No. _____

In The
Supreme Court of the United States

HENRI N. BEAULIEU, JR.,

Petitioner,

v.

SAMUEL POWELL, individually, and in his official capacity as a State Trooper for the State of Alabama, et al.,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Eleventh Circuit's application of the "shotgun pleading" standard to affirm the dismissal of the Petitioner's complaint for violations of Fourteenth Amendment due process rights asserted under 42 U.S.C. Section 1983, conflicts with the plain language and pleading requirements of Rules 8 and 10 of the Federal Rules of Civil Procedure, the heightened pleading requirements affirmed in the Supreme Court's precedent in *Bell Atlantic v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), and the remains of *Conley v. Gibson*, 355 U.S. 41 (1957), as well as with decisions in its own circuit, when the complaint provided notice of the claims to the defendants, and when the defendants were clearly able to discern the claims against them and even asserted affirmative defenses to those claims.

2. Whether, in affirming the dismissal of the Petitioner's subsequently amended complaints, filed without leave but following a Rule 12(b) motion to dismiss, the Eleventh Circuit's decision contravenes the provisions of Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure, which permits a party to amend "once as a matter of course" within twenty-one (21) days after service of such a motion, as well as deviating from the Supreme Court's interpretive guidance in *Foman v. Davis*, 371 U.S. 178 (1962), which generally leans in favor of permitting amendments "when justice so requires."

PARTIES TO THE PROCEEDING

Petitioner, Henri N. Beaulieu, Jr., an individual, was the appellant in the court below.

The Respondents were the appellees in the court below. They are: Samuel Powell, individually and in his official capacity as an Alabama State Trooper with the Alabama Law Enforcement Agency; the City of Calera, a municipal corporation in Shelby County, Alabama; Andrew Bell, individually and in his official capacity as a law enforcement officer with the City of Calera; and Jordan Matthew Lawley and Rachel Lawley, individuals.

RELATED PROCEEDINGS

United States Court of Appeals (11th Cir.):
Henri Beaulieu, Jr. v. Samuel Powell, et al.,
No. 22-13796
Date of Order/Petition for Rehearing Denied:
July 17, 2023

United States District Court (N.D. Ala.):
Henri Beaulieu, Jr. v. Samuel Powell, et al.,
No. 2:22-cv-00878
Date of Entry of Judgment: May 8, 2023

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, an individual and resident citizen of the State of Alabama, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit.

OPINIONS BELOW

The Eleventh Circuit's unpublished decision denying Henri Beaulieu's direct appeal from the United States District Court for the Northern District of Alabama, Southern Division appears at *Beaulieu v. Powell*, 22-13796 (11th Cir. May 08, 2023) The decision is attached at Appendix "App." 1. Similarly, the district court's opinion is not published, but appears at *Beaulieu v. Powell*, 2:22-cv-00878-ACA (N.D. Ala. Oct. 13, 2022) and is attached at App. 16.

JURISDICTION

The Eleventh Circuit denied Henri Beaulieu's direct appeal from the United States District Court for the Northern District of Alabama, Southern Division, on May 8th, 2023. The Eleventh Circuit denied Henri Beaulieu's petition for rehearing on July 17th, 2023. Henri Beaulieu invokes this Court's jurisdiction under 28 U.S.C. § 1254(1), having timely filed this petition for

a writ of certiorari within ninety days of the denial of his petition for rehearing.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution provides, in relevant part:

> "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall . . . enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of . . . liberty . . . without due process of law . . . " U.S. Const. Amend. XIV.

Additionally, 42 U.S.C. § 1983 provides, in pertinent part:

> "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State . . . 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

On July 14, 2022, Henri Beaulieu, Jr. ("Henri"), a resident of Shelby County, Alabama, filed suit in the United States District Court for the Northern District of Alabama, Southern Division ("the district court"), pursuant to 42 U.S.C. Sec. 1983, seeking declaratory and injunctive relief as well as damages against various defendants, including two Alabama law enforcement defendants, an Alabama municipality, and two individual Alabama citizens, for violating and conspiring to violate his civil rights under color of state law, particularly to deprive him of his liberty to be in a public place for a lawful purpose without due process of law. On July 16, 2020, Henri was in his vehicle, lawfully on a public road, in the residential subdivision adjacent to his family's property where he lives, for the lawful purpose of gathering evidence for a state court noise-nuisance lawsuit brought by his family against the subdivision's homeowner's association and other defendants. Mr. Beaulieu was unjustly caused to leave the public road in the subdivision through the conduct of the various law enforcement defendants, and the individual defendants acting in concert with them, including through a patent and false threat by one of the law enforcement defendants that Mr. Beaulieu had violated Alabama's criminal disorderly conduct law. Mr. Beaulieu also asserted attendant state law claims.

On July 29, 2022, the district court entered an order, sua sponte, striking Henri's initial Complaint as a "shotgun pleading" and directing him to amend the same to comply with Federal Rules of Civil Procedure

8(a)(2) and 10(b) and the rules of the Eleventh Circuit. Pursuant to the district court's directive, Henri filed his first amended complaint on July 29, 2022. In addition to removing two named defendants and his Fourth Amendment claim, Henri submitted his remaining Fourteenth Amendment/conspiracy (§ 1983) claim as one cause of action under a descriptive label, and his two remaining state law claims under another descriptive label. The many facts pled in his complaint were applicable to all of his claims, federal and state, and realleging them by reference was not intended to obfuscate, but to provide factual bases for his claims without reasserting the numerous facts, and to achieve chronological and logical flow to the complaint to make it easier to understand the sequence of events and the development of each claim.

On August 29, 2022, a month after Henri filed his first amended complaint, the district court entered an order entitled an "Initial Order Governing All Further Proceedings," instructing the parties as to future filings and procedures, including with regard to substantive issues such as attorney's fee, HIPAA compliance, and service of process issues, as well as instructions as to electronic submissions and motion filings. The Initial Order, by all accounts, gave the appearance that the district court had accepted Henri's first amended complaint as a proper filing at that juncture.

On August 30, 2022, the defendants began filing Rule 12(b) Motions to Dismiss Henri's first amended complaint on various grounds. The city and city police officer briefly argued for dismissal on "shotgun

pleading" grounds in approximately three pages of their twenty-seven page motion to dismiss. The remainder of their motion was an attack on the merits of Henri's claims which they were clearly able to respond to, and to which they even asserted affirmative defenses, including immunity defenses. The individual defendants also argued for dismissal on "shotgun pleading" grounds in the first page of their initial motion, but spent the remainder of their motion attacking the merits of Henri's claims against them that they clearly ascertained from Henri's amended complaint, and even demanded joinder of a party-plaintiff and asserted a list of affirmative defenses. The state trooper did not assert a "shotgun pleading" argument in his motion to dismiss at all, but attacked Henri's amended complaint on the merits of Henri's claims and other grounds, and asserted various affirmative defenses to Henri's claims. Henri filed factually-detailed and verified responses in opposition to the motions to dismiss. None of the defendants requested a more definite statement of Henri's claims in their initial motions to dismiss under Fed.R.Civ.P. Rule 12(e).

On September 20, 2022, Henri timely filed a second amended complaint under Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure, and it being the first amendment filed by him as a matter of course at his discretion as a party, he did not request leave to amend as he had not previously invoked the "one time" amendment permitted under the Rule as the district court had ordered him to amend the first time sua sponte. Henri reasserted his federal § 1983 claims and

limited his attendant state law claims to defamation against one of the private individuals. In addition to the descriptive labels on each of his claims he had used since his initial complaint, Henri added the words "Count I" to his federal § 1983 claim for the violation of his constitutional rights under the Fourteenth Amendment, added the words "Count II" to the label for his conspiracy claim, and added the words "Count III" to the label on his remaining state law defamation claim. Henri's comprehensive incorporation of allegations in his amendments, especially regarding his conspiracy claim, was necessary to illustrate the connected series of events forming the alleged conspiracy; again, incorporation by reference was not intended to obfuscate, but to provide a factually supported, complete picture of the claim.

On September 26, 2022, the city and police officer moved to dismiss Henri's second amended complaint attacking Henri's claims on the same or similar grounds as asserted in their motion to dismiss Henri's first amended complaint. On October 3rd, 2022, the two individual defendants also filed a motion to dismiss asserting that Henri's second amended complaint was still a "shotgun pleading" and that Henri was not permitted to amend without leave beyond the one time permitted by the court in its July 19, 2022, sua sponte order.

On September 27, 2022, Henri filed a final amendment to his complaint as to one defendant within twenty-one days of that defendant's motion to dismiss pursuant to Rule 15(a)(1)(B), and added back in his

Fourth Amendment unlawful seizure claim and an additional state law false imprisonment claim against the trooper. All of Henri's amendments subsequent to the one ordered sua sponte by the district court, were filed within twenty-one (21) days of the defendants' motions to dismiss and did not require leave of court according to the plain language of the Rule. In response to Henri's final amendment, the trooper filed a Motion for More Definite Statement asserting that Henri's amendments resulted in a "shotgun pleading" and that Henri should be required to provide a "more definite statement" of his claims. The trooper also argued that Henri's allegations should be stricken as "scandalous," but at no point did any of the defendants dispute Henri's factual allegations. Additionally, neither the trooper, the city, nor the officer objected to Henri's amendments as impermissible under Rule 15(a) of the Federal Rules of Civil Procedure.

As Henri was preparing responses to the defendants' motions to dismiss his second amended complaint and additional amendment, the district court entered a Final Order and Memorandum Opinion on October 13, 2022, dismissing Henri's first amended complaint "on shotgun pleading grounds." (App. 17 and 31) The district court granted the city's, the police officer's, and the individuals' Motions to Dismiss Henri's first amended complaint and declared moot the trooper's motion to dismiss. (App. 17 and 31) The district court struck Henri's second amended complaint and his final Amendment as filed without leave of court. (App. 17 and 31) The district court declared the

defendants' pending motions to dismiss Henri's second and final amendments as moot. (App. 17 and 31) The district court dismissed Henri's federal claims with prejudice and his state law claims without prejudice. (App. 18, 31 and 32)

Henri timely appealed and on May 8, 2023, the Eleventh Circuit entered its Opinion affirming the district court's dismissal of his amended 42 U.S.C. § 1983 civil rights complaint on "shotgun pleading" grounds and had, thus, failed to state a claim for relief. (App. 13) Henri timely filed a petition for rehearing and for rehearing en banc and on July 17, 2023, the Eleventh Circuit denied both petitions. (App. 33)

REASONS FOR GRANTING THE WRIT

I. The decision below affirming the dismissal of Petitioner's Complaint under 42 U.S.C. § 1983 on "shotgun pleading" grounds conflicts with the rules of pleading under the Federal Rules of Civil Procedure and this Court's precedent interpreting those rules in *Bell Atlantic v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), as well as the remains of *Conley v. Gibson*, 355 U.S. 41 (1957) and decisions within the Eleventh Circuit itself.

Whether the Eleventh Circuit deviated from the procedural rules and precedent of this Court governing pleading practice in dismissing Henri's complaint as a

"shotgun pleading," and whether it should continue to be permitted to implement "shotgun pleading" principles to close the courthouse doors to litigants who have otherwise endeavored to comply with the rules and pleading principles of this Court is an important question of federal law. This is especially so in the context of claims for violations of a party's constitutional rights.

A. The decision below conflicts with Rules 8 and 10 of the Federal Rules of Civil Procedure and Supreme Court Precedent Interpreting those Rules as to Pleading Requirements.

Henri asserted the following as his federal claim in his July 29, 2022, amended complaint:

> "53. The Fourteenth Amendment to the United States Constitution protects against the deprivation of liberty of any person without due process of law.
>
> 54. Powell, Bell, the Third Responding Officer, and the Lawleys acted individually, and in conspiracy with each other, under color of state law, to deprive Henri, without due process of law, of the right and liberty to lawfully be on a public street for the purpose of lawfully gathering evidence, to-wit: to identify pool-users for a nuisance lawsuit."

Though the Eleventh Circuit appeared able to clearly discern Henri's claims, as was the district court, it

stated that the district court had not abused its discretion in dismissing Henri's case, finding that Henri had not cured pleading "deficiencies" in his amendment following the district court's sua sponte order to amend, or in his subsequent amendments. (App. 7) In support of its position, the Eleventh Circuit discussed its use of shotgun pleading principles "to control its docket" by ridding the courts of complaints that fail to give defendants "adequate notice of the claims against them and the grounds upon which each claim rests." (App. 8) The Eleventh Circuit further rejected Henri's argument that his complaint was drafted to promote clarity and stated that Henri did not "identify his claims with sufficient clarity to enable the defendant[s] to frame a [responsive] pleading." (App. 10) Though the Eleventh Circuit stated that Henri did not explain "how [or at what point] he was denied due process," the paragraphs from Henri's amended complaint referenced hereinabove belie that statement – no "digging" necessary. (App. 11) In the remaining two-to-three pages following those paragraphs, Henri also established his collusion/conspiracy claim, causation, and his request for relief.

Henri maintains that he complied with the word and spirit of Rules 8(a) and 10(b) of the Federal Rules of Civil Procedure. Particularly, Rule 8(a)(2) requires "a short and plain statement of the claim showing that the pleader is entitled to relief." The Eleventh Circuit affirmed that Rule 10(b) does not require a pleader to state each cause of action in a separate count unless it would promote clarity. (App. 10) Henri's separation

of his two causes of action, one under federal and one under state law, promoted clarity for purposes of the rule and his claim statement referenced above is short and plain.

In *Conley v. Gibson*, 355 U.S. 41 (1957), while the specific "no set of facts" language from this case was retired, this Court's articulation of the purpose of pleadings, to facilitate a proper decision on the merits, remains valid. Henri's complaint, as amended, was drafted with this purpose in mind. Moreover, in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), this Court clarified the pleading standard that a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. Henri's complaint paragraphs 53 and 54 referenced hereinabove, alone, provided the defendants notice of Henri's constitutional claim for relief – the fact narrative and additional analyses in Henri's complaint do not obfuscate, but promote a proper decision on the merits and further the word and spirit of the procedural rules. The defendants were able to respond to all claims in the complaint, and even asserted affirmative defenses to them, demonstrating that they were not confused or prejudiced by the structure of the complaint, and that they understood the claims against them, making dismissal wholly contrary to the pleading principles espoused in *Twombly* and *Iqbal*, *supra*.

Henri argued to the Eleventh Circuit that he attempted in his amended complaint to not only comply with rules that require plain and concise pleading, but

also with rules that require, at least in application, that he state his claims separately and with facts to support them, and to comply with case law that requires the pleading of adequate facts and pleading with "particularity." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) The principle that cases should be decided on their merits, not technicalities, should have been the basis of the Eleventh Circuit's analysis. Also see *Swierkiewicz v. Sorema N. A.*, 534 U.S. 506 (2002) (emphasizing the primary purpose of a complaint under the Federal Rules of Civil Procedure is to give the defendant fair notice of the claim and the grounds upon which it rests).

The Eleventh Circuit opinion also contradicts the tenet that the district court is required, in reviewing a complaint for dismissal, to accept the factual matter pled as true to determine if a claim for relief "is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) If the Eleventh Circuit had accepted Henri's facts as true as required, it should have found that Henri had asserted at least plausible claims for relief. The dismissal of his claims under a strict and selective application of judicially-created shotgun pleading principles contradicts this Court's *precedent* and the federal *rules* of procedure, and Henri requests certiorari review and an opportunity to have his claims for deprivation of his ***constitutional due process rights*** through the egregious conduct of the defendants be reinstated and to permit his amended complaint to

proceed, or to permit him to request leave to further amend under the liberal policy of granting leave to amend under Rule 15, Fed.R.Civ.P. See *Conley v. Gibson*, 355 U.S. 41 (1957)

B. The decision below conflicts with Eleventh Circuit Precedent Regarding Pleadings/ Shotgun Pleadings

The Eleventh Circuit also disregarded the reasoned analyses and holdings espoused in its own prior decisions in *Weiland v. Palm Beach Cnty. Sheriff's Office*, 792 F.3d 1313 (11th Cir. 2015), *Anderson v. Dist. Bd. of Trs. of Cent. Fla. Cmty. Coll.*, 77 F.3d 364 (11th Cir. 1996), and *Sledge v. Goodyear Dunlop Tires N. Am., Ltd.*, 275 F.3d 1014 (11th Cir. 2001) in affirming the dismissal of Henri's complaint on "shotgun pleading" grounds. Reliance on these cases should have had the opposite result.

While the Eleventh Circuit cited *Weiland v. Palm Beach Cnty. Sheriff's Office*, 792 F.3d 1313 (11th Cir. 2015) to illustrate the tenets of judicially-created shotgun pleading prohibitions, it acknowledges that the case affirms that a shotgun pleading is one that fails "to one degree or another, and in one way or another, to give the defendants *adequate notice of the claims against them and the grounds upon which each claim rests*," and that "[a]t bottom . . . the issue is not one of form or pleading technicalities, but rather substance – that is, whether the complaint gives fair 'notice of the

specific claims' and the 'factual allegations' that support them." (emphasis added) (App. 8 and 9)

The defendants' comprehension of and cogent responses to Henri's claims, albeit anticipated motions to dismiss, prohibits any notion that there was any "calculation" on Henri's part "to confuse the 'enemy' and the court," with the intent that "theories for relief not provided by law and which can prejudice an opponent's case, especially before the jury, can be masked, are flatly forbidden by the [spirit], if not the [letter]" of Rules 8(a)(2) and 10(b) of the Federal Rules of Civil Procedure. Again, Rule 8(a)(2), Fed.R.Civ.P. requires a claim to ***contain or include***, i.e., *not that it be*, a "short plain statement," and Rule 10(b), Fed.R.Civ.P., states that a separate count must be used for a claim "***[i]f*** doing so would promote clarity. See *Weiland v. Palm Beach Cnty. Sheriff's Office*, 792 F.3d 1313 (11th Cir. 2015) *supra* (citing/quoting Judge Tjoflat's footnote in *T.D.S. Inc. v. Shelby Mut. Ins. Co.*, 760 F.2d 1520 (11th Cir. 1985)). Henri's complaint clearly provided adequate notice of his claims to the defendants. Despite its claim otherwise, it was absolutely for the Eleventh Circuit, an issue of *form or pleading technicalities over substance*. In this vein, the Eleventh Circuit contradicts its reliance upon its citation to *Sledge v. Goodyear Dunlop Tires N. Am., Ltd.*, 275 F.3d 1014 (11th Cir. 2001), as Henri's complaint enabled all defendants to frame responsive pleadings. (App. 10 and 11) The Eleventh Circuit also contradicts its decision in *Anderson v. Dist. Bd. of Trs. of Cent. Fla. Cmty. Coll.*, 77 F.3d 364 (11th Cir. 1996) that a shotgun pleading dismissal

should be reserved for severe cases of confusion or obfuscation – which Henri's complaint is not. Moreover, the Eleventh Circuit has reiterated that on reviewing a "motion to dismiss, the court must accept as true all factual allegations in the complaint and draw all reasonable inferences in the plaintiff's favor." *Bailey v. Wheeler*, 843 F.3d 473, 478 n.3 (11th Cir. 2016) (emphasis added) Had the Eleventh Circuit accepted Henri's factual allegations as true, his complaint could not have been dismissed. The Eleventh Circuit's affirming of the dismissal of Henri's complaint, as amended, wholly contradicts the referenced holdings in that circuit, as well the clear edicts of the federal rules of procedure.

II. The decision below fails to address whether the lower court's sua sponte order requiring the Petitioner to amend his initial complaint abrogated his ability and discretion to subsequently amend his complaint without leave pursuant to Rule 15(a)(1)(B), Fed.R.Civ.P., and conflicts with this Court's decision in *Foman v. Davis*, 371 U.S. 178 (1962).

A. The decision below disregards the plain language of Rule 15(a)(1)(B), Fed.R.Civ.P.

Whether a lower court's sua sponte order to amend should be permitted to abrogate a *party's* ability and discretion to timely amend his complaint pursuant to Rule 15(a)(1)(B), Fed.R.Civ.P., especially when amendments should be liberally permitted, is also an important question of federal law. Rule 15(a)(1) of the

Federal Rules of Civil Procedure provides, in pertinent part:

> "(1) Amending as a Matter of Course. A ***party*** may amend its pleading once as a matter of course within:
>
> (A) 21 days after serving it, or
>
> (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or ***21 days after service of a motion under Rule 12(b), (e),*** or (f), whichever is earlier." (emphasis added)

In affirming as "moot" Henri's subsequent complaint amendments for being filed without leave of court, the Eleventh Circuit overlooked or misapprehended the plain language of Rule 15(a)(1)(B), Fed.R.Civ.P. The Rule does not require Henri to request leave to amend as long as he files his subsequent amendments within twenty-one (21) days of the defendants' various responsive motions to dismiss – which Henri did in this case.

The Eleventh Circuit's opinion controverts the Rule by permitting a district court, ***not a party***, to enter a sua sponte order requiring an amendment to completely abrogate the ability and discretion ***of a party*** to amend his "pleading once as a matter of course," i.e., without leave, pursuant to the word and spirit of the Rule. Henri amended his complaint once as a matter of course within 21 days of service of a defendant's motion to dismiss. Rule 15(a)(1)(B), Fed.R.Civ.P., ***does not***

state that a district court's sua sponte order to amend deprives a litigant of the right to amend once as a matter of course – a choice left to the discretion and action of the litigant. Henri's first amendment did not count as an amendment as of right under Rule 15(a)(1) because it was filed pursuant to a court order, not at his discretion as a matter of course. When Henri amended his complaint a second time, which was actually the first time for him as a matter of course, there was no objection from the court or opposing parties; Henri had not used his one opportunity to amend "as a matter of course" under Rule 15(a)(1) prior to amending again following receipt of motions to dismiss from two different defendants. In fact, the Eleventh Circuit admittedly sidestepped the issue of the district court usurping Henri's right to amend as a matter of course under Rule 15(a)(1)(B), Fed.R.Civ.P. (App. 12 and 13) The Eleventh Circuit should not have affirmed the dismissal of any of Henri's amended complaints.

B. The decision below conflicts with this Court's decision in *Foman v. Davis*, 371 U.S. 178 (1962)

The Eleventh Circuit not only undercut Rule 15(a), Fed.R.Civ.P., but, in rejecting Henri's subsequent amended complaint, it disregarded this Court's decision in *Foman v. Davis*, 371 U.S. 178, 182 (1962) favoring amendments in the interest of justice and adjudication of cases on the merits. Certiorari review is necessary to address this important point of law which may impact other litigants.

In *Foman v. Davis*, 371 U.S. 178 (1962), this Court held that leave to amend under Rule 15(a) should be freely given where the "underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief," and that Rule 15, Fed.R.Civ.P., should be applied with the purpose of facilitating a proper decision on the merits, to wit: "if the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on the merits." *Foman v. Davis*, 371 U.S. 178, 182 (1962) Henri's constitutional claims, especially in light of the egregious conduct and abuse of police authority alleged, should have been afforded consideration beyond a dismissal on technicalities or to clear the court's docket. See, e.g., *Johnson v. City of Shelby*, 574 U.S. 10 (2014).

CONCLUSION

Given the combined impact of the judicially created shotgun pleading standard and the erroneous application of Rule 15(a), the Eleventh Circuit's decision reflects procedural error that warrants higher review. These issues do not merely concern technicalities; they cut to the core of federal questions about the correct application of procedural rules, the safeguarding of civil rights, and the need to harmonize federal jurisprudence between the Eleventh Circuit, this Court, and other federal circuits. Moreover, the Eleventh Circuit's unduly strict use of the shotgun pleading doctrine, as in this case, might be viewed as a way to

uphold district court dismissals on less stringent standards than *de novo* review, which is typically applied to dismissals for failure to state a claim. This raises a serious issue about whether the Eleventh Circuit's practice conflicts with the overarching federal standards for appellate review. These issues raise questions of national importance and require Supreme Court intervention to ensure uniformity in pleading standards and fair adjudication of constitutional claims.

The Eleventh Circuit's affirming the dismissal of Henri's complaint under 42 U.S.C. § 1983 for violations, and conspiracy to violate Henri's constitutional due process rights under the Fourteenth Amendment is contrary to the holdings of the Supreme Court of the United States in *Iqbal*, *Twombly, Gibson*, and *Foman*, and the holdings of the Eleventh Circuit in *Weiland*, *Anderson*, and *Sledge*. The Court should grant the petition for a writ of certiorari; review is necessary to maintain conformity with the Supreme Court and this Circuit's precedent.

Respectfully submitted,

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