

No. 22-312

In the  
Supreme Court of the United States

Michelle Chapman, Clerk, Circuit Court of Missouri, Randolph County,  
Petitioner,

v.

Jane Doe, by Next Friend Anthony E. Rothert,  
Respondent.

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

Suggestion of Mootness

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## **INTRODUCTION**

A Petition for a Writ of Certiorari was filed on October 4, 2022, by the Clerk of the Randolph County, Missouri circuit court. This Court has extended the time for Respondent to file a response to January 12, 2023.

On December 9, 2022, Petitioner and Respondent dismissed the underlying case with prejudice by stipulation pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). App. 1a. On December 12, 2022, the District Court entered a docket-text order closing the case. App. 3a.

In light of the fact that the underlying case has been dismissed with prejudice by the District Court, Respondent files this suggestion of mootness.

## **STATEMENT**

While a seventeen-year-old, Respondent filed this civil rights suit alleging that, contrary to Missouri law at the time and in violation of the Fourteenth Amendment, Petitioner, the clerk of the Randolph County court, imposed an extra-statutory parental-notification requirement upon Respondent's request for a judicial bypass so that she could self-consent to abortion care. The case sought, inter alia, nominal damages.

On March 23, 2021, the District Court denied Petitioner quasi-judicial or qualified immunity for her actions. As to quasi-judicial immunity, the District Court found that a disputed issue of material fact precluded both dismissal of Respondent's claims and judgment in her favor on the issue of liability. The District Court rejected

qualified immunity on the basis that a forty-year-old, on-point circuit precedent provided fair notice that Petitioner’s alleged conduct in imposing a parental notice requirement was unlawful.

The Eighth Circuit affirmed.

On December 9, 2022, the parties filed in the District Court their stipulation of dismissal with prejudice.

## ARGUMENT

### I. The Case is Moot, and the Petition Should be Denied.

Dismissal of the case with prejudice in the District Court renders the petition moot. *See Powell v. McCormack*, 395 U.S. 486, 496 (1969) (“Simply stated, a case is moot when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.”). A case is moot when “the dispute is no longer embedded in any actual controversy about the plaintiffs’ particular legal rights.” *Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013) (quotation and citation omitted). When a case is moot, the Court generally lacks jurisdiction to consider its merits. Indeed, “[n]o principle is more fundamental to the judiciary’s proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies.” *Raines v. Byrd*, 521 U.S. 811, 818 (1997) (quoting *Simon v. Eastern Ky. Welfare Rts. Org.*, 426 U.S. 26, 37 (1976)).

In light of the dismissal with prejudice of the underlying case, Petitioner is not harmed by the Eighth Circuit’s opinion, so there is no relief the Court could give her.

“[A] case ‘becomes moot only when it is impossible for a court to grant any effectual relief whatever to the prevailing party.’” *Chafin v. Chafin*, 568 U.S. 165, 172 (2013) (quoting *Knox v. Serv. Emps.*, 567 U.S. 298, 307 (2012)). “As long as the parties have a concrete interest, however small, in the outcome of the litigation, the case is not moot.” *Id.* Petitioner has no remaining interest in the case. The parties’ stipulated dismissal with prejudice assures that there will not be any relitigation of the case between the parties. Moreover, the Eighth Circuit’s decision addressed an interlocutory matter and only a final judgment has res judicata or collateral estoppel effect.

## **II. The Court has Equitable Authority to Vacate the Eighth Circuit’s Opinion Affirming the Denial of Quasi-Judicial and Qualified Immunity on Summary Judgment.**

“When a civil suit becomes moot pending appeal, [the Court has] the authority to ‘direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.’” *Camreta v. Greene*, 563 U.S. 692, 712 (2011) (quoting 28 U.S.C. § 2106). The Court’s “‘established’ (though not exceptionless) practice in this situation is to vacate the judgment below.” *Id.*

Vacatur is an equitable remedy that “clears the path for future relitigation of the issues between the parties and eliminates a judgment, review of which was prevented through happenstance.” *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950). It is available where the case has become moot “through happenstance” or

because of “the unilateral action of the party who prevailed in the lower court.” *U.S. Bancorp Mortg. Co. v. Bonner Mall P'ship*, 513 U.S. 18, 23 (1994) (quotation and citation omitted). The rationale behind *Munsingwear* vacatur is that the party seeking review should not suffer “any legal consequences’ . . . by what [the Court] ha[s] called a ‘preliminary’ adjudication.” *Camreta*, 563 U.S. at 713 (quoting *Munsingwear*, 340 U.S. at 40–41). Consideration of vacatur is driven by the principle that a “party who seeks review of the merits of an adverse ruling, but is frustrated by the vagaries of circumstance, ought not in fairness be forced to acquiesce in the judgment.” *U.S. Bancorp Mortg. Co.*, 513 U.S. at 25.

Should Petitioner request vacatur, Respondent does not object.

## CONCLUSION

For the foregoing reasons, this case is moot.

Respectfully submitted,

/s/ Anthony E. Rothert

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# Appendix



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Exhibit A: Stipulation of Dismissal with Prejudice ..... 1a  
Exhibit B: District Court Docket Text Order Dismissing Case ..... 3a

**EXHIBIT A**  
**IN THE UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF MISSOURI**  
**NORTHERN DIVISION**

**[FILED DEC. 9, 2022]**

JANE DOE, by her next friend Anthony E. Rothert,

Plaintiffs,

v.

No. 2:19-cv-25 CDP

MICHELLE CHAPMAN, individually and  
in her official Capacity as Circuit Clerk  
of Randolph County, Missouri,

Defendant.

**STIPULATION OF DISMISSAL WITH PREJUDICE**

All parties, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), through their respective counsel of record, hereby stipulate that all of Plaintiff's claims against Defendant and this action are dismissed. Plaintiff will not object to vacatur of the judgment on appeal pursuant to *United States v. Munsingwear, Inc.*, 340 U.S. 36 (1950).

Respectfully submitted,

*/s/ Anthony E. Rothert*

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**EXHIBIT B**

**U.S. District Court  
Eastern District of Missouri**

**Notice of Electronic Filing**

The following transaction was entered on 12/12/2022 at 1:43 PM CST and filed on 12/12/2022

**Case Name:** Doe v. Chapman

**Case Number:** 2:19-cv-00025-CDP

**Filer:**

**WARNING: CASE CLOSED on 12/12/2022**

**Document Number:** 154(No document attached)

**Docket Text:**

**Docket Text ORDER as to [153] Joint Stipulation NOTICE of Voluntary Dismissal by Jane Doe:**

**SO ORDERED. Signed by District Judge Catherine D. Perry on 12/12/2022. (NEP)**

**2:19-cv-00025-CDP Notice has been electronically mailed to:**

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