

IN THE SUPREME COURT OF THE UNITED STATES

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No. 21-499

CARLOS VEGA, PETITIONER

v.

TERENCE B. TEKOH

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

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

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Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States be granted leave to participate in the oral argument in this case, that the time for oral argument be enlarged to 70 minutes, and that the time be allotted as follows: 20 minutes for petitioner, 15 minutes for the United States, and 35 minutes for respondent. Petitioner and respondent both consent to this motion.

This case presents the question whether the erroneous admission of statements that a defendant made without the warnings prescribed in Miranda v. Arizona, 384 U.S. 436 (1966), in the government's case-in-chief at a criminal trial where the defendant is ultimately acquitted, subjects the interviewing officer to individual liability in a damages suit under 42 U.S.C. 1983. The United States has filed a brief as amicus curiae supporting petitioner, arguing that the erroneous admission of the statements does not subject the interviewing officer to individual liability.

The United States has a substantial interest in the resolution of the question presented. The United States' investigation and prosecution of federal crimes gives it a substantial interest in the interpretation and application of Miranda. The United States also has a substantial interest in the interpretation of Section 1983, both because it has an interest in safeguarding civil rights and because it enforces Section 1983's criminal counterpart, 18 U.S.C. 242. In addition, this Court's decision in this case could potentially affect constitutional tort claims against federal officers under Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

The United States presented argument as amicus curiae in the predecessor to this case, Chavez v. Martinez, 538 U.S. 760 (2003) (No. 01-1444), which presented the question whether the elicitation of an involuntary and un-Mirandized statement that is never used at trial subjects the interviewing officer to individual

liability in a damages suit under Section 1983. The United States also has presented argument as amicus curiae in other cases concerning the Miranda rule. See, e.g., J. D. B. v. North Carolina, 564 U.S. 261 (2011) (No. 09-11121); Missouri v. Seibert, 542 U.S. 600 (2004) (No. 02-1371). The United States likewise has presented argument as amicus curiae in other cases involving constitutional tort claims against police officers under Section 1983. See, e.g., Thompson v. Clark, No. 20-659 (argued Oct. 12, 2021); Nieves v. Bartlett, 139 S. Ct. 1715 (2019) (No. 17-1174); County of Los Angeles v. Mendez, 137 S. Ct. 1539 (2017) (No. 16-369). The United States' participation in oral argument could materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Solicitor General  
Counsel of Record

MARCH 2022