

IN THE SUPREME COURT OF THE UNITED STATES

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No. 23-50

JASCHA CHIAVERINI, ET AL., PETITIONERS

v.

CITY OF NAPOLEON, OHIO, ET AL.

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ON WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

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MOTION OF THE UNITED STATES FOR LEAVE TO  
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE  
AND FOR DIVIDED ARGUMENT

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Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case and that the time be allotted as follows: 25 minutes for petitioners, 10 minutes for the United States, and 25 minutes for respondents. Counsel for petitioners and counsel for respondents have consented to this motion.

This case presents the question whether a police officer who initiates a baseless criminal charge that causes an unreasonable

seizure is liable on a Fourth Amendment malicious-prosecution claim under 42 U.S.C. 1983 if the baseless charge was accompanied by a separate, valid charge for which the officer had probable cause. The United States has filed a brief as amicus curiae supporting vacatur, arguing that such an officer can be held liable on a Fourth Amendment malicious-prosecution claim, but only if the baseless charge caused an unreasonable seizure.

The United States has a substantial interest in the resolution of the question presented. First, the United States has a substantial interest in ensuring that the constitutional rights at issue here are clearly defined and carefully safeguarded. The United States prosecutes individuals -- mostly state and local law-enforcement officers -- who willfully violate federal rights under color of law. See 18 U.S.C. 241, 242. The United States also brings civil suits against state and local law-enforcement agencies under 34 U.S.C. 12601, which authorizes the Attorney General to seek appropriate relief to remedy a pattern or practice of law-enforcement officers' violations of constitutional rights.

Second, although this case involves a civil suit against local law-enforcement officers under Section 1983, this Court's resolution of the question presented could conceivably affect Fourth Amendment suits against federal officers under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). The Court has invoked its Section 1983 jurisprudence in cases involving Bivens actions against federal officers. See,

e.g., Hartman v. Moore, 547 U.S. 250 (2006). The United States has a substantial interest in the circumstances in which federal officers can be sued for violating the Fourth Amendment.

Third, the United States brings criminal charges and detains suspects pending trial on those charges. The United States has a substantial interest in the scope of constitutional rights relating to criminal prosecution and pretrial detention.

The United States has previously presented argument as amicus curiae in cases concerning the availability and elements of Fourth Amendment malicious-prosecution claims. See Thompson v. Clark, 596 U.S. 36 (2022) (No. 20-659); Manuel v. City of Joliet, 580 U.S. 357 (2017) (No. 14-9496). The United States also has presented oral argument as amicus curiae in other cases involving constitutional-tort claims against police officers under Section 1983. See, e.g., Vega v. Tekoh, 597 U.S. 134 (2022) (No. 21-499); Nieves v. Bartlett, 139 S. Ct. 1715 (2019) (No. 17-1174); County of Los Angeles v. Mendez, 581 U.S. 420 (2017) (No. 16-369). The United States' participation in oral argument could materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Solicitor General  
Counsel of Record

MARCH 2024