No. 23- _____

IN THE

Supreme Court of the United States

JASCHA CHIAVERINI, et al.,

Petitioners,

v.

NICHOLAS EVANOFF, et al.,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

Michael H. Stahl
STAHL AND STEPHENSON
316 N. Michigan Street
Suite 600
Toledo, OH 43604

George C. Rogers
4048 Tralee Drive
Lake Wales, FL 33859

Easha Anand
Counsel of Record
Jeffrey L. Fisher
Pamela S. Karlan
STANFORD LAW SCHOOL
SUPREME COURT
LITIGATION CLINIC
559 Nathan Abbott Way
Stanford, CA 94305
(650) 724-3345
eanand@stanford.edu

QUESTION PRESENTED

To make out a Fourth Amendment malicious prosecution claim under 42 U.S.C. § 1983, a plaintiff must show that legal process was instituted without probable cause. *Thompson v. Clark*, 142 S. Ct. 1332, 1338 (2022). Under the charge-specific rule, a malicious prosecution claim can proceed as to a baseless criminal charge, even if other charges brought alongside the baseless charge are supported by probable cause. Under the "any-crime" rule, probable cause for even one charge defeats a plaintiff's malicious prosecution claims as to every other charge, including those lacking probable cause.

The question presented is: Whether Fourth Amendment malicious prosecution claims are governed by the charge-specific rule, as the Second, Third, and Eleventh circuits hold, or by the "any-crime" rule, as the Sixth Circuit holds.

PARTIES TO THE PROCEEDING

Petitioners Jascha Chiaverini and Chiaverini, Inc., are plaintiffs in this case and were appellants in the court of appeals.

Respondents Nicholas Evanoff, David Steward, Jamie Mendez, Robert Weitzel, and the City of Napoleon are defendants in this case and were appellees in the court of appeals. David and Christina Hill were defendants in the district court but did not file an answer or otherwise participate in the litigation.

RELATED PROCEEDINGS

Jascha Chiaverini; Chiaverini Inc. v. City of Napoleon, Ohio, et al., No. 3:17-cv-2527 (N.D. Ohio Sept. 30, 2021).

Jascha Chiaverini; Chiaverini Inc. v. City of Napoleon, Ohio, et al., No. 21-3996 (6th Cir. Jan. 11, 2023).

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Constitutional Provision

Statutes

Other Authorities

PETITION FOR A WRIT OF CERTIORARI

Petitioner Jascha Chiaverini respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Sixth Circuit (Pet. App. 1a-17a) is unpublished. The district court's order (Pet. App. 18a-48a) is unpublished.

JURISDICTION

The judgment of the court of appeals was entered on January 11, 2023. Pet. App. 1a. A timely petition for rehearing was denied on February 15, 2023. Pet. App. 49a. On April 26, 2023, Justice Kavanaugh extended the time within which to file a petition for a writ of certiorari to and including July 14, 2023. This Court has jurisdiction under 28 U.S.C. § 1254(1).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

The Fourth Amendment to the United States Constitution provides in relevant part: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. amend. IV.

The Civil Rights Act of 1871, 42 U.S.C. § 1983, provides, in relevant part, "Every person who, under

color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, 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 . . . .” 42 U.S.C. § 1983.

INTRODUCTION

Police officers fabricated evidence to generate a felony money-laundering charge against Jascha Chiaverini. In the Second, Third, and Eleventh circuits, that misconduct would be enough to sustain a Fourth Amendment malicious prosecution claim as to that charge. Those circuits employ a charge-specific rule: A plaintiff can proceed with a malicious prosecution claim as to a baseless charge, regardless of what other charges have been brought.

But the Sixth Circuit applies the “any-crime” rule. Under that rule, probable cause for any one charge insulates every other charge from a malicious prosecution claim. Because the Sixth Circuit found probable cause for two other charges—a misdemeanor charge of retaining stolen property and a licensing violation—it dismissed Mr. Chiaverini’s malicious prosecution claim as to the felony money-laundering charge. It did not even bother to assess whether there was probable cause for that charge.

This Court should grant certiorari. Courts on both sides of the question presented have acknowledged the split. *See, e.g.*, *Howse v. Hodous,* 953 F.3d 402, 409 n.3 (6th Cir. 2020); *Williams v. Aguirre*, 965 F.3d 1147, 1159 (11th Cir. 2020). This case squarely implicates

that conflict. And the "any-crime" rule defies both common law and common sense. As Chief Judge William Pryor put the point for the Eleventh Circuit, "Centuries of common-law doctrine urge a charge-specific approach, and bedrock Fourth Amendment principles support applying that approach." *Williams*, 965 F.3d at 1162. The Sixth Circuit's contrary "any-crime" rule would, for instance, allow a police officer who fabricated a felony to avoid liability for a malicious prosecution claim so long as there was probable cause to believe the plaintiff was jaywalking. That cannot be the rule. This Court should grant certiorari and reverse.

STATEMENT OF THE CASE

A. Factual background[1]

1. *The Transaction.* Petitioner Jascha Chiaverini was a respected, award-winning master jeweler. He ran Diamond and Gold Outlet, a longstanding family business in the town of Napoleon, Ohio.

On November 16, 2016, Brent Burns came to Mr. Chiaverini's store to sell jewelry, including, as relevant here, a ring and an earring. R. 98, Page ID # 2552-53.[2] On several past occasions, Burns had sold various kinds of jewelry to the store without incident. *Id.* at 2552. As was customary for every store transaction, *id.* at 2555, Mr. Chiaverini had Burns fill out a "buy card" with a signature affirming "I am the sole and lawful owner of [this] property" alongside

[1] Because summary judgment was granted to respondents, the facts are recited in the light most favorable to petitioners.

[2] "R. #X, Page ID # XX" refers to documents filed in the district court, in accordance with Sixth Circuit citation conventions.

Burns's name, driver's license information, and the date and time of the purchase, *id.* at 2555; R. 98-26, Page ID # 2682. Per store policy, Mr. Chiaverini also asked Burns to orally affirm good title and his right to sell. R. 98, Page ID # 2555.

Mr. Chiaverini paid Burns $45 for the jewelry—expecting to make an $11 profit on the scrap metal, Pet'r C.A. Reply Br. 16—and Burns left. Pet. App. 2a.

2. *The Hills Contact Chiaverini.* An hour after Burns left, Mr. Chiaverini received several phone calls from Christina and David Hill. The two called separately, each asking about a ring that had been recently stolen. R. 98, Page ID # 2556-57. The description of the ring differed between the two Hills, and neither of their descriptions matched the ring Mr. Chiaverini had recently purchased. *Id.* Mr. Chiaverini urged the Hills to make a police report if they suspected stolen property had been sold to the store. Pet. App. 2a. Mr. Chiaverini then called 911 himself to request police assistance. R. 98, Page ID # 2557.

3. *Officers Arrive at the Jewelry Store*. That afternoon, David Hill arrived at the jewelry store, followed closely after by two officers: David Steward and his supervisor, Nicholas Evanoff.[3] R. 98, Page ID # 2557. Evanoff spoke with Mr. Chiaverini alone inside the store. Steward remained outside with David Hill. R. 90-3, Page ID # 1318. Despite inconsistencies in the way David Hill described the jewelry on the

[3] Evanoff happened to be a co-owner of Star Pawn, in nearby Findlay, Ohio, which sometimes competed with Mr. Chiaverini's jewelry store for business. R. 98, Page ID # 2572. Evanoff has since been convicted on unrelated federal felony charges and was deposed for this case while in federal prison. R. 91, Page ID # 1352.

phone and the way he described it to Steward, Steward concluded that the ring and earring Burns had sold to Mr. Chiaverini were the Hills'. *Id.*

That same day, November 16, Steward submitted a police report describing Mr. Chiaverini's cooperation with the police. *Id.* Per police department policy, a more senior officer approved the report three days later. *Id.*

4. *The Hold Letter and Subsequent Police Conduct.* The day after the Burns purchase, the police provided Mr. Chiaverini with a letter that told him to do two contradictory things: (i) "hold" the ring and the earring "as evidence," but also (ii) "release these items to David or Christina Hill." Pet. App. 22a-23a. That same day, Steward and Evanoff returned to the jewelry store with Christina Hill, demanding that Mr. Chiaverini turn over the jewelry. *Id.* 24a. Wary of violating the hold letter's contradictory terms, Mr. Chiaverini asked the officers to wait ten minutes so he could consult with the store's attorney before releasing the jewelry. R. 98, Page ID # 2563. Instead, the officers and Christina Hill left. *Id.*

In the days that followed, Mr. Chiaverini tried again to seek clarification regarding the internally contradictory hold letter, this time from Police Chief Robert Weitzel. R. 98, Page ID # 2562. Weitzel promised to consult the city law director and get back to Mr. Chiaverini. *Id.* at 2563. He never did.

One week after the Burns transaction, Steward and Evanoff came back to the jewelry store yet again. This time, they suggested that Mr. Chiaverini would be treated as a "co-victim" in the matter and that they could "make him whole" if he would just return the jewelry. R. 98, Page ID # 2563. Confused by what the

officers were implying and under instruction from the store's attorney to hold the jewelry, Mr. Chiaverini declined their request to hand over the jewelry. *Id.*

5. *Altering the Police Report*. On December 2, Evanoff and Steward met with a prosecutor to discuss next steps. R. 88-4, Page ID # 1117. That same day, Steward altered the November 16 police report that police had submitted regarding the Burns transaction. Petr. C.A. Br. 13-14. Steward changed the description of Mr. Chiaverini's conversation with Evanoff that had taken place sixteen days prior. He inserted the following sentence: "Jascha [Chiaverini] advised Ptl. Evanoff that the reason he bought the ring and kept records regarding the purchase, was because he suspected that it was in fact stolen." R. 89-13, Page ID # 1302.

This new sentence was false. Mr. Chiaverini had never told Evanoff that he suspected the jewelry was stolen when he bought it from Burns. Pet. App. 34a.

Although Steward altered the police report, he did not change the date of the report. R. 89-13, Page ID # 1302. The original report had been approved by a more senior officer, but Steward did not resubmit the altered report for approval. So the report had only the previous signoff from November 19. *Id.*

6. *The Police Secure Warrants*. That same day, December 2, Evanoff signed a probable cause affidavit repeating the false allegation Steward had added to the police report: "The defendant bought a ring while suspecting that it was stolen." R. 91-4, Page ID # 1374. Evanoff also filed three criminal complaints against Mr. Chiaverini, for retaining stolen property (Ohio Rev. Code Ann. § 2913.51 (West 2023)), for violations of precious metals dealers licensing requirements

(Ohio Rev. Code Ann. § 4728.02 (West 2023)), and for money laundering (Ohio Rev. Code Ann. § 1315.55 (West 2023)). Pet. App. 25a.

Of the three charges, money laundering was the only felony. The Ohio money-laundering statute requires proof that a criminal defendant "conduct a transaction *knowing*" the property was "the proceeds of some form of unlawful activity with the purpose of committing or furthering the commission of corrupt activity." Ohio Rev. Code Ann. § 1315.55(A)(1) (West 2023) (emphasis added). The statute thus required a showing that Mr. Chiaverini had knowledge at the time of the Burns transaction that the ring and earring were stolen.[4] But the only suggestion of Mr. Chiaverini's alleged knowledge at the time of the purchase came from Steward's alteration of the November 16 police report, made sixteen days after the conversation between Mr. Chiaverini and Evanoff, and repeated by Evanoff in his probable-cause affidavit.

Furthermore, under Ohio law, the sort of money-laundering charge at issue in Mr. Chiaverini's case can be based only on transactions that exceed $1,000. *See* Ohio Rev. Code Ann. § 2923.31(I)(2)(c) (West 2023). Evanoff knew Mr. Chiaverini had paid just $45 for the jewelry. Evanoff himself listed the value of the jewelry as only $350 in the criminal complaint. R. 91-1, Page ID # 1368. Evanoff signed the criminal complaint for money laundering anyway.

---

[4] *See, e.g.*, *State v. Searfoss*, 135 N.E.3d 853, 875-76 (Ohio Ct. App. 2019); *State v. Pugh*, No. 24905, 2010 WL 2393603, at *4 (Ohio Ct. App. June 16, 2010).

Relying on the probable-cause affidavit, a judge authorized arrest and search warrants against Mr. Chiaverini. Pet. App. 25a-26a.

7. *Mr. Chiaverini and His Property Are Seized.* Police returned to Mr. Chiaverini's jewelry store later on the day the warrants were issued. Pet. App. 25a. At the store, police seized not only the ring and earring but also other jewelry and the store's three computers. *Id.*

Police then arrested Mr. Chiaverini and transported him to the Corrections Center of Northwest Ohio. R. 1-1, Page ID # 9. He was strip searched at booking. *Id.* Shortly thereafter, his shoulder was injured. R. 98, Page ID # 2569. All told, he spent nearly four days in jail. R. 1-1, Page ID # 9.

Mr. Chiaverini was eventually released and was ordered to appear in court. Police hung on to the jewelry they had confiscated from Mr. Chiaverini's store and had it appraised for forfeiture. R. 117-6, Page ID # 3280; R. 93-18, Page ID # 2417.

8. *Officers Enable the Prosecution.* Following Mr. Chiaverini's arrest, the county prosecutor expressed "concern with the money laundering charge." R. 118-5, Page ID # 3382. Given the mens rea requirement for this crime, he asked the police department, "Do we have evidence that he knew the property was stolen when he purchased it?" *Id.*

Police Chief Weitzel responded with two falsehoods. First, he sent the doctored police report, specifically highlighting the sentence that Steward had added after the fact stating that Mr. Chiaverini told Evanoff he suspected when he bought the property that it was stolen. *Id.* In reality, Mr. Chiaverini did not suspect the Burns jewelry was

stolen when he purchased it. Second, Weitzel asserted that Mr. Chiaverini never called the police about the jewelry. *Id.* In reality, Mr. Chiaverini had called 911 immediately after hearing from the Hills the day of the sale. Weitzel signed off with, "I hope this helps settle your mind on this issue." *Id.* Reassured by these falsehoods, the prosecutor moved forward with all three charges, including the money-laundering felony. *Id.* The prosecutor in fact added an additional money laundering charge. R. 1-1, Page ID # 8-9.

At a preliminary hearing, a municipal court judge considered documents provided by the police and the testimony of Evanoff, who repeated the lie that Mr. Chiaverini had confessed to suspecting the property was stolen when he purchased it. Pet. App. 37a-38a. The judge found probable cause as to all three charges. *Id.* 37a.

Charges were eventually dismissed when the prosecution declined to press the case to a grand jury. Pet. App. 26a.

9. *The Effects of the Seizures Persist*. All told, police officers jailed Mr. Chiaverini for nearly four days and seized store inventory and computers. Those seizures had long-lasting effects. Mr. Chiaverini fell and injured his arm while detained. R. 98, Page ID # 2569. He expended significant attorneys' fees. And he lost revenue because the Diamond and Gold Outlet was without its manager and key equipment in the heart of the holiday season. R. 1-1, Page ID # 23.

Furthermore, when word got out that Mr. Chiaverini had been charged and jailed for money laundering specifically—the only felony of the three—Mr. Chiaverini's reputation and his business were devastated. Shortly after being jailed, Mr. Chiaverini

tried to broker a diamond for a customer. When he contacted long-time business associates in New York, they refused to do business with him because he had been jailed for allegedly laundering money. R. 98, Page ID # 2574. Other associates would not even accept his phone calls. *Id.* One of the Diamond and Gold Outlet's banks would no longer lend to the jewelry store because of the money-laundering charge. *Id.* at 2568. Even today, more than six years after the charges were dropped, the first two Google images results for "Jascha Chiaverini" are Mr. Chiaverini's mugshot, his booking date, and the list of charges, with money-laundering at the top.

B. Procedural background

1. In 2017, Petitioners filed this case against Respondents in state court under 42 U.S.C. § 1983. R. 1-1, Page ID # 6. Petitioners alleged several constitutional violations, including Fourth Amendment claims for malicious prosecution. *Id.*, Page ID # 25. Respondents removed the action to the Northern District of Ohio.

To make out a Fourth Amendment malicious prosecution claim, a plaintiff must show that "(i) the suit or proceeding was 'instituted without any probable cause'; (ii) the 'motive in instituting' the suit 'was malicious,' which was often defined in this context as without probable cause and for a purpose other than bringing the defendant to justice; and (iii) the prosecution 'terminated in the acquittal or discharge of the accused.'" *Thompson v. Clark*, 142 S. Ct. 1332, 1338 (2022) (quoting Thomas M. Cooley, Law of Torts 181 (1880)). The plaintiff must also show a harm grounded in the Fourth Amendment. *Id.* at 1337 n.2.

Here, Mr. Chiaverini alleged that proceedings were instituted when officers secured an arrest warrant and, later, a probable cause determination at the preliminary hearing; that both proceedings were without probable cause as to any of the three charges against him (the felony money-laundering charge, the misdemeanor retaining-stolen-property charge, and the licensing violation); that police officers acted maliciously when they fabricated evidence against him; that the prosecution terminated in his favor when charges were dropped; and that the Fourth Amendment's Warrant Clause and its prohibition on unreasonable seizures were violated when officers lied to secure an arrest warrant and Mr. Chiaverini and his property (jewelry and computers) were seized.

2. The district court bifurcated the liability and damages phases of the suit. *See* R. 57, Page ID # 857. The District Court granted summary judgment to Respondents on Mr. Chiaverini's malicious prosecution claim, finding that probable cause existed for all three charges. *See* Pet. App. 18a-48a.

3. Mr. Chiaverini appealed to the Sixth Circuit, which affirmed the ruling below. Mr. Chiaverini made two arguments related to the money-laundering charge. Petr. C.A. Br. 17-18, 41. First, he argued there was no probable cause because he did not know the jewelry was stolen at the time of the transaction and any suggestion that he did came from Steward's, Evanoff's, and Weitzel's falsehoods alone. *Id.* at 41. Second, he argued that there was no probable cause to believe that the jewelry he had paid $45 for met the

statute's requirement that the transaction be worth $1,000 or more. *Id.* at 17-18.[5]

The Sixth Circuit did not respond to either argument. Instead, the Sixth Circuit, compelled by its own precedent, applied the "any-crime" rule. *See* Pet. App. 10a (citing *Howse*, 953 F.3d at 408). The panel found probable cause for the other two charges, the licensure violation and the misdemeanor charge of retaining stolen property. *Id.* Under the "any-crime" rule, this finding extinguished Mr. Chiaverini's malicious prosecution claim even if there was no probable cause for the felony money-laundering charge. *Id.* The Sixth Circuit thus refused to assess probable cause for the money-laundering charge. *Id.* at 10a, n.8.

3. Mr. Chiaverini petitioned for rehearing en banc, arguing that the Sixth Circuit was on the wrong side of a circuit split "regarding whether a 4th Amendment 'malicious prosecution' claim may proceed where there is probable cause for one, but not all, charges prosecuted." Pet'r P.F.R. 5. The petition was denied. Pet. App. 49a.

REASONS FOR GRANTING THE WRIT

The Sixth Circuit allows probable cause for even one charge to extinguish a plaintiff's malicious prosecution claims as to other, meritless charges. At least three other circuits have rejected that rule, holding that a plaintiff's malicious prosecution claims can proceed on meritless charges, even if probable cause supported another charge. The Sixth Circuit and

[5] Mr. Chiaverini also continued to contest that probable cause existed for either the retaining stolen property or licensure violation charges. Pet. App. 11a-16a.

several other circuits have explicitly acknowledged the split.

The Sixth Circuit's "any-crime" rule is wrong. As Chief Judge William Pryor put the point in *Williams*, "Centuries of common law doctrine urge a charge-specific approach, and bedrock Fourth Amendment principles support applying that approach . . . ." 965 F.3d at 1162. This case is an appropriate vehicle to resolve the question presented because the sole basis for the Sixth Circuit's decision was the "any-crime" rule. Finally, the Sixth Circuit's rule forecloses a crucial avenue for holding police officers accountable for egregious constitutional violations.

The Court should grant certiorari to resolve the conflict.

I. There is a square and acknowledged split on the question presented.

Courts on each side of the question presented have explicitly acknowledged the split. The Sixth Circuit has noted "the contrary conclusions of other circuits." *Howse v. Hodous*, 953 F.3d 402, 409 n.3 (6th Cir. 2020) . Later that year, the Eleventh Circuit acknowledged that "[o]ur sister circuits have split on the question." *Williams v. Aguirre*, 965 F.3d 1147, 1159 (11th Cir. 2020). And even before *Williams* deepened the split, several circuits had asked for this Court's guidance. *See, e.g.*, *Van De Weghe v. Chambers*, 569 F. Appx. 617, 620 (10th Cir. 2014) (Gorsuch, J.) (acknowledging that the court was "without a binding opinion from the Supreme Court, with uncertain signals in [the Tenth Circuit], and with other courts unmistakably divided"); *Klein v. Steinkamp*, 44 F.4th 1111, 1116 (8th Cir. 2022) (recognizing opposing decisions by the Eleventh and Sixth Circuits); *Harrington v. City of*

Council Bluffs, Iowa, 678 F.3d 676, 683 (8th Cir. 2012) (Colloton, J., dissenting) ("There are potentially conflicting signals in the case law . . . ."); *Bertram v. Viglas*, Civ. No. 19-11298-LTS, 2020 WL 1892187, at *6 (D. Mass. Apr. 16, 2020) (observing "a dispute amongst the United States Courts of Appeals" on the question).

1. Mr. Chiaverini's case would have moved forward in at least three other circuits.

a. Most recently, the Eleventh Circuit adopted the charge-specific rule, under which a plaintiff's malicious prosecution claims can proceed on meritless charges even if probable cause supported another charge. *Williams*, 965 F.3d at 1158-62. In so doing, the Eleventh Circuit acknowledged, then flatly rejected, the Sixth Circuit's "any-crime" rule. *Id.* at 1159, 1162.

In *Williams*, there was probable cause to charge the plaintiff with carrying a concealed firearm. *Id.* at 1158. But to secure an arrest warrant and then a grand jury indictment as to two attempted murder charges, police officers made statements later disputed by video evidence. *Id.* 1156-58. The Eleventh Circuit rejected officers' argument that probable cause for the concealed weapon charge immunized the officers from malicious prosecution claims regarding the attempted murder charges. *Id.* at 1158, 1162.

As this Court has instructed, Chief Judge Pryor began by "examin[ing] the common-law principles" that governed the malicious prosecution tort in 1871, when Congress passed Section 1983. *Id.* at 1159-60. He found that "centuries of common-law doctrine urge a charge-specific approach." *Id.* at 1162. He then compared those common-law principles to the values underlying the Fourth Amendment, concluding that

"[n]othing in the Fourth Amendment counsels against applying the common-law rule." *Id.* at 1161. Thus, Mr. Williams's malicious prosecution claims for the unfounded attempted murder charges were allowed to proceed. *Id.* at 1165.

b. The Third Circuit likewise has adopted the charge-specific rule. In *Johnson v. Knorr*, 477 F.3d 75 (3d Cir. 2007), Mr. Johnson was arrested on four charges, all later dismissed, for which he was detained for roughly two days. *Id.* at 79. Probable cause supported one of the charges but not the other three. *Id.* at 85.

Reversing the district court, the Third Circuit adopted the charge-specific rule, allowing the plaintiff's claims to proceed for the meritless charges. *Johnson*, 477 F.3d at 84-85. It expressed concern that otherwise, law enforcement officers would be "insulated" from liability whenever they have probable cause to initiate criminal process on even one charge, *id.* at 83, even though every additional charge imposes an "additional burden on the plaintiff," *id.* at 85.[6]

c. In *Posr v. Doherty,* 944 F.2d 91 (2d Cir. 1991), the Second Circuit also adopted the charge-specific rule. *Id.* at 100. The plaintiff had been charged with

---

[6] Technically, the Third Circuit takes the charge-specific approach *except* when (1) officers had no involvement with the case after the arrest warrant; (2) officers did not fabricate any evidence; *and* (3) the circumstances leading to the arrest and prosecution are "totally intertwined." *Johnson*, 477 F.3d at 82 n.9. That exception was created in *Johnson* to account for one earlier case. *See id.* at 81-82 (discussing that one case, *Wright v. City of Philadelphia,* 409 F.3d 595, 604 (3d Cir. 2005)). Mr. Chiaverini's case would not fall within the exception's "narrow confines." *See Eaton v. Figaski*, No. 21-3094, 2022 WL 17831444, at *2 (3d Cir. Dec. 21, 2022).

two misdemeanors and one violation. *Id.* at 94. He was held for forty hours, and all three charges were later dismissed. The plaintiff brought Fourth Amendment malicious prosecution claims stemming from those three charges. *Id.* The jury was instructed that it was required to enter a verdict in defendants' favor if there was probable cause as to even one charge, regardless of whether probable cause existed for the others. *Id.* at 100. The Second Circuit reversed, remanding the case for a new trial at which the jury would be instructed to assess probable cause as to each of the three charges. *Id.*

The Second Circuit recently reiterated its commitment to the charge-specific rule, explaining that "probable cause" must be assessed independently "as to each crime charged in the underlying criminal action." *Kee v. City of New York*, 12 F.4th 150, 166 (2d Cir. 2021).

d. Though it has not expressly addressed the question presented, the Seventh Circuit has strongly signaled it would follow the same approach as the Second, Third, and Eleventh circuits. In adjudicating a state-law malicious prosecution claim, the Seventh Circuit relied on federal Section 1983 malicious prosecution cases to find that "logic supports" the charge-specific approach. *Holmes v. Vill. of Hoffman Est.*, 511 F.3d 673, 682 (7th Cir. 2007). Indeed, the Sixth Circuit, in adopting the "any-crime" rule, acknowledged the "contrary conclusion" of the Seventh Circuit. *Howse*, 953 F.3d at 409 n.3; *cf. Van De Weghe*, 569 F. Appx at 620 (recognizing the Seventh Circuit "disagree[s]" with the "any-crime" rule).

2. a. In contrast to those other circuits, the Sixth Circuit has adopted the "any-crime" rule. Pet. App.

10a. The panel applied that rule to dispose of this case: Because it found probable cause supported the retention of stolen property and licensure violation charges, the court below held that whether probable cause supported the money-laundering charge was irrelevant. *Id.*

The Sixth Circuit's most extended discussion of the "any-crime" rule came in *Howse*. *See* 953 F.3d at 408-10. In *Howse*, the divided panel held that the probable cause supporting an obstruction charge against the plaintiff foreclosed his malicious prosecution claims stemming from two charges of assault, for which there was no probable cause. *Id.* at 408. The *Howse* majority acknowledged that its adoption of the "any-crime" rule marked a split with the holding of *Posr* in the Second Circuit and the reasoning of *Holmes* in the Seventh Circuit. *See id.* at 409 n.3 ("The contrary conclusions of other circuits don't persuade us otherwise."). In dissent, then-Chief Judge Cole also documented "other circuit courts [that] have explicitly rejected the majority's approach." *Id.* at 415-16 (citing Second, Third, Seventh, and Eleventh circuit cases).

The Sixth Circuit has repeatedly denied requests to rehear en banc its "any-crime" rule, including over a dissent from the denial of rehearing en banc that faulted the Circuit for "fail[ing] to engage with the many compelling reasons offered by our sister circuits for declining to adopt such an approach." *See Howse v. Hodous*, 960 F.3d 905, 906 (6th Cir. 2020) (Gibbons, J., dissenting from denial of rehearing en banc) (internal citations omitted). The Sixth Circuit denied rehearing in this case as well. Pet. App. 49a.

b. Recently, the Fifth Circuit endorsed the "any-crime" rule, albeit in dicta. *See Armstrong v. Ashley*, 60 F.4th 262, 279 n.15 (5th Cir. 2023). In *Armstrong*, the Fifth Circuit observed that a malicious prosecution claim "cannot move forward" if "the prosecution is supported by probable cause on at least one charge." *Id.*; *see also Wallace v. Taylor*, No. 22-20342, 2023 WL 2964418, at *6 (5th Cir. Apr. 14, 2023).

3. This Court denied certiorari in *Howse* in 2020. *Howse v. Hodous*, 141 S. Ct. 1515 (2021). Since that time, at least two things have changed. First, the Eleventh Circuit's explicit adoption of the charge-specific rule and thorough discussion of the common law has deepened the circuit split. *Williams*, 965 F.3d at 1158-62. Second, at the time of the *Howse* petition, "[a] majority of the Supreme Court ha[d] not yet decided whether there is a cognizable claim for malicious prosecution under the Fourth Amendment." *Howse*, 953 F.3d at 408 n.2. Since then, this Court in *Thompson v. Clark* not only confirmed that such a claim is cognizable but also articulated its elements, one of which is a lack of probable cause. 142 S. Ct. at 1337, 1341-43 (2022). With those predicate questions answered, this Court should settle the circuit split over the "lack of probable cause" element, which is "the gravamen of the Fourth Amendment claim for malicious prosecution." *Id.* at 1338.

II. The Sixth Circuit's "any-crime" rule is wrong.

In *Thompson v. Clark*, 142 S. Ct. 1332 (2022), this Court explained how to answer questions about the elements of a constitutional tort. First, this Court looks to common-law consensus regarding the malicious prosecution tort "as of 1871, when § 1983 was enacted." *Id.* at 1337. This Court then adopts

those common-law elements "so long as doing so is consistent with the values and purposes of the constitutional right at issue" (here, the Fourth Amendment). *Id.* at 1340 (quoting *Manuel v. City of Joliet, Ill.*, 580 U.S. 357, 370 (2017)).

The *Thompson* framework unequivocally points to the charge-specific rule. At common law, the "lack of probable cause" element of a malicious prosecution tort was analyzed separately for each charge against the accused. That approach is "consistent with the values and purposes" of the Fourth Amendment. And the Sixth Circuit's arguments to the contrary are wrong.

1. Common law as of 1871 confirms that the charge-specific rule is the correct one for a Fourth Amendment malicious prosecution claim brought under Section 1983. In *Williams*, Chief Judge Pryor canvassed treatises, American cases, and British cases from the time of Section 1983's passage. 965 F.3d at 1160. He concluded that, "[a]t common law, probable cause was *specific to each accusation*." *Id.* (emphasis added).

To start, nineteenth-century treatises generally held that for a malicious prosecution claim to proceed, "it [was] not necessary that the whole proceedings be utterly groundless." 2 Simon Greenleaf, Treatise on the Law of Evidence § 449 (10th ed. 1868). Proceedings in which "groundless charges" that "are maliciously and without probable cause coupled with" other well-founded charges were allowed to go forward. *Id.* One treatise reasoned that the groundless charges are no "less injurious" for being coupled with well-founded charges. *Id.* These groundless charges "therefore constitute[d] a valid cause of action." *Id.* Similarly,

another treatise from the period explained that malicious prosecution "is proved, if only a part of the charges were malicious and without probable cause." 1 Francis Hilliard, The Law of Torts or Private Wrongs §§ 433 n.(b), 457 n.(a) (1st ed. 1859) (citation omitted); *see also* William Blackstone, Commentaries 48 (Ballantine ed., 1915) (defense to malicious prosecution claim is based on probable cause for the charge at issue).

Chief Judge Pryor also found that nineteenth-century American courts similarly "concluded that accusers could not shield themselves from liability by establishing probable cause for other charges." *Williams*, 965 F.3d at 1160. For instance, the Vermont Supreme Court explained that: "[T]he want of probable cause need not be shown to extend to all the particulars charged. Nor is it any defence that there was probable cause for part of the prosecution." *Barron v. Mason*, 31 Vt. 189, 198 (1858) (citations omitted). To take another example, the Massachusetts Supreme Judicial Court declared that it "cannot be a correct principle" for "all the suits" to be considered one action because "then a man may at any time protect himself from the consequences of prosecuting a malicious action, by commencing at the same time an action founded on a valid demand." *Pierce v. Thompson*, 23 Mass. 193, 197 (1828); *see also Bauer v. Clay*, 8 Kan. 580, 583 (1871).

Likewise, in nineteenth-century England, courts "refused to allow accusers to raise the existence of probable cause on other charges as a defense to liability" with respect to a baseless charge. *Williams*, 965 F.3d at 1160. For example, in *Reed v. Taylor* (1812) 128 Eng. Rep. 472 (CP), the court held that a

plaintiff could prove malicious prosecution "if some charges in the indictment were maliciously and without probable cause preferred, although there was good ground for others of the charges preferred." *Id.* Similarly, in *Ellis v. Abrahams* (1846) 115 Eng. Rep. 1039, 1041 (QB), the court affirmed a jury verdict in favor of a malicious prosecution plaintiff who demonstrated absence of probable cause for only one of two charges.

By 1871, then, the common law pointed in a common direction: Probable cause for one charge would not have extinguished malicious prosecution claims for another, baseless charge.

2. Because "the American tort-law consensus as of 1871" used the charge-specific rule, *Thompson* requires the Court to "similarly construe the Fourth Amendment claim under § 1983 for malicious prosecution" so long as doing so is "consistent . . . with the values and purposes of the Fourth Amendment." *See id.* at 1338 (internal quotation marks omitted). That proviso is satisfied here. Indeed, "[b]edrock Fourth Amendment principles support" adopting the charge-specific rule. *Williams*, 965 F.3d at 1162.

Start with the words of the Warrant Clause itself: "[N]o Warrants shall issue, but upon probable cause, supported by Oath or affirmation." As this Court has explained, that language "surely takes the affiant's good faith as its premise." *Franks v. Delaware*, 438 U.S. 154, 164 (1978). That is, "[w]hen the Fourth Amendment demands a factual showing sufficient to comprise probable cause, the obvious assumption is that there will be a *truthful* showing." *Id.* at 164-65 (internal quotation marks omitted) (emphasis in original). The Warrant Clause "would be reduced to a

nullity if a police officer was able to use deliberately falsified allegations to demonstrate probable cause, and, having misled the magistrate, then was able to remain confident that the ploy was worthwhile." *Id.* at 168.

None of that is less true when probable cause supports some *other* offense. After all, the harm of a falsehood in a warrant application does not depend on whether there's probable cause for some other offense; this Court looks to whether the falsehood undermines probable cause for the listed charge. *See id.* at 156.

This Court has also expressed concerns about exposing officers to "unwarranted civil suits." *Thompson*, 142 S. Ct. at 1340. The charge-specific rule doesn't do so. Unlike arrests, in which officers frequently make "on-the-scene assessment[s] of probable cause" that involve split-second judgments, the initiation of legal process happens when "[t]here no longer is any danger that the suspect will escape or commit further crimes." *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). When preparing a probable cause affidavit or signing a criminal complaint, officers have time to reflect on the accused's conduct. Officers are already required to support every charge on which they sign off in the criminal complaint with probable cause; the charge-specific rule asks nothing more.

Moreover, "officers are still protected by the requirement that the plaintiff show" the other elements of malicious prosecution: favorable termination, malicious motive, and a resulting seizure. *See Thompson*, 142 S. Ct. at 1340-41. And an officer is protected by qualified immunity unless there is clearly established law on each element. *See id.* at 1338.

The charge-specific rule is thus not only consistent with the common law but also "with the values and purposes of the Fourth Amendment." *Id.* at 1337 (citation omitted).

3. The Sixth Circuit provided two justifications for the "any-crime" rule. Neither is persuasive.

a. First, the Sixth Circuit assumed that courts must apply the "same rules" for both false arrest and malicious prosecution claims because both claims "arise under the Fourth Amendment." *Howse v. Hodous*, 953 F.3d 402, 409 (6th Cir. 2020); Pet. App. 10a. But this Court's decision in *Wallace v. Kato*, 549 U.S. 384 (2007), has plainly recognized the "tort of malicious prosecution" as "entirely distinct" from that of false arrest. *Id.* at 390 (internal quotation marks omitted).

And as the Eleventh Circuit elaborated, "[W]arrantless arrests offer little guidance on how we should evaluate seizures pursuant to legal process." *Williams*, 965 F.3d at 1162. That's because an officer may make a warrantless arrest with any charge or no charge in mind, so long as a hypothetical reasonable officer would have probable cause for some charge. *See Devenpeck v. Alford*, 543 U.S. 146, 153 (2004). The "any-crime" rule thus makes a good deal of sense when raising a false arrest claim (that is, a claim based on a warrantless arrest). But securing an arrest warrant or initiating other types of legal process requires an officer to specify what charges he had in mind, and those charges must be supported by probable cause. For a malicious prosecution claim, then (that is, a claim based on legal process, such as an arrest warrant), the charge-specific rule makes sense and the "any-crime" rule does not.

b. Second, the Sixth Circuit asserted that the "any-crime" rule made more sense because additional charges do not "change the nature of the seizure" and may not "change the length of detention." *Howse*, 953 F.3d at 409 n.3. But that reasoning conflates distinct elements of the Fourth Amendment malicious prosecution tort. Recall that a plaintiff must prove (i) lack of probable cause; (ii) malice; (iii) favorable termination; and (iv) a harm grounded in the Fourth Amendment. *See Thompson*, 142 S. Ct. at 1337 & n.2. If anything, questions about the "nature of the seizure" or "length of the detention" would affect how a plaintiff proves the *fourth* element, a connection to the Fourth Amendment, though even that proposition is dubious (more on that in a moment). But the Sixth Circuit never explained why those questions would affect the *first* element, the common-law lack of probable cause element.

Indeed, a plaintiff can prove the fourth element—a harm grounded in the Fourth Amendment—without showing that the bogus charges "change[d] the length of the detention." He could prove that the bogus charges resulted in the seizure of his property (in Mr. Chiaverini's case, for instance, police confiscated jewelry and computers), another Fourth Amendment harm. *See Soldal v. Cook Cnty.*, 506 U.S. 56, 61 (1992) (interference with property interests is a "seizure" for Fourth Amendment purposes); *supra*, at 8. Or he could prove that the groundless charges were used to procure an arrest warrant, thereby implicating the Warrant Clause of the Fourth Amendment, which doesn't have a seizure requirement at all. *See supra*, at 21-22.

To be sure, "probable cause for other offenses may be relevant to damages." *Williams*, 965 F.3d at 1161; *see also* Simon Greenleaf, Treatise on the Law of Evidence § 456 (10th ed. 1868). To recover compensation for his days in jail, for instance, Mr. Chiaverini will need to prove that "but for that illegitimate charge, he would have been released earlier or would not have faced detention." *See Williams*, 965 F.3d at 1161 (internal citations omitted). Similarly, to recover for property seizure or damage to his reputation, he'll have to show that the money-laundering charge was the "but for" cause of those harms. *See id.*

But whether Mr. Chiaverini can do so (and recall that his case has been bifurcated, such that he has not yet had the opportunity to prove damages, *supra*, at 11), proof of "actual damages is not determinative of whether he can state a claim for a constitutional violation." *See Williams*, 965 F.3d at 1161. That's presumably why the Second, Third, and Eleventh Circuits require no proof that the groundless charge changed the length of detention. *See Posr v. Doherty*, 944 F.2d 91, 94, 100 (2d Cir. 1991) (plaintiff detained for 40 hours; no attempt to determine whether detention would have been shorter but for groundless charge); *Johnson v. Knorr*, 477 F.3d 75, 79 81-85 (3d Cir. 2007) (plaintiff detained for two days; no attempt to determine whether detention would have been shorter but for groundless charge); *Williams*, 965 F.3d at 1161-62 (constitutional violation even if plaintiff cannot prove that "but for the illegitimate charge, he would have been released earlier").

The Sixth Circuit's "any-crime" rule for the "lack of probable cause" element of the Fourth Amendment

malicious prosecution tort is thus based on a false premise about an entirely different element of the tort.

III. The question presented is important.

1. The question presented recurs frequently. In the last twelve months, the federal courts of appeals have heard more than 50 cases that raised Section 1983 malicious prosecution claims concerning multiple charges. More than 40 of those cases analyzed the probable cause element of malicious prosecution claims. And hundreds of district court cases per year raise the same question. This Court itself has reiterated the continuing viability and importance of Section 1983 claims for malicious prosecution twice in the past six years. *See Manuel v. City of Joliet, Ill.*, 580 U.S. 357 (2017); *Thompson v. Clark*, 142 S. Ct. 1332 (2022). Given the frequency with which the federal courts perform the probable-cause analysis in malicious prosecution claims, this Court should grant certiorari to provide guidance on an important question of federal law.

2. Under the "any-crime" rule, probable cause for even the smallest offense would allow officers to evade accountability for constitutional violations when they lie in order to bring meritless charges. In a world where "criminal laws have grown so exuberantly and come to cover so much previously innocent conduct that almost anyone can be arrested for something," virtually any officer can take advantage of this shield by dredging up some sort of criminal offense supported by probable cause. *See Nieves v. Bartlett*, 139 S. Ct. 1715, 1730 (2019) (Gorsuch, J., concurring in the judgment).

Allowing the "any-crime" rule to shield police officers in this way leads to indefensible results. For

example, in the Sixth Circuit, a police officer can seek an arrest warrant based on a traffic violation ("rear license not illuminated") and get away with tacking on a concededly bogus obstruction charge so long as he can prove the traffic violation. *See Mix v. West*, No. 5:22-CV-067, 2023 WL 2654175, at *3-*4 (W.D. Ky. Mar. 27, 2023). He can press charges for resisting and obstructing arrest (a felony), even though he had probable cause for only disturbing the peace (a misdemeanor). *See Peterson v. Smith*, No. 18-12838, 2021 WL 1556863, at *4 (E.D. Mich. Feb. 1, 2021). But for the charge-specific rule, a police officer could entirely fabricate a drug trafficking charge and try to immunize himself by appending a jaywalking charge. *Cf. Goldring v. Henry*, No. 19-13820, 2021 WL 5274721 at *1 (11th Cir. Nov. 12, 2021). Or he could accuse someone of attempting to murder police officers knowing full well he only had probable cause for firearm concealment. *Cf. Williams*, 965 F.3d. at 1152.

3. Finally, the Sixth Circuit's anomalous "any-crime" rule undermines uniform enforcement of the Fourth Amendment. The "Fourth Amendment's meaning" should not "vary from place to place." *Virginia v. Moore*, 553 U.S. 164, 172 (2008) (citation omitted). A criminal defendant in Ohio (governed by the "any-crime" rule) should not enjoy fewer Fourth Amendment protections than a similarly situated defendant in neighboring Pennsylvania (governed by the charge-specific rule).

On the front end—at the time legal process begins—both defendants should benefit from the deterrent effect of the charge-specific rule. Given the ubiquity of plea bargains in the criminal justice system, "a defendant facing a list of charges where

only a single one is supported by probable cause would be in a much worse negotiating posture for plea bargaining than one who is only bargaining over the disposition of a single charge." *Howse*, 953 F.3d at 416 (Cole, J., dissenting). Under the charge-specific rule, officers are deterred from bringing multiple charges to improperly influence plea bargaining.

And on the back end—after the criminal legal process has run its course—two criminal defendants who faced the same mix of bogus and legitimate charges should be afforded the same opportunity to bring suit. Even if they receive a favorable termination, victims like Mr. Chiaverini still endure physical, mental, reputational and financial burdens stemming from baseless charges. The Anglo-American legal tradition has long prioritized redressing harms to "life, or limb, or liberty," "property," or "fame" that result from the wrongful initiation of charges. *See Savile v. Roberts* (1698) 91 Eng. Rep. 1147, 1149–50 (KB); *see also* Frederick Pollock & Frederic William Maitland, The History of English Law Before the Time of Edward I 537 (1895) (describing "wrongful prosecution" as a form of "aggravated defamation" for which, before the Norman Conquest, "one might lose one's tongue").

IV. This case is the right vehicle to resolve the question presented.

1. The Sixth Circuit's analysis began and ended with the "any-crime" rule. The rule provided the sole basis for the Sixth Circuit's conclusion that Mr. Chiaverini's malicious prosecution claim did not survive summary judgment. Mr. Chiaverini argued that probable cause was lacking for the money-laundering charge. Pet. App. 10a n.8. But the Sixth

Circuit deemed that question irrelevant, instead concluding, "We need not decide whether the officers had probable cause for the money-laundering charge because probable cause existed for the other valid charges." *Id.* The application of the "any-crime" rule was thus outcome-determinative.

In a charge-specific circuit, by contrast, the court below would have been forced to engage with Mr. Chiaverini's strong arguments that there was no probable cause for the money-laundering charge.

First, under Ohio law, a person is guilty of money laundering if they "conduct or attempt to conduct a transaction *knowing*" that the items involved in the transaction are the product of unlawful activity. Ohio Rev. Code § 1315.55(A)(1) (West 2023) (emphasis added). The only suggestion that Mr. Chiaverini knew of the jewelry's provenance while conducting the Burns transaction came from the "confession" fabricated by Steward and Evanoff. *See* Pet. App. 4a (noting that the "veracity of Officer Steward's update is in dispute").

Second, under Ohio law, a person is guilty of the kind of money-laundering Mr. Chiaverini was charged with only if the value of the property at issue exceeds $1,000. *See* Ohio Rev. Code § 2923.31(I)(2)(C) (West 2023). Here, there was no reason for law enforcement to think that the purportedly stolen jewelry met, or even approached, that statutory threshold. Mr. Chiaverini bought the jewelry in question for $45, and Evanoff's own complaint listed the value of the property at $350. Pet. App. 20a.

2. The Sixth Circuit did not suggest that any of the other elements of Mr. Chiaverini's claim were lacking. Nor could it. The "motive in instituting" legal

process (that is, in securing the arrest warrant and probable-cause determination) "was malicious": Steward and Evanoff fabricated Mr. Chiaverini's confession. *See Thompson v. Clark*, 142 S. Ct. 1332, 1338 (2022) (internal quotation marks omitted); Pet. App. 3a-4a; *see also Manuel v. City of Joilet, Ill*, 580 U.S. 357, 367 n.6 (2017) (arrest warrant is "a way of initiating legal process"). The prosecution was "favorabl[y] terminat[ed]" when charges against Mr. Chiaverini were dropped. *See Thompson*, 142 S. Ct. at 1338; Pet. App. 7a. And the malicious prosecution claim was connected to the Fourth Amendment: The Warrant Clause and the prohibition on unreasonable seizures were violated when officers lied to secure an arrest warrant and when Mr. Chiaverini and his property (jewelry and computers) were seized. *See Thompson*, 142 S. Ct. at 1337 n.2; Pet. App. 3a-4a.

Moreover, the Sixth Circuit ruled against Mr. Chiaverini on the first prong of the qualified immunity inquiry, finding no constitutional violation, rather than on the second prong, finding no clearly established law. Pet. App. 8a. The constitutional ruling thus isn't encumbered by a holding about clearly established law.[7]

---

[7] Indeed, it's unlikely that Steward and Evanoff would receive qualified immunity. *See Spurlock v. Satterfield*, 167 F.3d 995, 1006 (6th Cir. 1999) ("[A] reasonable police officer would know that fabricating probable cause, thereby effectuating a seizure, would violate a suspect's clearly established Fourth Amendment right to be free from unreasonable seizures."); *Williams*, 965 F.3d at 1168-69 (denying qualified immunity to officers because law is "clearly established . . . that the Constitution prohibits a police officer from knowingly making false statements in an arrest affidavit about the probable cause for an arrest").

4. Even before reaching the damages phase of the case, the record already vividly illustrates the stakes of the question presented. Mr. Chiaverini was jailed for nearly four days, during which he suffered a shoulder injury and was subject to a strip search. Police officers confiscated valuable jewelry and computers from the Diamond and Gold Outlet. Because of Mr. Chiaverini's detention and the property seizure, the jewelry store lost its manager and much of its equipment during the holiday shopping season. For months, until the charges against him were dropped, Mr. Chiaverini was required to be available for court appearances.

The cloud of the money-laundering charge in particular—the only felony charge of the bunch—continues to haunt Mr. Chiaverini. Long-time clients and associates in the jewelry industry refused to work with him, even after the charges were dismissed. R. 98, Page ID # 2574. His bank refused to lend to him. *Id.* 2568. And even today, over six years after the charges were dropped, the first two Google images results for "Jascha Chiaverini" are Mr. Chiaverini's mugshot and the list of charges, with money-laundering at the top.

Because in at least three other circuits, Mr. Chiaverini could seek redress for those harms, this Court should grant certiorari.

CONCLUSION

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

Respectfully submitted,

Michael H. Stahl
STAHL AND STEPHENSON
316 N. Michigan Street
Suite 600
Toledo, OH 43604

George C. Rogers
4048 Tralee Drive
Lake Wales, FL 33859

Easha Anand
Counsel of Record
Jeffrey L. Fisher
Pamela S. Karlan
STANFORD LAW SCHOOL
SUPREME COURT
LITIGATION CLINIC
559 Nathan Abbott Way
Stanford, CA 94305
(650) 724-3345
eanand@stanford.edu

July 14, 2023