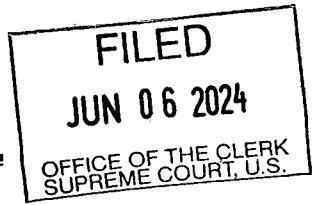


24-5463
No. _____



IN THE

Supreme Court of the United States

ASHLEY WILKERSON,

PETITIONER,
V.

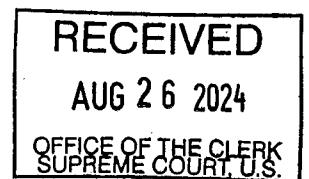
CITY OF HOUSTON,

RESPONDENT,

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Do the government's repeated violations of the First and Fourteenth Amendments, as demonstrated by informal pressure from police officers such as, altering the Petitioner's report about a high-tech transnational terrorist group to portray it as unhinged, concealing the crime, sharing inaccurate reports with external parties, and using threats and intimidation to discourage reporting of terrorism—constitute actionable constitutional violations under 42 U.S.C. § 1983?

Whether the failure of police, attorneys, and court officials to act upon knowledge of known interference by a high-tech transnational terrorist group undermines the integrity of the judicial process and constitutes violations of Due Process, and what remedies are available to parties harmed by such inaction?

Did the Fifth Circuit and the district court fail to adequately consider the inculpatory evidence, including videos and audio recordings, as well as a successful Internal Affairs investigation that substantiated the practices and procedures which violated the Petitioner's constitutional rights as established by the Supreme Court?

Did the lower courts misinterpret the requirements for establishing a direct causal connection between the alleged actions of the police officers and the claimed constitutional violations?

PARTIES TO THE PROCEEDING

The parties to the proceeding in the courts include:

Petitioner : Ashley Wilkerson, Plaintiff (Trial court : 334th Case No. 23-21065)

District Court : Judge Keith Ellison (Civil Action No. 4:23-cv-01945 and Appellant in the Fifth Circuit of Appeals Appeal No. 23-20390)

Respondent : The City of Houston (Trial court : 334th Case No. 23-21065)

District Court : Judge Keith Ellison (Civil Action No. 4:23-cv-01945 and Appellee in the Fifth Circuit of Appeals Appeal No. 23-20390)

RULE 29.6 STATEMENT

The Petitioner is a natural persons, no corporate disclosure is required under Rule 29.6.

STATEMENT OF RELATED CASES

The proceedings in other courts that are directly related to this case are:

- Wilkerson v City of Houston, Case No. 23-21065; Removed 5/25/2023
- Wilkerson v. City of Houston, Civil Action No. 4:23-cv-01945; Summary Judgement on the Pleadings; Case Dismissed 07/18/2023
- Wilkerson v. City of Houston,Appeal No. 23-20390; Judgment Affirmed; No opinion 03/08/2024

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Ashley Wilkerson respectfully requests the issuance of a Writ of Certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit.

OPINIONS

The motions hearing held July 18, 2023, in which The Honorable Keith Ellison of the United States District Court for the Southern District of Houston, Texas is produced. The Fifth Circuit provided no opinion, dated March 08, 2024, affirming the district court's decision of the United States Court of Appeals for the Fifth Circuit is reproduced at Pet. App.2b. The opinion is unpublished.

JURISDICTION

The Fifth Circuit entered judgment on March 08, 2024. See Pet. App.1a. This Court's jurisdiction is invoked under 28 U.S.C. § 1254(1).

FEDERAL RULE INVOLVED

42 U.S.C. § 1983: 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, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

The First Amendment guarantees freedoms concerning religion, expression, assembly, and the right to petition. It forbids Congress from both promoting one religion over others and also restricting an individual's religious practices. It guarantees freedom of expression by prohibiting Congress from restricting the press or the rights of individuals to speak freely. It also guarantees the right of citizens to assemble peaceably and to petition their government.

The Fourteenth Amendment to the U.S. Constitution provides, in relevant part: "No state shall ... deprive any person of life, liberty, or property, without due process of law.

STATEMENT OF THE CASE

On April 9, 2022, the Petitioner sought to report her victimization by a terrorist group that employs wireless, stealth energy-based weapons to engage in aggravated crimes remotely and covertly. She is also an activist, working on a book and works in mental health as a case manager. The Petitioner's career rest on her mental competency. Despite providing substantial evidence, including photographs and written statements, officers from the Houston Police Department (HPD) failed to accurately document and classify her reports correctly. Instead, HPD Officer Villareal wrote a false report , which stated she reported that "was being assaulted by a higher power with radio waves – Unknown 1," rather than anonymous members high tech transnational terrorist network was engaging in aggravated crimes remotely. The HPD officer then filed the erroneous report and shared it with a third party. This is not the first time HPD officers have committed the same act, in fact there have been more than several dozen occasions between 2008-2022.

The ability to report a crime is fundamental to crime prevention, and every citizen and public servant

in the United States has a duty to report terrorist activities. The ability to report a crime is a First Amendment right. The importance of being able to report a known threat is further conveyed by, The Homeland Security Act of 2002 was established to facilitate information sharing, coordination, and countermeasures related to national security. However, for such information to be shared, it must first be allowed to be reported. In Houston, constitutional violations, informal pressures, and direct, have been employed to deter the Petitioner from reporting a terrorist group that is using energy base cancer causing weapons to subject the Petitioner to aggravated physical and sexual assault, has branded her face and body (which she provided photos of during her report), is directly linked to several mass incidences of violence, managing a wireless exploitation ring, engages in sex crimes, and is managing a pedophile ring present entirely remotely, among other crimes.

The City of Houston police department has been restricting the Petitioner's ability to express, report, or talk about a criminal network that poses a public concern, lest she wants to incur mental health reports, impact to her career or harassment by Houston Police Department Officers. The City was made aware of it's police departments behavior numerous times through it's policy markers but they have remained deliberately indifferent to their policies, customs and practices related to violating the Petitioners First Amendment rights, and have denied her the right to due process and failed to trained and supervise their employees, and at the time address their problems with their records, record keeping and record management systems also used to silence the Petitioner and stop her from reporting the crimes.

The City of Houston's police have engaged in both direct and indirect actions that constitute constitutional violations, including intimidation,

threats, and deterrence against the Petitioner for exercising her rights. These actions were clearly articulated by the pro se Petitioner.

Silencing individuals who speak out about matters of public concern has dire consequences, including the chilling of free speech, suppression of the truth, violation of human rights, and undermining of accountability. This case exemplifies these dangers.

Despite the City of Houston officials, headed by Internal Affairs, and its police department receiving reports from the Petitioner, speaking at City Hall, along with video and recording that shows officers violating the Petitioner's right to seek redress and file a grievance repeatedly they failed to act. The evidence clearly confirmed that the city's police has violated her constitutional rights, and Internal Affairs agreed but the reports remain unchanged deterring the Petitioner from reporting the crime. The reports were not only negligent but they were used to violate and chill the petitioners right to free speech.

In response to her efforts to report the crimes, the police alters the Petitioner's statements, contacted the mental health division, claiming she said a "higher power was assaulting her – Unknown 1" as a bold act of deterrence from reporting. This occurred despite the acknowledgment of HPD Sergeant Hendrick, who was present and stated she did not believe the Petitioner, who is not mentally ill, was mentally ill. She said she would file the report correctly and admitted that HPD had poor training in identifying mental health crisis.

When the mental health authority visited the Petitioner's family home, the official stated that she did not believe the Petitioner was mentally ill and expressed concern that the police were "covering it up." The Petitioner's attempts to correct the report were met with further intimidations by the police, including invasive searches, mockery, and

harassment. After filing an Internal Affairs complaint, the Petitioner was informed that the officer involved would be reprimanded, yet the City refused to correct the report, impeding her ability to report the crime due to fear of detention, arrest, more damage to her career and her family rights.

Petitioner Ashley Wilkerson filed a civil suit against the City of Houston under 42 U.S.C. § 1983, alleging violations of her First and Fourteenth Amendment rights, as well as negligence under the Texas Tort Claims Act and defamation. The Petitioner contends that HPD engaged in a pattern of misconduct, that its policies, practices and customs of misdocumenting and/or manipulating the report of the crime in a manner that violated her rights to report the crime, threatening her liberties and that its tangible property also caused injury – the records keeping system, database and records, because they were viewable to others, prospective employers and other officials. The manipulation of reports and refusal to correct them were designed to informally silence her, and deter her from reporting the crimes. They have.

The Petitioner's complaint was dismissed by the district court on a motion for "Judgment on the Pleadings". During pretrial, the Petitioner experienced damage to her vehicle remotely, denial of service attacks, hacking and inaccessibility of PACER, hacking her computer by the anonymous criminals who sought to aid the City and interfere with the legal proceeding. Plaintiff noted these facts in her petition. Despite these ongoing violations, she managed to amend her petition to include instances of her speaking out at City Hall about HPD's recurring abuses, supporting the new complaint with historical details of HPD police reports from between 2009-2022 where she report the crime and HPD officers at that time proceeded with intimidations, threats and used

its records to silent the Petitioner. The district court denied leave to amend.

The district court dismissed the Petitioner's claims, ruling that she had not adequately pleaded facts to establish municipal liability under *Monell v. Department of Social Services*, despite a successful Internal Affairs report in her favor and the submission of numerous incidents of violations into evidence. The Fifth Circuit affirmed the dismissal, concluding that the Petitioner failed to demonstrate a direct causal connection between the police officers' actions and the alleged constitutional violations.

This Court's review is necessary to clarify the standards for establishing municipal liability under *Monell*, especially in cases involving the use of intimidation, threats to liberty to suppress reports regarding terrorism and organized crime of a high-tech nature. Furthermore, this review is essential to address the implications of these crimes on the judicial process, the erosion of free speech and due process rights, and the deprivation of clearly established constitutional protections.

REASONS FOR GRANTING THE PETITION

The Supreme Court should grant certiorari in this case to address critical constitutional issues involving the First and Fourteenth Amendments and is of an important nature. The lower courts dismissal of the Petitioner's claims under 42 U.S.C. § 1983, despite substantial evidence of government misconduct, presents serious questions about the protections for constitutional rights in the face of systemic abuse by law enforcement and municipalities.

The lower court's interpretation of the standards for establishing municipal liability under *Monell v. Department of Social Services* raises questions of federal law that require resolution from this Court.

The Petitioner presented clear evidence of a pattern and practice by the City of Houston's police department that involved manipulating official reports to mischaracterize her complaints about a high-tech transnational terrorist network. This practice not only violated her First Amendment rights but also constituted a direct threat to her liberty, effectively silencing her under the guise of mental health issues.

The Fifth Circuit's decision overlooked the principles of *Monell*, particularly related to how municipal policies, customs, and practices can lead to constitutional violations. The Petitioner's claims and supporting evidence including a successful Internal Affairs investigation. Both, should have been sufficient to establish a plausible claim under *Monell*. This Court's review is necessary to ensure that municipalities cannot evade liability for unconstitutional actions that are the product of entrenched practices, even when those practices are informal or unwritten.

The Petitioner's case highlights a disturbing trend where government officials use informal pressures—such as threats, intimidation, and the manipulation of records to suppress the exercise of First Amendment rights and Fourteenth Amendment rights. This practice poses a threat to free speech and the ability to report crimes and have grievances redressed, particularly in matters of public concern like terrorism, which are significant. The City's police department's customs represent a clear violation of her right to free speech and the right to petition the government for redress of grievances.

The Court's intervention is necessary to reaffirm the principle that informal governmental pressures, which aim to silence individuals or deter them from exercising their constitutional rights are actionable under § 1983. The lower courts failed to recognize the

chilling effect of the City's actions on the Petitioner's free speech rights, which, if left unaddressed, could set a dangerous practice by police involving similar abuses.

The Petitioner's claims also raise other significant due process concerns. The failures of police, attorneys, and court officials to act on evidence of interference by a high-tech transnational terrorist group undermines the integrity of the judicial process. The City of Houston's deliberate indifference to the Petitioner's rights, as evidenced by the manipulation of official reports and the refusal to correct false information, constitutes a gross violation of due process.

The lower court's dismissal of the Petitioners claims without considering the inculpatory evidence, including videos, audio recordings, and a successful Internal Affairs investigation, was a grave error. The Supreme Court should grant certiorari to clarify the standards for evaluating evidence in cases involving due process violations, ensuring that lower courts give proper weight to evidence that demonstrates systemic misconduct by government officials.

The issues presented in this case are of significant public importance, as they concern the protection of fundamental constitutional rights against governmental overreach and the integrity of the judicial process. The Supreme Court's review is necessary to provide clarity on the standards for municipal liability under *Monell*, to reinforce the protections of the First and Fourteenth Amendments, and to ensure that victims of government misconduct have a meaningful avenue for redress under § 1983. For these reasons, the petition for a writ of certiorari should be granted.

a. Review Is Necessary To Desist The Impact Of Loss Of Integrity In Judicial Procedure by Fraud and Conspiracy

The fundamental premise of the judicial process is fairness, upheld through the integrity of its procedures. This integrity is maintained by those entrusted with the power to enforce rules and regulations, adhering to the oaths sworn by judges and attorneys to uphold the Constitution of the United States and their respective states, defending it against all enemies, foreign and domestic.

The requirement for fair proceedings is rendered impossible when external interference undermines the judicial process, particularly when a terrorist and criminal organization's interference is designed to sway outcomes in favor of the perpetrators' objectives, which align with the City's. In this case, the Petitioner's ability to advance her claims was severely compromised by organized criminal tactics that interfered with the judicial process. A network of individuals, adopting advanced wireless and stealth technology, engaged in actions that included hacking the Petitioner's computer, a violation of her due process rights that was duly reported to the court. These actions ultimately benefited the City of Houston.

The City of Houston has actively concealed crimes and constitutional violations, engaging in fraudulent concealment to evade accountability for their unconstitutional acts. This is evidenced by the City's actions, including seeking the dismissal of the case, denying the Petitioner the right to amend her pleadings, and affirming judgments even after multiple First and Fourteenth Amendment violations were clearly identified. The City's delay in proceedings, along with the suspicious conduct of its legal representatives such as the disappearance of the city's Attorney Christy Martin after filing a Motion for Judgment on the Pleadings further illustrates an effort to avoid and admit the underlying constitutional violations.

The Petitioners petition clearly articulated that the City's policies and practices were the driving forces behind the repeated constitutional violations. The Petitioner provided evidence supporting this assertion, including how members of a criminal network, that at this point their acts align with collusion with the police department, retaliated against her, actions that were known to the City's attorneys.

The record before this Court reveals a conspiracy to conceal unconstitutional actions, which demands judicial scrutiny. The Fifth and Fourteenth Amendments guarantee fairness and impartiality, mandating that all persons have access to a fair legal proceeding.

Following the events on April 9, 2022, the Respondents police officers initiated further actions, of which the City was aware, involving the filing of false reports with a government agency concerning the Petitioner's child. These traumatic circumstances were not only intended to inflict harm but also to fraudulently conceal the City's constitutional violations for which it is liable.

Notably, after the Petitioner filed her amended petition, Attorney Christy Martin took an abrupt and unexplained leave of absence during critical proceedings. According to her colleague City of Houston Attorney Craft Hughes, she went "on vacation".

Given the serious nature of the constitutional violations, the ongoing concealment of these violations, and the fundamental unfairness that has tainted these proceedings, this Court should grant certiorari to address these critical issues and ensure that justice is served.

b. The Significance Of The Ability To Amend Complaints Consideration On Rights.

The denial of the Petitioner's right to amend her pleadings does not negate the merit of her claims. On the contrary, the additional evidence provided in her amended petition demonstrates the long-standing unconstitutional conduct rooted in the City's deliberate indifference, as well as the policies, practices, and customs of its police department. The merits provide enough facts to satisfy the requirements for Monell liability but the amended position outlined them more clearly.

The District Court's dismissal, which was affirmed by the Fifth Circuit, unjustly deprived the Petitioner of her right to a fair trial. The Petitioner should have been given the opportunity to amend her pleadings, as the right to amend one's complaint is fundamental to ensuring a fair trial and proceeding. Denying this right undermines due process and the right to a fair trial. The refusal to allow the Petitioner to amend her pleadings and seek damages constitutes a violation of her due process rights and is an abuse of discretion.

The Supreme Court's decision in *Foman v. Davis*, 371 U.S. 178 (1962), clarifies Federal Rule of Civil Procedure 15(a), which requires that federal courts grant a party leave to amend a pleading unless there are special circumstances, such as bad faith or prejudice to the opposing party. In this case, the Petitioner's request to amend was neither made in bad faith nor prejudicial to the city.

The rule embodies the principle that the purpose of pleading is to facilitate a proper decision on the merits. As noted in *Foman v. Davis*, if the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, the plaintiff should be afforded the opportunity to test the claim on the merits. Thus, denying leave to amend a potentially viable claim requires a justifying reason,

such as undue delay, bad faith, or dilatory motive on the part of the movant. Absent such justification, denying leave to amend is inconsistent with the spirit of the Supreme Court.

The Plaintiff's complaint was not deficient, as it pleaded facts sufficient to show that her claim had substantive plausibility. The Plaintiff clearly and concisely outlined patterns, customs, and practices that constituted multiple constitutional violations, entitling her to damages from the city. A successful Internal Affairs report implies that the Mayor, other city officials, and several city council members were involved in and approved the reprimanding of Officer Villareal.

The Supreme Court has also held that petitioners should be given an opportunity to clarify their complaints and ward off any insistence on a strictly stated "theory of the pleadings." On remand, petitioners should be allowed to add a citation to § 1983 to their complaint. As noted by legal scholars, the federal rules effectively abolish the restrictive theory of pleadings doctrine, making it unnecessary to set out a legal theory for the plaintiff's claim for relief.. **See 5 Wright & Miller, *supra*, § 1219, at 277–278**

In *Johnson v. Shelby* (2014), the Supreme Court reiterated that a short and plain statement of the claim showing that the pleader is entitled to relief, as required by Federal Rule of Civil Procedure 8(a)(2), does not justify the dismissal of a complaint for an imperfect statement of the legal theory supporting the claim. The Federal Rules of Civil Procedure are designed to discourage battles over mere form of statement, ensuring that the focus remains on the merits of the case and not on technicalities.

Further more , *Conley v. Gibson*, 355 U.S. 41 at 48 (1957) "Following the simple guide of rule 8(f) that all pleadings shall be so construed as to do substantial justice...the federal rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the

principle that the purpose of pleading is to facilitate a proper decision on the merits." The court also cited Rule 8(f) FRCP, which holds that all pleadings shall be construed to do substantial justice.

The Fifth Circuit's failure to adhere to these principles departs from the Supreme Court's long-standing position that due process rights are immutable. The right to amend ensures that a claim is evaluated on its merits, especially when the petition is argued to be deficient.

c. Clarification of the Causation Standards in Constitutional Claims

There is a significant question regarding whether the lower courts have misinterpreted the requirement of establishing a direct connection between police actions and constitutional violations, which necessitates clarification. Constitutional violations that deter the exercise of First Amendment and due process rights, whether informal, direct, discreet, or overt, are addressed by numerous statutes. The Petitioner's complaint detailed recurring acts, supported by inculpatory evidence, demonstrating the City's deliberate indifference, along with the customs, policies, and practices of the City and its police department's constitutional violations . These acts included the manipulation of the Petitioner's reports, threats to her liberty based on inaccurate reports, refusal to correct the reports and intimidation that deterred and continues to deter the Petitioner from reporting a terroristic threat.

In *Herman MacLean v. Huddleston*, the U.S. Supreme Court held that "Plaintiffs must prove their case by a preponderance of the evidence" (459 U.S. 375, 387 (1983). The Petitioner provided sufficient proof of her claims, and although the City publicly

refuted the constitutional violations, it was aware of its wrongful and unconstitutional acts.

As established in *Anderson v. Creighton* and reaffirmed in *Sanchez v. Swyden*, “The constitutional right must be sufficiently clear to put a reasonable officer on notice that certain conduct violates that right” (483 U.S. 635, 639, 107 S.Ct. 3034, 3038-39; 139 F.3d 464, 466 (5th Cir. 1998). These violations may not always involve direct physical action but could include more subtle forms of coercion or intimidation, which are equally harmful and should be recognized as such by the courts.

The lower courts have imposed an overly stringent requirement on demonstrating the causal link between the actions of law enforcement officers and the alleged constitutional violations. This misinterpretation led to the erroneous dismissal of the Petitioner’s claims.

The Supreme Court has clarified these standards, noting that “the right to due process of law is quite clearly established by the Due Process Clause, and thus there is a sense in which any action that violates that Clause (no matter how unclear it may be that the particular action is a violation) violates a clearly established right” (*Cole v. Carson*, 802 F.3d 752, 773 (5th Cir. 2015).

. The City, failed to prevent reoccurring acts of constitutional violations which is the only way they would continue to succeed, further validating the Petitioner’s claims through it’s deliberate indifference.

d. Intervention Is Necessary To Address Trampling Due Process Rights And Undermining Justice

This case presents significant implications for the Petitioners' professional future and fundamental liberties. As established in *Wisconsin v. Constantineau*, 400 U.S. 433, 437 (1971), when a person's reputation, honor, or integrity is jeopardized by government action, the principles of due process mandate notice and an opportunity to be heard. This principle underscores the necessity for a thorough judicial review to ensure that the government's actions do not unjustly harm an individual's standing and rights.

The Fifth Circuit's decision to uphold the District Court's dismissal is in direct conflict with the Supreme Court's established precedent on liability, particularly as articulated in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). In *Iqbal*, the Supreme Court clarified that plaintiffs must demonstrate a "plausible" cause of action to survive a motion to dismiss. The Fifth Circuit's ruling, however, disregards this standard by affirming a dismissal without a proper examination of the plausibility of the Petitioners' claims. The City's defense, supported by the Fifth Circuit, contends that the actions of its police department were intended to be beneficial. This assertion is unsubstantiated and lacks the requisite evidence to show that the City's conduct was aimed at discouraging future complaints or addressing underlying issues effectively.

Conclusion

The Fifth Circuit's decision fails to adequately address the substantive allegations made by the Petitioners and improperly dismisses the case without a full and fair hearing of the facts. As such, this case presents an important opportunity for the Supreme Court to clarify the application of *Iqbal* and ensure

that the Petitioners receive the due process protections to which they are entitled

The Court is presented with a significant constitutional matter that raises fundamental questions about the protection of constitutional rights and the consequences when those rights are violated. Specifically, this case calls into question whether such violations can be overlooked or ignored. The intervention of this Court is necessary because the government has refused to honor the Constitution, failed to redress legitimate grievances, and has actively limited the Petitioner's ability to speak out about a crime that poses a threat to her life and her family and public safety.

By falsely portraying the Petitioner as mentally ill, the government has sought to deter her from reporting a crime that Texas authorities appear intent on concealing. The implications of these actions deliberately challenging and restricting the Petitioner's exercise of her First Amendment rights and therefore seeks remedy that only this Court can provide. Petitioner prays the Court grants this Writ of Certiorari.