

23-6832

No. \_\_\_\_\_

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

FEB 22 2024

OFFICE OF THE CLERK  
SUPREME COURT U.S.

Willie Max Levens Jr — PETITIONER  
(Your Name)

Louisiana Insurance Guaranty Association  
Dexter Gaspard & Tim Soignet — RESPONDENT(S)  
Atlantic Specialty Insurance Company  
ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Fifth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Willie Max Levens Jr  
(Your Name)

308 Washington Street  
(Address)

Greenville, Alabama, 36037  
(City, State, Zip Code)

(334) 494-2469  
(Phone Number)

#### QUESTION(S) PRESENTED

1. Whether the present case of Levens vs Gaspard involves violation of the 4th Amendment Rights.
2. Whether an off duty officer still qualifies for qualified immunity.
3. Whether or not if Defendant used excessive force.
4. Why was the fact that a written notarized affidavit from restaurant owner stating that Defendant Dexter Gaspard choking Plaintiff and calling Plaintiff racial slurs was ignored.
5. Why was Plaintiff not allowed to press charges against Defendant.
6. Why did the Lower Courts assume Plaintiff was drunk when video evidence shows Plaintiff entering the restaurant walking normal and only shows signs of being unbalanced after being pushed with excessive force through the restaurant doors outside to the ground. There was also no sobriety test given to or taken by Plaintiff that stated Plaintiff was intoxicated.

## LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## RELATED CASES

Levens vs. Gaspard et al No. 2: 21-cv-35, U.S. District Court for the Eastern District of Louisiana. Judgement entered March 10<sup>th</sup>, 2023

Levens vs. Gaspard No 23-30236 U.S. Court of Appeals for the Fifth Circuit Judgement entered November 28, 2023.

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## TABLE OF AUTHORITIES CITED

### CASES

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Fourth Amendment Section 242  
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### STATUTES AND RULES

Title 18 United State Code  
Title 42 of The Civil Rights ACT of 1964

### OTHER

IN THE  
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 28, 2023.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 28, 2023, and a copy of the order denying rehearing appears at Appendix A.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1.) 4<sup>th</sup> Amendment
- 2.) Section 1983 (42 USC.)
- 3.) Hudson vs McMillian, 503 U.S.1 (1982)
- 4.) 18 USC Section 42
- 5.) 5<sup>th</sup> Amendment
- 6.) 6<sup>th</sup> Amendment



## STATEMENT OF THE CASE

On Feb 22<sup>nd</sup> 2020 Plaintiff Willie Levens was returning back to the restaurant after performing a catering job for the owner of the restaurant. Party goes from the catering event entered the restaurant before Plaintiff Willie Levens, and the Owner of the restaurant was asking them to go outside. Plaintiff Willie Levens exited the party bus and entered the restaurant to retrieve the owner because the purchaser of the catering job wanted to speak with the owner. Plaintiff walked passed Defendant and around the bar then back pass the Defendant with the owner of the restaurant. As Plaintiff and owner of the restaurant made it to the front door the Defendant came from behind and without warning and shoved Plaintiff out of the restaurant onto the ground as video evidence shows. Video evidence will also show that after defendant shoved Plaintiff out door onto the ground Plaintiff had difficulty standing and walking afterwards which was a result of the injuries sustained after the Defendant shoved Plaintiff to the ground. Video footage will also show owner of the restaurant signaling for Plaintiff to go to his car and even then after reaching the owners car the Defendant came back out of the restaurant where he met Plaintiff at the restaurant owners car and began to choke Plaintiff and scream racial slurs toward Plaintiff as he called for back up. Restaurant owner help free Plaintiff from Defendant's chokehold as backup arrived on the scene. After the responding officers arrived Plaintiff was released after he was found to have done no wrong. No police report was filed and Plaintiff was not allowed to press charges. Defendant Gaspard lied in his deposition. Defendant Gaspard first makes the claim that he heard the restaurant owner tell the Plaintiff to get out of the restaurant and a sworn affidavit by restaurant owner Tyler Verdi says that he stated Plaintiff name as they talked towards the door which made Defendant Gaspard aware of who the Plaintiff was. Defendant Gaspard said he reacted because he did not know who the Plaintiff was however Plaintiff had passed Defendant twice inside the restaurant and even after the shove that caused the broken knee Defendant returned from inside the restaurant to back outside even after restaurant owner made him aware of who Plaintiff was.

# REASONS FOR GRANTING THE PETITION

Conner, 490 U.S. 386 (1989)

Plaintiff asks courts to review the bias opinions of the Lower Courts and look at the fact that Plaintiff was returning back to his place of work to begin working when Defendant caused harm to him. Plaintiff was doing his job and suffered injuries and the Defendant excuse was he didn't know who Plaintiff was.

The traumatizing event that happened has changed my life and my families life terribly. Due to the injuries I sustained from Defendant Dexter Gaspard I have not been able to work. This has been a major strain in my life. I know I have not been an outstanding citizen my whole life. I been striving and praying to be a better person and God has been answering that. I had a great job working offshore as a rigger and a painter and my life and my family life was doing really good. I wasn't living my best life but we was doing really good.

My life now has been turned completely upside down. I has been over 4 years now that I havent been able to work. I've been evicted from my home and my fiancée left me. My daughter has been suffering and sad because I'm not able to help her or her mom. My stepsons suffered a great deal also while trying to finish high school. The tragic event that has happened me has made me feel like I am less than a man. I cannot provide for my family and it hurts. I was the bread winner of the family and everyone depended on me and now I have nothing absolutely nothing. My knee pains and hurts me so bad. I dont understand why the Defendant Dexter Gaspard had to do this to me. He pushed me the Plaintiff from inside the restaurant through the doors on to the ground which caused multiple fractures to my knee. My life has been in turmoil ever since. I cant even provide for my self. I havent been able to work to purchase hygiene products for my self. I havent to work to support myself nor my family. I received food stamps for a few months but that ended because I'm not working. My knee hurts while standing sitting and it hurts even worse when bending it.

I inserted is a sworn affidavit from the restaurant owner stating that the Defendant's actions were unnecessary and excessive. I've been wandering staying from place to place. I have no insurance, no money to buy food. I have nothing. I'm lost and depressed and my family is tired of me. I've lost everything. my home my family my life my dignity and my respect. Due to the injuries I sustained Defendant Dexter Gaspard has took my life from me and my family.

I wished my daughter a happy birthday on february 9th and her words to me were "Dad the best birthday wish you could give to me is to tell me your able to work again or that you are able to financially support the family again."

REASONS FOR GRANTING THE PETITION

I started crying. I felt so ashamed because I'm not able to work and help my daughter and family. Defendant Dexter Gaspard took everything from me. He took my life. I have nothing.

Defendant Dexter Gaspard being an officer of the law he is supposed to help people. Defendant Dexter Gaspard is supposed to make lives better. He has made my life and my family life sad, miserable and depressing, wondering how we will make it from one day to the next. Defendant Dexter Gaspard took everything from me.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Willie M. Levens II

Date: February 21, 2024