

No. 24-172

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In the Supreme Court of the United States

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MARQUES A. JOHNSON, PETITIONER

v.

JAMES DUNN

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*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT*

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**SUPPLEMENTAL BRIEF FOR PETITIONER**

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JOHN P. ELWOOD  
ANDREW T. TUTT  
KIRBY MAYO  
DANIEL YABLON  
MATTHEW L. FARLEY  
ARNOLD & PORTER  
KAYE SCHOLER LLP  
601 Massachusetts Ave.,  
NW  
Washington, DC 20001

RYAN D. BARACK  
*Counsel of Record*  
MICHELLE ERIN NADEAU  
KWALL BARACK NADEAU  
PLLC  
*304 S. Belcher Rd.*  
*Suite C*  
*Clearwater, FL 33765*  
*(727) 441-4947*  
*rbarack*  
*@employeerights.com*

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## **SUPPLEMENTAL BRIEF FOR PETITIONER**

Pursuant to this Court’s Rule 15.8, petitioner submits this supplemental brief to bring to the Court’s attention a recent court of appeals decision, *Holmes v. Reddoch*, 2024 WL 4099864, (5th Cir. Sept. 6, 2024) (Wiener, Elrod, and Wilson, JJ.), which reaffirms that the circuits are intractably divided on whether it is clearly established that the Fourth Amendment prohibits arresting a person for refusing to identify himself. *See* Pet. 19-25 (discussing split). The decision also makes clear that the issue arises frequently and has national importance. *See* Pet. 30-33.

*Holmes* involved an arrest that occurred in September 2018, just weeks after Mr. Johnson’s arrest in this case. There, Michael Holmes, a member of a Metairie, Louisiana camera club, was taking photographs at a public fair using a new lens. 2024 WL 4099864 at \*1. A deputy sheriff asked for Holmes’ identification. When Holmes asked why the deputy wanted identification in response to the deputy’s repeated request for identification, the deputy arrested him. Holmes was then charged with resisting arrest. *Id.* at \*2. The charge apparently was later dismissed.

Holmes filed suit in federal district court. As relevant here, a jury concluded that the deputy had “unreasonably arrested Holmes, in violation of the Fourth Amendment, and that qualified immunity did

not shield him from liability.” *Id.* The jury also imposed punitive damages under 42 U.S.C. § 1983.

The Fifth Circuit unanimously affirmed. The court rejected the deputy’s argument that the arrest was lawful, emphasizing that “this court has recognized the principle that ‘the police cannot arrest an individual solely for refusing to provide identification.’” *Id.* at \*4 (quoting *Turner v. Lieutenant Driver*, 848 F.3d 678, 695 (5th Cir. 2017); *see also id.* (discussing *Hiibel v. Sixth Jud. Dist. Court of Nev.*, 542 U.S. 177, 184-185 (2004))). The court noted that Louisiana law conformed to Fourth Amendment requirements, because “it only criminalizes the refusal to provide a name *after* being lawfully detained or arrested.” *Id.* The court further held that the deputy was not entitled to qualified immunity because “he unlawfully arrested Holmes, and he was *unreasonable* in his belief that he could effect a lawful arrest of Holmes for any crime.” *Id.* at \*7. Moreover, the court concluded that “there was a sufficient evidentiary basis to conclude that [the deputy] acted with at least ‘reckless or callous indifference’ to Holmes’ constitutional rights,” and “[t]herefore, the jury did not abuse its discretion by awarding punitive damages under § 1983.” *Id.* at \*8.

*Holmes* underscores the need for this Court’s review in this case. To begin, it confirms that the federal courts of appeals remain intractably divided on whether “arresting a person for merely failing to identify himself violates the Fourth Amendment.” Pet. 3. And it squarely conflicts with the decision of the Eleventh Circuit by concluding that “the law was

clearly established before the arrest in this case.” *Id.* Finally, it also confirms that the questions presented by this petition recur often due to the frequency of interactions between law enforcement officers and members of the public. *See id.* at 30-31.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

JOHN P. ELWOOD  
ANDREW T. TUTT  
KIRBY MAYO  
DANIEL YABLON  
ARNOLD & PORTER  
KAYE SCHOLER LLP  
*601 Massachusetts Ave., NW*  
*Washington, DC 20001*

RYAN D. BARACK  
*Counsel of Record*  
MICHELLE ERIN NADEAU  
KWALL BARACK NADEAU  
PLLC  
*304 S. Belcher Rd.*  
*Suite C*  
*Clearwater, FL 33765*  
*(727) 441-4947*  
*rbarack@employeerights.com*

September 2024