

IN THE SUPREME COURT OF THE UNITED STATES

No. 19-968

CHIKE UZUEGBUNAM, ET AL., PETITIONERS

v.

STANLEY C. PRECZEWSKI, ET AL.

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

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

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Acting Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in this case as amicus curiae supporting petitioners and requests that the United States be allowed ten minutes of argument time. Petitioners have agreed to cede ten minutes of argument time to the United States, and therefore consent to this motion.

This case presents the question whether a claim for nominal damages based on past injury-in-fact is sufficient to support an Article III case or controversy. Petitioners filed this action under 42 U.S.C. 1983 against respondents, alleging that respondents had violated their First Amendment rights. Following

a policy change, respondents moved to dismiss the case as moot. The court of appeals affirmed the dismissal of petitioners' claims as moot, finding that a standalone claim for nominal damages was insufficient to save the case from mootness. The United States has filed a brief as amicus curiae in support of reversal, contending that a claim for nominal damages based on past injury-in-fact satisfies Article III independent of any other claim for relief, whether at the outset of the litigation or if other claims become moot during the pendency of the litigation.

The United States has a substantial interest in the resolution of the question presented. Nominal damages are a recognized remedy under 42 U.S.C. 1983 for private individuals seeking to enforce their constitutional rights against state and local governments, and the United States has a significant interest in whether that remedy authorized by an Act of Congress is constitutionally available in these circumstances. The United States likewise has a substantial interest in the proper application of Article III's requirements for standing to sue in federal court.

The United States has previously presented oral argument as amicus curiae in other cases involving either the contours of constitutional tort claims under Section 1983 or the limitations that Article III places on standing to sue in federal court. See, e.g., McDonough v. Smith, 139 S. Ct. 2149 (2019); Virginia House of Delegates v. Bethune-Hill, 139 S. Ct. 1945 (2019); Frank v.

Gaos, 139 S. Ct. 1041 (2019) (per curiam); Manuel v. City of Joliet, 137 S. Ct. 911 (2017); Campbell-Ewald Co. v. Gomez, 577 U.S. 153 (2016); Wittman v. Personhuballah, 136 S. Ct. 1732 (2016); Filarsky v. Delia, 566 U.S. 377 (2012). We therefore believe that participation by the United States in oral argument in this case would be of material assistance to the Court.

Respectfully submitted.

JEFFREY B. WALL
Acting Solicitor General

NOVEMBER 2020