No. 22-614

In The
Supreme Court of the United States

TROY CHRISMAN, et al.,

Petitioners,

v.

ESTATE OF SETH MICHAEL ZAKORA, et al.,

Respondents.

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

RESPONDENTS' BRIEF IN OPPOSITION

CHRISTOPHER PATRICK DESMOND*
VEN R. JOHNSON
JOHNSON LAW, PLC
535 Griswold Street, Suite 2600
Detroit, Michigan 48226
(313) 324-8300
cdesmond@venjohnsonlaw.com
Attorneys for Respondents

**Counsel of Record*

April 24, 2023

COCKLE LEGAL BRIEFS (800) 225-6964
WWW.COCKLELEGALBRIEFS.COM

QUESTION PRESENTED

Whether prison officials may be held liable for violating a prisoner's rights under the Eighth Amendment where they fail to take any steps to protect that prisoner from a known danger that poses a particularized threat to him and that ultimately causes his death.

PARTIES TO THE PROCEEDING

Petitioners are Michigan Department of Corrections defendants Troy Chrisman, Matthew Huntley, Bonita J. Hoffner, Steve Rivard, and Russell Rurka. Respondents are the Estate of Seth Michael Zakora and Brandy Zakora, in her capacity as the personal representative of the Estate of Seth Michael Zakora.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

INTRODUCTION

Petitioners are each employed by the Michigan Department of Corrections ("MDOC") and worked at Lakeland Correctional Facility. Each of them were informed that a fellow employee of MDOC was smuggling illegal narcotics into the prison and selling those narcotics to inmates. They were told who that specific person was and they were told how she was smuggling the narcotics in (by having them stuffed into basketballs and surreptitiously thrown over the prison walls). Petitioners were also told that Seth Zakora, an inmate in the facility, was being provided with those narcotics and that he felt his life was in danger. Despite that information, these petitioners chose not to investigate or otherwise try to stop the drug smuggling operation being perpetrated by their colleague.

When one of the inmates in Mr. Zakora's small unit of 12-16 prisoners overdosed one weekend, petitioners continued to take no action. When a second inmate in the unit overdosed the very next day, petitioners again chose to take no action. The third day, Mr. Zakora fatally overdosed on fentanyl. Finally, petitioners took the simple step of bringing a drug-sniffing dog to the unit and discovered additional contraband.

Under the very specific and unique facts of this case, the Sixth Circuit held that the operative complaint adequately stated a cause of action under the Eighth Amendment and remanded the matter so that discovery could commence. Now, petitioners attempt to portray that narrowly tailored decision as one that

will have far-reaching consequences that require this Court to take the extraordinary step of granting certiorari. To the contrary, the Sixth Circuit's decision, which is fully consistent with every controlling authority, will have little effect beyond the confines of this case. Because the decision of the Sixth Circuit was legally correct, does not conflict with the decisions of this Court and does not demonstrate any confusion between the various circuits, Respondents respectfully request that this Honorable Court deny Defendants' petition.

STATEMENT OF THE CASE

A. Relevant factual allegations

This cause of action arises out of the death of Seth Zakora while he was an inmate at Lakeland Correctional Facility, a prison operated by the Michigan Department of Corrections. Following his death on January 22, 2017, it was determined that Mr. Zakora fatally overdosed on fentanyl. As is explicitly alleged in the operative complaint, it has not been determined whether Mr. Zakora intentionally used the narcotics that caused his death. App. 148a. Defendants ignore that allegation in the complaint throughout this petition, as they make the alleged voluntariness of Mr. Zakora's conduct the foundation of their argument.

Prior to Mr. Zakora's death, illegal narcotics were prevalent in Lakeland Correctional Facility. And while defendants emphasize that narcotics are commonplace

within correctional facilities, the narcotics within this facility were being smuggled in and distributed with the aid of a corrections officer who was engaged in a romantic relationship with a prisoner. The narcotics were being stuffed into basketballs which would be thrown into the prison grounds and then retrieved for distribution.

While plaintiff has alleged that one specific corrections officer (who is identified as a Jane Doe in the First Amended Complaint) was responsible for the drug smuggling operation, it is further alleged that each remaining defendant in this case was made aware of that operation prior to Mr. Zakora's death. An inmate not identified by name in the operative complaint informed Defendant Troy Chrisman, who was an inspector at the facility, of the details of the operation. That inmate told Chrisman how and when the narcotics were being smuggled into the facility, along with the identities of some of the individuals involved. Chrisman was allegedly informed of these details on multiple occasions.

While Chrisman informed another inspector, Defendant Matthew Huntley, about the smuggling operation, neither took any direct action in response. Instead, Chrisman and Huntley informed their supervisors – Bonita Hoffner, who was the warden at Lakeland Correctional Facility and Steve Rivard, who was the Assistant Deputy Director at Lakeland Correctional Facility (additionally, Hoffner's administrative assistant, Russell Rurka, also became aware of the smuggling operation). Hoffner and Rivard either

directly instructed Chrisman and Huntley not to investigate the allegations or told them to ignore the information they were provided.

Just as the operative complaint alleges that a Michigan Department of Corrections employee was smuggling narcotics into this facility and distributing them among inmates with the knowledge of other high-level employees, it also alleges that defendants were aware of the threat those narcotics specifically posed to Mr. Zakora. When an inmate told Chrisman about the drug smuggling operation, that inmate specifically told Chrisman that drugs were being provided to Mr. Zakora. App. 149a. The operative complaint alleges that Mr. Zakora feared for his life and requested protection from the Michigan Department of Corrections only to have that request denied. App. 150a. Further, on at least one occasion when two corrections officers were escorting Mr. Zakora from segregation back to his unit, they told him that he got himself into the mess with the narcotics problem at the facility and that it was his problem to deal with. App. 150a.

At the time of his death, Mr. Zakora was assigned to an area of the prison known as C-Unit, which housed a total of 12-16 inmates. On January 20, 2017, one of the C-Unit inmates was suspected to have suffered a non-lethal overdose. The next day, January 21, 2017, another C-Unit inmate also had a non-lethal overdose. Then, on January 22, 2017, Mr. Zakora fatally overdosed on Fentanyl. Only after the third overdose of the weekend was a K-9 unit brought into C-Unit, which discovered additional contraband. Following his death,

MDOC officials contacted the Zakora family to inform them that Mr. Zakora was involved in an "incident" and was deceased. App. 151a.

B. Procedural history

1. District Court proceedings

On December 3, 2019, Plaintiff's estate commenced this lawsuit against employees of the MDOC and the Michigan State Police. Plaintiff filed an Amended Complaint on December 4, 2019, which remains the operative complaint.

Count I of the First Amended Complaint alleged that the various defendants were liable for violating the Eighth Amendment where they failed to protect Mr. Zakora despite knowing that he was specifically vulnerable to overdose or injury due to his prior involvement with narcotics. That count emphasized that not only did defendants know of Mr. Zakora's vulnerabilities, but they knew of the drug smuggling operation and they knew of the two overdoses in C-Unit prior to Mr. Zakora's death. App. 154a-156a.

Count II of the First Amended Complaint alleged that Defendants were liable under a state created danger theory. App. 156a-158a. That count has been dismissed and is not at issue in this petition.

Count III alleged that Defendants Hoffner and Rivard (as well as a defendant who has since been dismissed) were liable for failing to adequately train and supervise their employees where they were knowingly

allowing those employees to smuggle narcotics into the facility and distribute them among inmates, despite knowing that said narcotics had resulted in overdoses, retaliation among prisoners and death. App. 158a-159a.

Count IV presented a claim of deliberate indifference against two MDOC employees who were informed that Mr. Zakora was experiencing a medical emergency after he had overdosed and who failed to adequately respond to that medical emergency. App. 159a-160a. Those two defendants, Chadwick Mobley and Steve Johnson, have been dismissed and that count is not at issue in defendants' petition.

As their first responsive pleadings, all Defendants filed dispositive motions and supporting briefs. The MDOC Defendants, Chrisman, Huntley, Mobley, Johnson, Hoffner, Rivard, Washington, and Rurka, argued that Plaintiff's complaint failed to state a claim upon which relief could be granted because the complaint did not plead factual allegations showing that any of the MDOC Defendants had "personal involvement in Zakora's overdose." MDOC Defendants claimed that Plaintiff's complaint was premised on a respondeat superior theory and failed to establish individual liability. All Defendants claimed they were entitled to qualified immunity.

Plaintiff filed one combined response in opposition to Defendants' requests for dismissal. Plaintiff argued that the Eighth Amendment requires that prison officials provide incarcerated individuals with reasonable

safety, and that rampant drug smuggling in MDOC facilities by prison guards was a substantial risk of harm to inmates. Plaintiff identified specific instances that put all Defendants on notice of both the drug smuggling in MDOC prison facilities and the serious risk of harm it posed to prisoners as a result. Plaintiff's complaint included detailed allegations showing that certain Defendants had clear notice that Mr. Zakora specifically was at risk of overdose. Plaintiff argued that her allegations sufficiently stated a claim for deliberate indifference and failure to protect Mr. Zakora from substantial risk of harm posed by drug smuggling in MDOC prison facilities.

Further, Plaintiff argued that because her complaint stated a claim for relief under the Eighth Amendment the court should not grant summary judgment until Plaintiff had the opportunity to conduct reasonable discovery on her well-pled claims. Lastly, Plaintiff argued Defendants were not entitled to qualified immunity because no reasonable state official would find it appropriate to knowingly allow guard-led drug smuggling and fail to act to remove the illegal drugs from prison, despite knowledge and documented harm to prisoners as a result.

On July 23, 2021, Magistrate Judge Sally J. Berens issued a Report and Recommendation in which she recommended the district court grant Defendants' dispositive motions in full. The Magistrate determined that Plaintiff failed to state any plausible constitutional violation by the MSP or MDOC Defendants and that Plaintiff failed to demonstrate that discovery

would enable them to defeat summary judgment. App. 77a-107a.

Plaintiff objected to this recommendation and argued that the Eighth Amendment prevents state officials from acting with deliberate indifference to substantial risks of harm and that Plaintiff's complaint sufficiently alleged that each Defendant knew of and disregarded serious risks of harm to Seth as a result of the guard-led drug smuggling in MDOC facilities.

On September 10, 2021, District Court Judge issued an Opinion and Order in which the court rejected Plaintiff's objections and adopted the Magistrate's Report and Recommendation as the Opinion of the Court. App. 69a-76a. The district court entered Judgement to Defendants on September 10, 2021. Plaintiff filed a timely notice of appeal on October 8, 2021.

2. Circuit Court proceedings

On appeal, the Sixth Circuit affirmed the district court in part and reversed in part in a 2-1 decision. Relative to the MDOC defendants, the majority held that the claim of supervisory liability against Defendant Heidi Washington, the Director of MDOC, was properly dismissed. The majority likewise held that the deliberate indifference claims against Defendants Mobley and Johnson were properly dismissed. However, the majority held that the district court erred in dismissing the Eighth Amendment claim in Count I relative to Defendants Chrisman, Hoffner, Huntley,

Rivard, and Rurka. Likewise, it found that it was error to dismiss the failure to train and supervise claim in Count III relative to Defendants Hoffner and Rivard.

In explaining that the district court erred in dismissing Count I, the majority addressed the objective and subjective prongs of the deliberate indifference test in turn. Regarding the objective prong, the majority held that under the specific facts of this case, Plaintiff did adequately allege the existence of an excessive risk to inmate health or safety. After discussing the general threat that narcotics pose in prisons, the majority specifically noted that the complaint alleged that illegal narcotics were prevalent in the facility and that prevalence was known to the defendants. It also emphasized that the defendants chose not to act even after two of the 12-16 prisoners in C-Unit overdosed on the same weekend as Mr. Zakora. The majority limited its holding to the very specific facts presented by this case:

> We emphasize that simple exposure to drugs, without more, does not violate contemporary standards of decency and thus does not satisfy the objective prong. Prison officials are not required to show that they have prevented all drugs from entering their facility in order to be protected from liability. Instead, we hold that unfettered access to drugs in a prison, as evidenced here by the officials' failure to promptly investigate the two prior overdoses in Zakora's C-Unit, is sufficiently serious to satisfy the objective prong of an Eighth Amendment claim. [App. 27a-28a.]

Regarding the subjective prong of the deliberate indifference test, the majority held that after there were two overdoses in C-Unit in the two days before Mr. Zakora's overdose, defendants had knowledge of a substantial risk of harm to the other inmates in that unit, including Mr. Zakora. The majority also noted, however, that the district court erroneously stated that Plaintiff did not allege that defendants had knowledge that Mr. Zakora faced a particularized risk of harm distinct from the rest of the facility's population. The majority described how the complaint alleged that the MDOC defendants were told that Mr. Zakora was specifically at risk, just as they were told how the drugs were entering the facility and who was bringing them in. That detailed information, taken in combination with the two overdoses in C-Unit on the weekend of Mr. Zakora's death, satisfied the pleading requirements as it showed that Defendants knew of the substantial risk of harm and chose not to act.

Regarding Count III of the First Amended Complaint, the majority held that Hoffner and Rivard, as supervisors, allegedly had direct knowledge of the constitutional violations happening within the facility and consciously chose not to take any supervisory actions. The majority held that because that inaction was coupled with specific knowledge of the drug smuggling operation within the facility, it is reasonable to allege that those failures directly led to Mr. Zakora's death.

Following the issuance of the Sixth Circuit's opinion, Defendants sought a rehearing en banc, which was denied.

REASONS FOR DENYING THE WRIT

Defendants contend that there are two reasons why this petition should be granted. First, Defendants assert that the Sixth Circuit "grievously erred" in determining that Plaintiff adequately alleged a constitutional violation. Second, Defendants assert that the error that occurred here is exceptionally important because it will have broad impact on the administration of prisons. In actuality, the Sixth Circuit's opinion was entirely consistent with this Court's jurisprudence and was narrowly tailored in such a way that it will have little to no impact outside of the confines of this case. Plaintiff will address Defendants arguments in turn below.

I. The Sixth Circuit correctly determined that plaintiff adequately alleged that Mr. Zakora's Eighth Amendment rights were violated.

As an initial note, Defendants framing of their issue to this Court flatly contradicts the allegations in the operative complaint, which Plaintiff is obligated to address pursuant to Rule 15.2. Defendants consistently assert that because Mr. Zakora voluntarily engaged in illegal conduct, he forfeited any protections

under the Eighth Amendment. While that statement is legally incorrect, it also fails to accept Plaintiff's pleadings as true. Plaintiff's First Amended Complaint explicitly states that "it was determined that Mr. Zakora died from a fentanyl overdose, but it was not determined whether Mr. Zakora intentionally took these drugs."

Further, Defendants claim that there was no allegation that the narcotics that employees smuggled into the prison posed a particularized harm to Mr. Zakora (as opposed to the general threat they posed to the prison population). As the Sixth Circuit noted, and as is described in the Statement of the Case, that also is not accurate. The First Amended Complaint alleged that Defendants were directly told that Mr. Zakora was at risk as a result of the drug smuggling and that Mr. Zakora specifically asked for, and was denied, requests for protection prior to his death.

Just as Defendants mischaracterize the allegations in this case, so too do they downplay others. As the majority stated below, "[t]he Estate makes serious allegations of misconduct within Lakeland." Plaintiff has alleged, with great specificity prior to any discovery, that an employee of MDOC was engaged in a romantic relationship with a prisoner and began smuggling narcotics into the prison to sell to inmates. Plaintiff has explained how that smuggling operation generally worked, with the contraband being placed into basketballs and thrown into the prison grounds. Plaintiff has alleged that each of the remaining five defendants in this action knew of this smuggling

operation and consciously elected to not stop it or investigate it. Likewise, Plaintiff has alleged (and Defendants seemingly acknowledge) that there were two other overdoses within Mr. Zakora's small unit the weekend of his overdose and that Defendants took no action in response.

This Court has long explained that "the [Eighth] Amendment requires that inmates be furnished with the basic human needs, one of which is 'reasonable safety.'" *Helling v McKinney*, 509 U.S. 25, 33 (1993) (quoting *Deshaney v. Winnebago Cty. Dep't of Soc. Servs.*, 489 U.S. 189, 200 (1989)). "When the State takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well being." *Id.* at 32 (quoting *Deshaney*, 489 U.S. at 199-200).

Accordingly, prison administrators "are under an obligation to take reasonable measures to guarantee the safety of the inmates" in their facilities. *Hudson v. Palmer*, 468 U.S. 517, 526-527 (1984). "Prison administrators have not only an interest in ensuring the safety of prison staffs and administrative personnel, but the duty to take reasonable measures for the prisoners' own safety." *Washington v. Harper*, 494 U.S. 210, 225 (1990)

The affirmative duty described above exists because "having stripped [incarcerated persons] of virtually every means of self-protection and foreclosed their access to outside aid, the government and its officials

are not free to let the state of nature take its course." *Farmer v. Brennan*, 511 U.S. 825, 832-833 (1994); *see also Deshaney*, 489 U.S. at 200. ("The affirmative duty to protect arises not from the State's knowledge of the individual's predicament or from its expressions of intent to help him, but from the limitation which it has imposed on his freedom to act on his own behalf.").

Just as binding precedent establishes that the state has a duty to provide a reasonably safe environment for prisoners, it also leaves no room for debate regarding the danger posed by narcotics and illegal contraband in a prison environment. For example, in *Bell v. Wolfish*, 441 U.S. 520, 540 (1979), this Court addressed a suit on behalf of a group of prisoners who contended that the governmental defendants were violating their constitutional rights through their policies that sought to control the items coming into the prison. Those policies included searches of prisoners' cells and strip searches of prisoners following visitation periods. In holding that the Defendants were acting lawfully, the Court noted that "[a] detention facility is a unique place fraught with serious security dangers." *Id*. at 559. Consequently, "the Government must be able to take steps to maintain security and order at the institution and make certain no weapons or illicit drugs reach detainees."

This Court has further recognized the serious danger posed by drugs in prison in both *Block v. Rutherford*, 468 U.S. 576 (1984) and *Hudson v. Palmer*, 468 U.S. 517 (1984). Likewise, the Third Circuit has recognized that "[t]he inherent danger of drugs is magnified

when introduced to a controlled environment like a prison." *United States v. Colon*, 246 F. App'x 153, 156 (3d Cir. 2007). And in their petition to this Court, Defendants directly acknowledge the threat that narcotics pose in prison environments, citing the opinion in *Florence v. Bd. of Chosen Free-holders of Cnty. of Burlington*, 566 U.S. 318, 332 (2012).

In combination, the authority above demonstrates that illegal narcotics represent a danger in prison environments and that the Eighth Amendment obligates prisons to take *reasonable* steps to ensure the safety of prisoners. That reasonableness requirement is overlooked by Defendants, but it was not overlooked below. Instead, the Sixth Circuit held that Plaintiff adequately alleged that his rights under the Eighth Amendment were violated where Defendants knew an employee was smuggling drugs into the facility, knew those drugs posed a specific threat to Mr. Zakora, knew that two inmates in Mr. Zakora's small unit overdosed the same weekend he did and still chose to take no action. In other words because it was unreasonable for the Defendants to idly sit by while they had direct knowledge that inmates were actively overdosing on drugs smuggled in by prison employees, Plaintiff did enough at the pleading stage to survive a motion to dismiss.

Knowing that it is firmly established that narcotics pose a serious danger in prisons and that prisons must take reasonable steps to guard against serious dangers, Defendants ask this Court to inject a "involuntary" requirement into Eighth Amendment

jurisprudence for the first time. Again, Plaintiff's operative complaint does not concede that Mr. Zakora's conduct was voluntary and no discovery has yet occurred to speak to those facts. Notably, as the operative complaint alleges, when Defendants contacted the Zakora family to inform them of his death, they did not state that he overdosed on narcotics he voluntarily used. Instead, they vaguely stated that there was an "incident" and that Mr. Zakora died as a result. Thus, to the degree Defendants believe this Court should address whether an Eighth Amendment violation can arise from voluntary action, the present case is a particularly poor vehicle in which to address that subject.

Though it has not been developed through the record yet, even if Mr. Zakora's conduct does prove to have been voluntary, Defendants acknowledge that deliberate indifference cases may arise out of other voluntary acts, like suicide.

To distinguish the present case from cases involving suicide, Defendants assert that cases involving suicide typically involve an analysis of whether there were other suicide attempts or threats or whether the inmate had a history of mental health conditions. Defendants then say that here, "it is undisputed that there had not been overdoses in the prison or the prison unit prior to the weekend of Zakora's fatal overdose." First, Plaintiff has had zero access to discovery to determine the full history of overdoses at Lakeland. But more importantly, Defendant draws a very arbitrary line. There were two overdoses in the two days prior to Mr. Zakora's overdose in a unit of 12-16

prisoners. Defendant makes no attempt to explain how many overdoses would have to occur in a given period of time before prisons are expected to take reasonable action.

The Sixth Circuit's opinion logically applies the binding precedent of this Court to the very specific and unique facts of this case and merely holds that Plaintiff has done enough at the pleading stage to merit discovery. It neither creates new rights nor expands rights previously acknowledged.

II. The Sixth Circuit's holding was of a very limited scope and will not impact the administration of prisons

Defendants are attempting to portray what is a very narrow and tailored holding as a decision that will cause great tumult through our nation's prisons. They contend that prison officials simply will not be able to understand the new obligations that this holding imposes upon them and that it will create brand new classes of prison litigation. That portrayal is dependent on fully ignoring the actual language of the Sixth Circuit.

There can be no debate when reading the Sixth Circuit's opinion that it leaves little to no room for other prisoners to rely on it in the ways Defendants claim they fear. Throughout that opinion, the majority is careful to note that its holding is specific to the unique facts presented here. For example, when addressing the subjective prong of the deliberate indifference test, the court stated that:

> We emphasize that simple exposure to drugs, without more, does not violate contemporary standards of decency and thus does not satisfy the objective prong. Prison officials are not required to show that they have prevented all drugs from entering their facility in order to be protected from liability. Instead, we hold that unfettered access to drugs in a prison, as evidenced here by the officials' failure to promptly investigate the two prior overdoses in Zakora's C-Unit, is sufficiently serious to satisfy the objective prong of an Eighth Amendment claim. [App. 27a-28a.]

And then, when addressing the concerns of the dissenting judge, the majority explained:

> Secondly, we acknowledge that the Estate would have no claim if this were simply a run-of-the-mill drug-overdose case. It is not. Instead, the Estate claims that the relevant prison officials knew of Zakora's heavy drug use, knew that two of his immediate cellmates had been hospitalized in the 48 hours prior to Zakora's death due to drug overdoses, and yet they failed to initiate a timely investigation to remove the lethal substances from that cell that would have saved Zakora's life. Because the relevant defendants allegedly knew that Zakora was at risk and ignored that risk, this is directly comparable to the suicide "deliberate-indifference" cases where this court has allowed the claim to proceed beyond the pleading stage. [App. 31a-32a.]

Then, to be even more clear that it was not opening the proverbial floodgates to increased litigation, the majority directly addressed the various hypothetical causes of action that the dissent feared could arise as a result of this decision. The majority dismissed those fears, explaining that none of them were on point and none were analogous to the allegations presented here. App. 32a.

Now, compare that unambiguous language with Defendants' contentions on page 18 of their petition where they claim "the panel majority decision below has now created an impossible standard for prison officials, potentially holding them liable for not immediately initiating an investigation and eradicating all drugs in the prison or in a particular unit whenever there is a suspected drug overdose." Similarly, Defendants assert on page 19 of their petition that officials now must "meet the impossible task of foretelling harm from the voluntary use of illegal drugs."

The gulf between the majority opinion and the Defendants' characterization of that opinion is vast. More problematically, that characterization does a disservice to this Court. If this Court were to take the extraordinary step of granting this petition, it would quickly find that the case it was considering bore little resemblance to the one Defendants described. This is not an opinion that will lead to any of the doomsday scenarios Defendants describe in their introduction, such as prisoners suing for injuries arising out of their own attempted escapes, their inhalation of secondhand smoke or illnesses developed from turning down the

temperatures in their own cells. Defendants claims are beyond hyperbolic where the majority's very language refutes the viability of such causes of action.

The Sixth Circuit's opinion does not require prison officials to discover every illegal piece of contraband in prison, stop every overdose or protect every prisoner from their own voluntary decisions. At most, that opinion simply reflects that prisons must take *reasonable* action when they have knowledge that their employees are smuggling drugs into the facility, providing them to inmates and causing multiple overdoses in one weekend within a small unit shared by a prisoner with special vulnerabilities. Plaintiff assumes that such scenarios are rare in our nation's prisons. To use this Court's limited resources to address a legally sound and factually specific opinion would serve little purpose.

CONCLUSION

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

Respectfully submitted,

CHRISTOPHER PATRICK DESMOND*
VEN R. JOHNSON
JOHNSON LAW, PLC
535 Griswold Street, Suite 2600
Detroit, Michigan 48226
(313) 324-8300
cdesmond@venjohnsonlaw.com
Attorneys for Respondents

**Counsel of Record*

Date: April 24, 2023