

No. 21-_____

In the
Supreme Court of the United States

ALI AL-MAQABLH,

Petitioner,

v.

CRYSTAL L. HEINZ, Individually,
and in her official capacity as the County Attorney
of Trimble County, Kentucky, *et al.*

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

After Respondents' prosecution of Petitioner terminated without a conviction, Petitioner brought a claim against them under 42 U.S.C. § 1983 for malicious prosecution. The courts below rejected Petitioner's claim on the ground that the prosecution terminated in a manner that did not affirmatively indicate his innocence or demonstrate that a conviction had become improbable. In *Thompson v. Clark*, 142 S. Ct. 1332 (2022), this Court held that, to satisfy the favorable-termination requirement for a malicious-prosecution claim under § 1983, a plaintiff "need only show that his prosecution ended without a conviction." The sole question presented is whether the Sixth Circuit's decision should be vacated and remanded for reconsideration in light of *Thompson*.

PARTIES TO THE PROCEEDING

Petitioner Ali Al-Maqablh was appellant below.

Respondents Crystal L. Heinz; James Phelps; Kim Vittitow; Lindsey Jo Alley; David C. Trimble; Trimble County, Kentucky; Matt Whalen; Charles Ferris; Perry Russell Arnold; Jefferson County, Kentucky Sherriff Department; Two Unknown Sheriff Deputies; Trimble County, Kentucky Sherriff Department; Louisville Metro Corrections; Commonwealth of Kentucky; and Kentucky State Police were appellees below.

RELATED PROCEEDINGS

This case arises from the following proceedings in the United States District Court for the Western District of Kentucky and the United States Court of Appeals for the Sixth Circuit, listed here in reverse chronological order:

- *Al-Maqablh v. Heinz*, No. 19-5548 (6th Cir.). Judgment entered Jan. 4, 2022.
- *Al-Maqablh v. Heinz*, No. 16-cv-289 (W.D. Ky.). Judgment entered Apr. 15, 2019.

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PETITION FOR WRIT OF CERTIORARI

After Petitioner’s agreement with the prosecutor resulted in the dismissal of the trumped-up charges against him, Petitioner sued Respondents for malicious prosecution under Section 1983. The Sixth Circuit affirmed the district court’s rejection of Petitioner’s malicious-prosecution claim on a single ground: under Sixth Circuit precedent, a malicious-prosecution plaintiff must show that the proceedings against him terminated in a manner that “indicates that [he] may be innocent of the charges” or “that a conviction has become ‘improbable.’” App. 6 (quoting *Jones v. Clark Cnty.*, 959 F.3d 748, 765 (6th Cir. 2020)).

On April 4, 2022, this Court decided *Thompson v. Clark*, which held squarely that a plaintiff bringing a Section 1983 claim for malicious prosecution “need only show that the criminal prosecution ended without a conviction”; such a claim “does not require the plaintiff to show that the criminal prosecution ended with some affirmative indication of innocence.” 142 S. Ct. 1332, 1341 (2022). Because Petitioner’s prosecution undisputedly ended without a conviction, that holding squarely governs this case; indeed, *Thompson* expressly abrogated the Sixth Circuit precedent on which the court below relied in this case. The time for rehearing has passed, the Sixth Circuit’s mandate has issued, and this petition is timely. Accordingly, Petitioner requests that this Court grant his petition, vacate the Sixth Circuit’s decision, and remand to give that court an opportunity to consider Petitioner’s claim in light of *Thompson*.

OPINIONS BELOW

The opinion of the Sixth Circuit is unpublished. *See* App. 1–15. The first relevant opinion of the U.S. District Court for the Western District of Kentucky on the parties’ motions for summary judgment is also unpublished, but available at 2019 WL 1607534. App. 24–30. The order of the U.S. District Court for the Western District of Kentucky denying Defendants’ motion for attorney fees is unpublished. App. 16–23.

JURISDICTION

The judgment of the Sixth Circuit was entered on January 4, 2022. App. 1–15. On April 4, 2022, this Court extended the time within which to file a petition for a writ of certiorari to and including June 3, 2022. This petition is timely because it was filed before June 3, 2022. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant parts of Amendments IV and XIV to the United States Constitution, and 42 U.S.C. § 1983 are reproduced at App. 33–34.

STATEMENT OF THE CASE

1. In 2015, Petitioner Ali Al-Maqablh and Respondent Lindsey Jo Alley were engaged in litigation over Petitioner’s visitation rights for their son. App. 2. During that time, concerned about Alley’s parenting, Petitioner called the police on three occasions to request welfare checks on his child. App. 2. In response, Alley accused Petitioner of using those welfare checks as a means of harassment. With

the assistance of Respondent James Phelps, a Kentucky state trooper, Alley filed a criminal complaint against Petitioner charging him with one count of harassment under KRS 525.070 and one count of falsely reporting an incident under KRS 519.040. App. 2.

Shortly thereafter, the charges against Petitioner were dropped pursuant to an agreement between Petitioner and the prosecutor, Respondent Crystal Heinz. *See* App. 7. The agreement required Petitioner to promise that he would not assault Alley for three months. App. 5–6. If Petitioner kept that promise, the charges against him would be dismissed and expunged. *Id.* Because Petitioner had never previously assaulted Alley and had no intention of doing so, he readily agreed to those terms. *See id.* Accordingly, after the specified time had elapsed, the charges against him were dismissed and expunged—terminating his prosecution without a conviction. App. 28 (district court, noting that “Plaintiff ... was neither convicted of nor imprisoned for the relevant charges”); *see also* App. 7 (Sixth Circuit, noting that Maqablh “was merely charged” and not “convicted of a crime”).

2. Petitioner sued Respondents in federal district court, alleging several constitutional violations arising from the trumped-up criminal proceedings against him. As relevant here, after initial screening and a series of motions to dismiss, the district court allowed Petitioner to proceed with his Section 1983 claim for malicious prosecution against Respondent Phelps.

But on summary judgment, the court dismissed the claim for failure to satisfy one of the elements of malicious prosecution. The court observed that a claim of malicious prosecution requires the plaintiff to prove that the criminal proceedings “were resolved in his or her favor.” App. 26–27 (citing *Sykes v. Anderson*, 625 F.3d 294, 308–09 (6th Cir. 2010)). Here, there was “no factual dispute” about how the criminal proceedings against Petitioner ended: “[b]oth parties acknowledge[d] that the charges against [Petitioner] were dropped pursuant to an informal agreement between [Petitioner] and prosecutor,” resulting in no conviction. App. 27. But under Sixth Circuit precedent, a termination of proceedings was considered “favorable” to the accused only if it was “one-sided” and “not the result of any settlement or compromise.” App. 29 (quoting *Ohnemus v. Thompson*, 594 F. App’x 864, 867 (6th Cir. 2014)). Because the proceedings against Petitioner ended in a “compromise,” rather than in a manner “indicat[ing] that the plaintiff was actually innocent,” the court concluded that Petitioner “cannot establish a necessary element of a malicious prosecution claim” and that Respondents were therefore entitled to judgment as a matter of law. App. 29–30.

The district court denied Respondent Phelps’ motion for an award of attorneys’ fees pursuant to 42 U.S.C. § 1988(b). In doing so, the court noted that Respondents had “not claimed that [Petitioner] brought or continued this lawsuit in bad faith”; nor was Petitioner’s lawsuit “frivolous, unreasonable, or groundless.” App. 19. To the contrary, the court observed, “[u]ltimately, the Defendants’ success came

down to an issue *with a single element* of Plaintiff's malicious prosecution claims." *Id.* (emphasis added).

3. The Sixth Circuit affirmed the award of summary judgment to Respondents. Like the district court, the court of appeals based its rejection of Petitioner's claim solely on his purported failure to show that Respondents' prosecution of him terminated favorably. App. 15. Specifically, the panel reasoned, Petitioner did not "demonstrate that his dismissal indicates that [he] may be innocent of the charges, or that a conviction has become improbable." App. 6 (quoting *Jones*, 959 F.3d at 765). The Sixth Circuit's mandate issued on January 26, 2022.

Petitioner did not seek rehearing in the Sixth Circuit. On March 24, 2022, Petitioner applied to this Court for an extension of time within which to file a petition for a writ of certiorari. On April 4, 2022, this Court decided *Thompson v. Clark*, 142 S. Ct. 1332 (2022), which resolved a circuit split over what a "favorable termination" entails for purposes of a Section 1983 claim for malicious prosecution. The court held that a plaintiff need not show that the criminal proceedings against him "ended with some affirmative indication of innocence"; instead, "[a] plaintiff need only show that the criminal prosecution ended without a conviction." *Id.* at 1341.

That same day, the Court granted Petitioner's request to extend the deadline for filing his petition to June 3, 2022.

REASONS FOR GRANTING THE PETITION

The Court should grant the petition, vacate the Sixth Circuit's judgment, and remand in light of *Thompson*.

Before *Thompson*, the courts of appeals generally recognized that a plaintiff could bring a Fourth Amendment claim for malicious prosecution under Section 1983, but divided over the application of one element of that claim: the requirement that the plaintiff “demonstrate ... that he obtained a *favorable termination* of the underlying criminal prosecution.” *Id.* at 1335. As relevant here, the Sixth Circuit required a plaintiff to show that the dismissal of the underlying prosecution “indicates that [he] may be innocent of the charges or that a conviction has become improbable.” App. 6 (quoting *Jones*, 959 F.3d at 765). In other words, the Sixth Circuit reasoned, the “dismissal must be one-sided and not the result of any settlement or compromise,” because a settlement or compromise says nothing about the plaintiff's innocence of the crime charged. App. 5 (quoting *Ohnemus*, 594 F. App'x at 867). Adhering to that precedent, the court below observed that because Petitioner's prosecution had terminated pursuant to a compromise—albeit without a conviction—Petitioner could not satisfy the favorable-termination requirement. *See* App. 5–6.

The Sixth Circuit was one of several circuits that all imposed similarly steep criteria for satisfying the favorable-termination requirement. *Thompson*, 142 S. Ct. at 1336. The Eleventh Circuit, in contrast, applied a different test, holding that “a favorable

termination occurs so long as the criminal prosecution ends without a conviction.” *Id.*

This Court granted certiorari to resolve that split and adopted the Eleventh Circuit’s view, holding unequivocally that a plaintiff “need only show that the criminal prosecution ended without a conviction.” *Id.* at 1341. The Court framed the issue in *Thompson* as whether “it suffice[s] for a plaintiff to show that his prosecution ended without a conviction,” or whether the plaintiff must “also demonstrate that the prosecution ended with some affirmative indication of his innocence, such as an acquittal or a dismissal accompanied by a statement from the judge that the evidence was insufficient.” *Id.* at 1335, 1338. The Court left no doubt about its holding on that question, repeatedly declaring that a “a plaintiff need *only* show that his prosecution ended without a conviction.” *Id.* at 1335, 1341 (emphasis added). Thus, even though the plaintiff in *Thompson* had shown only that the charges against him were dropped without explanation—an outcome that was at best equivocal about his innocence—the Court held that he had satisfied the favorable-termination requirement. *Id.* at 1335.

En route to its holding, the Court expressly rejected the Sixth Circuit’s reasoning on the favorable-termination requirement. *See Thompson*, 142 S. Ct. at 1340. The Court identified *Jones v. Clark County*—on which the Sixth Circuit relied in reaching its conclusion in this case, App. 6—as one of several cases in which the courts of appeals had gone astray. *Thompson*, 142 S. Ct. at 1340. These courts erred, the Court reasoned, in relying on a comment in the Second

Restatement of Torts, which opined that, “for purposes of a malicious prosecution claim, a criminal case terminates ‘in favor of the accused’ when the prosecution ends in a way ‘as to indicate the innocence of the accused.’” *Id.* (quoting Restatement (Second) of Torts § 660 & cmt. *a* (1976)). The Court explained that this reliance on the 1976 Restatement was “flawed” because the Restatement “did not purport to describe the consensus of American law as of 1871,” as required for determining the elements of a constitutional claim under Section 1983. *Id.* And the American tort-law consensus as of 1871 “did not require a plaintiff in a malicious prosecution suit to show that his prosecution ended with an affirmative indication of innocence.” *Id.*

Summary vacatur and remand are especially appropriate here because correctly applying the rule of *Thompson* is likely to determine the case’s outcome. Both the district court’s judgment and the Sixth Circuit’s affirmance of that judgment turned on the Sixth Circuit’s now-obsolete understanding of the favorable-termination requirement. App 6–7; App 29–30; *see* App. 19 (noting that Petitioner’s claim failed only because of that “single element”).

Accordingly, this Court should grant the petition, vacate the Sixth Circuit’s decision, and remand for further proceedings in light of *Thompson*.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for certiorari.

Respectfully submitted,

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