

In the
Supreme Court of the United States

JOAN GHOUGOIAN, BARBARA SIMON,
CHARLES BRAXTON, AND VINCENT CROCKET,

Petitioners,

v.

LAMARR MONSON,

Respondent.

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

REPLY BRIEF OF PETITIONERS

Kali M. L. Henderson
Counsel of Record
T. Joseph Seward
SEWARD HENDERSON PLLC
210 East 3rd Street, Suite 212
Royal Oak, MI 48067
(248) 733-3580
khenderson@sewardhenderson.com

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
SUMMARY OF REPLY.....	1
ARGUMENT	2

TABLE OF AUTHORITIES

Page

CASES

<i>Jascha Chiaverini v. City of Napoleon,</i> Ohio, No. 21-3996 (6th Cir. 2023)	3
<i>Sykes v. Anderson,</i> 625 F.3d 294 (6th Cir. 2010)	1

CONSTITUTIONAL PROVISIONS

U.S. Const. amend. IV	1, 2, 3
-----------------------------	---------



SUMMARY OF REPLY

When in doubt, sow confusion.

Respondent continues to employ this strategy in hopes the Court will be discouraged from addressing the plain legal issues in the Sixth Circuit's opinion. No matter the superfluous language, Respondent does not dispute that the Sixth Circuit made two legal holdings that Petitioners raise to the Court.

First, the Sixth Circuit held that "a malicious prosecution claim looks at 'whether probable cause existed to initiate the criminal proceeding.'" (Pet.App. 16a citing *Sykes v. Anderson*, 625 F.3d 294, 311 (6th Cir. 2010) (emphasis added)). That holding requires that all officers, even those that did not make charging recommendations, be aware of facts that support probable cause for whichever crime a prosecutor elects to charge. That holding is inconsistent with the Fourth Amendment and the Court's interpretation of it. Petitioner seeks to have this holding reviewed.

Second, the Sixth Circuit held that because no Court "accepted or relied upon" on Respondent's prior in-court, sworn testimony, estoppel principles do not require that he be bound by it. (Pet.App.18a) Thus, Plaintiff was permitted to testify that a statement was true and voluntary in the criminal case, and now permitted to change that testimony at his own convenience. Petitioner asks the Court to address whether any legal principles permit a change to the plain language of such testimony.



ARGUMENT

Petitioners wish to address one point in this reply: that the points raised in this petition are proper for consideration and clarification by the Court.

Respondent put forth no less than eleven reasons he believes these issues are not ripe for consideration, many of which are inconsistent, illogical, and irrelevant. For instance, Respondent argues that resolution of the Fourth Amendment ‘any crime’ issue will not change the outcome because no evidence of “drugs, or even drug paraphernalia, were ever identified or recovered . . .” (Brief in Opposition, p.2) Respondent ignores his own acknowledgment that murder victim Brown, a 12-year old girl, was “involved in his drug sales.” (Pet.App.3a)

Answering the two legal questions posed by Petitioners will not require the Court resolve any factual disputes, nor address issues that were not raised below or previously addressed by the Sixth Circuit. Especially because Respondent claims that he is not (now) challenging the voluntariness of his first confession. (Pet. App.2a) But he later contradicts that assertion on pages 23 and 24; he argues that, despite the directness of his testimony that the confession was true and voluntary, he actually meant he did not confess, parts of the confession were added by a defendant, and he is challenging those additions in this suit. Thus, the legal question that Petitioners have repeatedly raised is whether Respondent is bound by the plain words of his prior testimony such that he cannot bring any claims in this suit challenging that confession.

The testimonial issue and Fourth Amendment issue are both ripe for the Court's determination and will reach beyond this individual case. This Court is currently considering a similar issue in *Chiaverini*, wherein the Sixth Circuit applied the opposite standard. (Docket No. 23-50) *Chiaverini* presents a different factual scenario, wherein more than one charge was presented with alleged grounds only for one. This case asks the Court to clarify whether the prosecutor's charging decision, *i.e.*, decision not to bring charges for which probable cause exists, impacts an officer's conduct under the Fourth Amendment.

The Court should utilize this case, in conjunction with *Chiaverini*, to define the bounds of the Fourth Amendment in the context of an officer's involvement and liability for criminal charges. Petitioner urges the Court to align its position on malicious prosecution claims with its prior objective applications of the Fourth Amendment.

Lastly, the Court can emphasize the importance of testimony under oath and send a message to all witnesses that their words matter. By binding Respondent to his prior testimony, the Court will send a clear message that our legal system is deserving of respect and cannot be taken advantage to collect a windfall.

Respectfully submitted,

Kali M. L. Henderson
Counsel of Record
T. Joseph Seward
SEWARD HENDERSON PLLC
210 East 3rd Street, Suite 212
Royal Oak, MI 48067
(248) 733-3580
khenderson@sewardhenderson.com

Counsel for Petitioners

May 24, 2024