuit's holding that no unlawful stop occurred conflicts with

any other court's precedent, or that it presents an exceptionally important issue for this Court to resolve. Indeed, CSI does not even explicitly argue that holding is incorrect, choosing instead to just repeatedly disregard it. But CSI cannot make that holding go away by ignoring it, and it cannot persuasively frame its petition as a legal dispute over the scope of qualified immunity when its fundamental disagreement with the decision below is over whether any unlawful stop took place in the first place.[4]

CSI's refusal to accept the Eighth Circuit's determination that no unlawful stop occurred underscores yet another problem with CSI's petition: the qualified-immunity question that it raises cannot affect the outcome of this case. Regardless of whether Large is entitled to qualified immunity, CSI cannot recover on its constitutional claims, because no constitutional violation occurred. While the Eighth Circuit chose to resolve this case on qualified immunity grounds, its reasoning makes abundantly clear that there was no Fourth Amendment violation in the first place, because Large "did not conduct a traffic stop or detain the drivers." Pet.App.11a. As the Eighth Circuit recognized, it is settled law that "[a] person has been 'seized' within the meaning of the Fourth Amendment only if, in view of all the circumstances surrounding the incident, a reasonable

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[4] The arguments presented by CSI's amici suffer from the same flaw, as they likewise refuse to credit the Eighth Circuit's determination that Large did not conduct any unlawful stop. *See* Pérez-Daple Br.7 n.2 (disputing the Eighth Circuit's view of the underlying facts); Schuck Br.6 (asserting that Large "undert[ook] a traffic stop that is squarely outside of his official remit").

person would have believed that he was not free to leave." *California v. Hodari D.*, 499 U.S. 621, 627-28 (1991); *see* Pet.App.11a. Here, as the Eighth Circuit explained, "there is no evidence in the record that the CSI drivers were not free to simply turn around and drive away." Pet.App.12a. On this record, CSI cannot carry its burden to show that any Fourth Amendment violation occurred—and so Large was entitled to summary judgment on this claim whether or not qualified immunity applies.

So too for CSI's Fourteenth Amendment due process and equal protection claims, which CSI barely mentions in its petition. The record makes clear that the new weight limit was posted on CSAH 10 and that CSI was specifically notified of the new weight limit before CSI attempted to drive its trucks on that road, which is more than sufficient to satisfy any due process right to notice in this context. Pet.App.40a-41a; *cf. Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950) (due process requires notice "appropriate to the nature of the case"). Likewise, neither due process nor equal protection prohibits a local authority from changing the weight restrictions on county roads in response to "credible indications that its roads will imminently come under increased load or traffic," and CSI has never cited any case to the contrary. Pet.App.41a; *see* Pet.App.12a-13a, 43a-44a. Finally, as the district court explained (and CSI does not challenge), CSI presented "no evidence other companies were treated differently than CSI," which is fatal to its equal-protection claim of selective enforcement. Pet.App.44a; *cf. Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000) (per curiam) (equal protection plaintiff must show it has been

"intentionally treated differently from others similarly situated").

In sum, the question that CSI seeks to raise in its petition was neither considered nor addressed by the Eighth Circuit's decision below, and would have no effect on the outcome of this case. Even if this Court were interested in addressing that question, it should wait for a case in which it is actually presented.

II. The Decision Below Is Correct.

The decision below not only does not implicate the question on which CSI seeks review, but is also entirely correct. The Eighth Circuit properly applied longstanding qualified immunity jurisprudence to the record in this case, and properly affirmed the district court's summary judgment decision on that basis.

As the Eighth Circuit understood, qualified immunity shields officials from civil liability in §1983 actions when their conduct "does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." Pet.App.9a; *see City of Tahlequah v. Bond*, 142 S.Ct. 9, 11 (2021). To qualify as clearly established, a right must be "sufficiently clear that every reasonable official would have understood that what he is doing violates that right." Pet.App.10a; *see Taylor v. Barkes*, 575 U.S. 822, 825 (2015). This Court has therefore "repeatedly" cautioned the lower courts "not to define clearly established law at a high level of generality." Pet.App.10a (quoting *Mullenix v. Luna*, 577 U.S. 7, 12 (2015)). Instead, "[t]he dispositive question is whether the violative nature of *particular* conduct is clearly established," an inquiry that "must be undertaken in light of the specific context of the case, not as a broad

general proposition." Pet.App.10a (quoting *Mullenix*, 577 U.S. at 12).

The Eighth Circuit faithfully applied that settled standard. As it explained, CSI "simply presents no case that comes close to demonstrating that the rights it alleges were violated were clearly established." Pet.App.11a. No decision from any court remotely suggests that Large, "a county engineer tasked with oversight of all county roads, could not prevent trucks that he had reason to believe were operating above the posted weight limit from passing over and damaging the roadway or could not call law enforcement to investigate compliance." Pet.App.11a. Likewise, no decision from any court remotely suggests that Mahnomen County "could not change the weight restrictions in response to CSI's stated intention to use the CSAHs despite the lack of designation as a haul road," or that Large "could not seek law enforcement's assistance in investigating CSI's trucks' weights after the weight limit change and CSI's stated intention to use the roads despite the reduction in weight limit." Pet.App.12a-13a. Because no reasonable official would have had any reason to believe that anything Large or Mahnomen County did was contrary to clearly established law, the Eighth Circuit was plainly correct to conclude that Large was entitled to qualified immunity.

CSI does not dispute that it presented "*no* cases considering th[e] issue" of whether Large's conduct here was unlawful, "or even cases considering remotely similar facts." Pet.App.13a. Instead, CSI argues that the Eighth Circuit should have added a new "threshold scope-of-authority inquiry" to the

established qualified-immunity test, Pet.21, under which a state official could only claim qualified immunity if he could show that his actions were within the scope of his official duties under state law. *See, e.g.*, Pet.i (asking whether courts "must determine that a government official was acting within the scope of his authority" before "proceeding to the qualified immunity analysis"); Pet.1 (claiming that defendants must "first show that they acted within the scope of their authority" before "invoking qualified immunity"); Pet.2 (claiming that qualified immunity "is not available to shield actions taken outside the scope of official duties"). For the reasons already described, that purported "threshold" inquiry is not implicated here, because the Eighth Circuit's opinion makes clear that Large *was* acting within the scope of his duties under state law. *See* Pet.App.12a (explaining that Large's "authority as County Engineer allowed him to close or control traffic on the highway in question"); *id.* (rejecting the dissent's and CSI's assertion that Large's conduct "amounted to an unlawful traffic stop"); *see also supra* pp.19–21. But even if that question were implicated here, this Court's precedent makes exceptionally clear that there is no such threshold state-law-authority condition on qualified immunity.

That is the plain import of this Court's holding in *Davis v. Scherer*, which flatly *rejected* CSI's argument that "a state official loses his qualified immunity from suit for deprivation of federal constitutional rights if he is found to have violated the clear command of a state administrative regulation." 468 U.S. 183, 185 (1984). In that case, the plaintiffs—like CSI here—argued that state officials who "fail[ed] to comply with

a clear state regulation" thereby "forfeited their qualified immunity from suit for violation of federal constitutional rights." *Id.* at 193. This Court "decline[d] … to adopt" that position, explaining that "[o]fficials sued for constitutional violations do not lose their qualified immunity merely because their conduct violates some statutory or administrative provision." *Id.* at 194; *see, e.g.*, *Elder v. Holloway*, 510 U.S. 510, 515 (1994) ("The Court held in *Davis* that an official's clear violation of a state administrative regulation does not allow a §1983 plaintiff to overcome the official's qualified immunity."). *Davis* thus establishes that although state law will often place manifold restrictions on a state official's authority, those restrictions have no bearing on the qualified immunity inquiry. Instead, the only question for qualified immunity purposes is whether "the constitutional right [the defendant] was alleged to have violated was 'clearly established' at the time of the violation." *Davis*, 468 U.S. at 194 (quoting *Butz v. Economou*, 438 U.S. 478, 498 (1978)); *see also id.* at 197 (plaintiff "may overcome the defendant official's qualified immunity *only* by showing that those rights were clearly established at the time of the conduct at issue" (emphasis added)).

Indeed, the rule could hardly be otherwise. As *Davis* explains, "once the door is opened" to inquiries into whether the state official complied with state law, it would be "difficult to limit their scope in any principled manner." *Id.* at 195. Requiring federal courts to engage in an often-complex review of state law in each and every qualified immunity case would erode the very protection that qualified immunity is intended to provide, making it "more difficult, not only

for officials to anticipate the possible legal consequences for their conduct, but also for trial courts to decide even frivolous suits without protracted litigation." *Id.* at 196; *cf. id.* at 195 (recognizing that under CSI's approach, qualified immunity "might depend upon the meaning or purposes of a state administrative regulation, questions that federal judges often may be unable to resolve on summary judgment"). The proper place for any claim that a state official exceeded his state-law authority is a state-law suit in state court, not the federal qualified-immunity inquiry in a §1983 suit in federal court premised on the violation of a federal right.

The problems with CSI's approach do not end there. Under CSI's approach, plaintiffs would presumably argue in virtually every case that state officials had no authority under state law to engage in the alleged unconstitutional actions at issue, since few if any states authorize their officials to act unconstitutionally. As a result, CSI's purported "threshold" inquiry, Pet.App.21a, would in fact eliminate the protections of qualified immunity entirely, allowing state officials to claim qualified immunity only if their actions were in full compliance with state law. That approach "would disrupt the balance that [this Court's] cases strike between the interests in vindication of citizens' constitutional rights and in public officials' effective performance of their duties," threatening state officials with liability in every case in which a plaintiff can plausibly allege any federal constitutional violation. *Davis*, 468 U.S. at 195.

CSI's half-hearted attempt to distinguish *Davis* is wholly unpersuasive. *Contra* Pet.25-26. According to CSI, *Davis* stands only for the proposition that the "clearly established right" on which a plaintiff relies to establish liability "cannot be a state-law right"—that is, *Davis* "simply prohibited the basis for liability to be solely a state-law right." Pet.25-26. That is, CSI reads *Davis* to stand merely for the self-evident proposition that a §1983 suit must be premised on a violation of some federal right, not just a state-law right. *Cf.* 42 U.S.C. §1983 (providing a remedy for the deprivation of any right "secured by the Constitution and [federal] laws"). That is a misreading of the decision. As the very portions of *Davis* that CSI quotes make clear, *Davis* does not just make the obvious point that the basis for liability in a §1983 suit must be federal law; instead, as CSI admits, *Davis* demonstrates that in determining the scope of qualified immunity, "it is irrelevant that 'the official conduct also violated some [state] statute or regulation.'" Pet.25 (brackets omitted) (quoting *Davis*, 468 U.S. at 195); *see also* Pet.25 (acknowledging that under *Davis*, "neither federal nor state officials lose their immunity by violating the clear command of a [state] statute or regulation" (quoting 468 U.S. at 194 n.12)). That is, *Davis* explicitly holds that a state official's violation of the restrictions on his authority under state law do not deprive him of qualified immunity. That holding cannot be reconciled with CSI's purported "threshold" state-law-authority inquiry.[5]

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[5] CSI inexplicably suggests that even under its theory, "officials can violate state law and still be entitled to qualified immunity if … they act within the scope of their authority."

CSI's attempt to derive support from this Court's other decisions and the common law is equally misguided. *Contra* Pet.21-24, 26-29. None of this Court's cases have ever held that a court presented with a claim of qualified immunity must first determine whether the defendant was acting within the scope of his state-law authority; instead, the language on which CSI relies simply reflects that qualified immunity provides its broadest protection for officials engaged in "discretionary action" rather than "'ministerial' tasks." *Harlow v. Fitzgerald*, 457 U.S. 800, 816 (1982); *cf. Procunier v. Navarette*, 434 U.S. 555, 561-62 (1978); *Scheuer v. Rhodes*, 416 U.S. 232, 247 (1974). Those cases properly recognize that the more discretion a government official has, the less likely it is that his actions will violate clearly established law; they do not in any way imply that an official who exceeds his authority under state law is categorically barred from asserting qualified immunity. CSI's assertion that the common law supports its novel state-law-authority inquiry is likewise unpersuasive, *contra* Pet.26-29, as this Court has "never suggested that the precise contours of official immunity can and should be slavishly derived

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Pet.26. But CSI provides no explanation of how a state official could be acting within the scope of his state-law authority if he is simultaneously violating state-law restrictions on that authority. At best, CSI's approach would require federal courts to somehow distinguish between state laws that limit the scope of a state official's authority and state laws that restrict the permissible exercise of that authority—a recipe for endless litigation. *Cf. Davis*, 468 U.S. at 195 (rejecting approach that would make qualified immunity "depend on the meaning or purpose of a state administrative regulation").

from the often arcane rules of the common law"—especially when doing so would undermine the fundamental balance that qualified immunity exists to protect. *Anderson v. Creighton*, 483 U.S. 635, 645 (1987). As such, even if the question that CSI presents had been implicated by the decision below, the Eighth Circuit would not have erred by refusing to graft a new "threshold scope-of-authority inquiry" onto the established qualified immunity analysis. *Contra* Pet.21-29.

III. The Decision Below Does Not Present Any Exceptionally Important Question.

Finally, the decision below also does not present any "exceptionally important" question. *Contra* Pet.29-30. For the reasons already explained, the Eighth Circuit's decision does not implicate the question that CSI asserts at all, because the Eighth Circuit correctly determined that the undisputed record evidence shows that Large did not conduct any traffic stop that would exceed his authority under state law (and, for the same reason, Large did not commit any constitutional violation either). *See supra* pp.22–29. That factbound determination does not involve any broader question of national importance, which is presumably why even CSI does not claim it warrants this Court's review.

Nor is there any merit to CSI's suggestion that allowing the decision below to stand will give state officials acting outside their authority "near-absolute immunity for their actions." *Contra* Pet.30. As the Eighth Circuit explicitly underscored, its opinion does not "sanction[] the deputization of county engineers to perform traffic stops," Pet.App.11a, or otherwise

guarantee special immunity to state officials who exceed their authority. State officials who exceed their authority under state law will remain subject to whatever remedies the relevant state law provides to address any such abuses—remedies that the decision below does nothing to alter. Instead, the decision below simply holds that state officials are entitled to qualified immunity when their actions do not violate any clearly established federal law, without addressing whether a state official who exceeds his state-law authority can continue to claim that immunity (a question that the facts here do not present). Pet.App.10a-13a. That holding fully comports with settled law, and does not warrant further review.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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September 28, 2022