

No. 22-474

IN THE
Supreme Court of the United States

LADDIE HUFFMAN, et al.,
Petitioners,
v.

RACHEL HARRIS, GUARDIAN OF STEVEN JESSIE HARRIS
ON BEHALF OF STEVEN JESSIE HARRIS,
Respondent.

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

BRIEF IN OPPOSITION

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QUESTION PRESENTED

The district court denied petitioners' summary judgment motion because it determined that a reasonable jury could conclude that petitioners intentionally kept Steven Harris in jail for six years while knowing they had no legal authority to detain him, and that petitioners intentionally lied in court documents about Harris's whereabouts in an effort to prolong his unlawful detention, in violation of Harris's clearly established constitutional rights.

The question presented is whether the Fifth Circuit properly affirmed the district court's determination that petitioners are not entitled to qualified immunity at the summary judgment stage.

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INTRODUCTION

This suit arises from the unlawful imprisonment of Steven Jessie Harris for six years after he was determined incompetent to stand trial due to severe mental illness. In the decision below, the Fifth Circuit affirmed the district court's denial of summary judgment to Harris's jailers, petitioners Laddie Huffman and Eddie Scott, based on evidence that petitioners knew they had no legal authority to detain Harris, and that they intentionally lied in court documents about Harris's whereabouts to prolong his unlawful detention, in violation of Harris's clearly established due process rights.

Unable to identify any basis for this Court's review of that determination, petitioners instead seek certiorari by manufacturing a factual record and legal holdings that bear little resemblance to this case. The petition cherry-picks record citations to give the misimpression that the summary judgment evidence establishes only that they continued to detain Harris based on a reasonable, good-faith belief that they had been court-ordered to do so. Not only does petitioners' factual recitation fail to draw all justifiable inferences in Harris's favor, as required at the summary judgment stage, it ignores a central piece of evidence relied upon by the courts below in denying summary judgment: the false declaration petitioners filed a few days after Harris's detention became unlawful, which contained "a straight-forward factual assertion that [petitioners] were unable to locate plaintiff during a time when it seems clear that they knew he was located in their jail." Pet. App. 89. As the district court explained, a reasonable jury could conclude that this declaration

“represented evidence of [petitioners’] intent . . . to deprive plaintiff of his due process rights and keep him locked up for years in the Clay County jail, without attracting the notice of the courts.” Pet. App. 107.

The petition then proceeds to urge this Court’s review of two questions not presented by this case. As the decisions below make clear, neither the district court nor the Fifth Circuit denied petitioners summary judgment simply because they failed to release Harris while his “court proceedings were stalled,” Pet. i-ii (Question Presented 1) or because they failed “to inquire as to the status of [Harris’s] court proceedings,” Pet. ii (Question Presented 2). Rather, it was obviously unconstitutional for petitioners to continue holding Harris for six years after they knew their legal authority to detain Harris had ended, and to “lie to a court regarding their knowledge of Harris’ whereabouts in order to deprive him of his due process rights.” BIO App. 5a; *see also* Pet. App. 13 (petitioners’ declaration “testifying that Harris was not in the jail (this in a relatively small county with . . . roughly 100 inmates at a given time)” was a “lie” that “allow[ed] a factfinder to infer that [petitioners] were covering something up—that they knew there was no longer any basis to hold Harris”).

Indeed, the disconnect between the petition and the actual record in this case is so remarkable that when the district court denied petitioners’ motion to stay the trial date pending this Court’s resolution of the petition for certiorari, it took the order as an opportunity “to set the record straight regarding the nature of the holding it made in this case, since the cert petition in this case mischaracterizes it.” BIO App. 3a.

Properly understood, the decisions below narrowly hold that, reviewing the summary judgment evidence in a light most favorable to Harris, petitioners violated Harris's clearly established due process rights by intentionally imprisoning him for six years while knowing they had no legal authority to do so and by deliberately lying in court documents to prolong that unlawful imprisonment. The Fifth Circuit correctly affirmed the district court's determination that this egregiously unlawful conduct amounts to the rare case of an "obvious" constitutional violation foreclosing qualified immunity. Pet. App. 15-16.

Petitioners do not claim that the Fifth Circuit's decision implicates any circuit split requiring this Court's resolution, and their assertions of exceptional importance are, like the rest of the petition, wholly untethered from the decisions below. Petitioners' intentional and affirmative disregard of Harris's due process rights, and the profound liberty deprivation inflicted on Harris as a result, are so uniquely troubling that the Fifth Circuit's denial of qualified immunity is unlikely to have any application beyond this case.

The Court should deny the petition.

STATEMENT OF THE CASE

I. Factual Background¹

In 2005, Steven Jessie Harris was charged with murdering his father and several other serious crimes. Pet. App. 2. He pleaded not guilty in a Clay County, Mississippi, circuit court, which ordered that he be detained without bail. Pet. App. 2-3.

Harris had a long history of severe mental illness, including schizophrenia. Pet. App. 38. During his pre-trial detention, the circuit court transferred him to a state hospital to determine his competency to stand trial. Pet. App. 3. In 2008, Harris's doctors concluded that there was no substantial probability he would be competent in the foreseeable future and that he needed long-term psychiatric treatment. Pet. App. 38.

After multiple continuances, the circuit court held a competency hearing on October 12, 2010. Pet. App. 38. Based on the evidence presented by Harris's doctors, the circuit court entered an order determining that Harris was incompetent to stand trial and that there was no probability he would regain his competence in the foreseeable future. Pet. App. 44. The circuit court ordered the State to pursue civil commitment proceedings in chancery court and instructed that Harris should be held "until the determination of said civil proceedings." Pet. App. 3. The State filed a

¹ Because petitioners seek summary judgment, the factual record is "[t]aken in the light most favorable" to respondent. *Tolan v. Cotton*, 572 U.S. 650, 655-56 (2014) (per curiam) (quoting *Saucier v. Katz*, 533 U.S. 194, 201 (2001)).

petition for an order of commitment in the chancery court that same day. Pet. App. 38-39.

Around this same time, District Attorney Forrest Allgood pursued and obtained a grand jury indictment against Harris for simple assault against a jailer based on a July 2010 incident. Pet. App. 43-44. This October 11, 2010, indictment was filed under a seal that would not be lifted until Harris was served with a *capias* informing him of the indictment. Pet. App. 44. Harris was never served with the *capias*, and the indictment was never unsealed. *Id.*

On October 20, 2010, the circuit court entered an order removing Harris's criminal case from the active docket to allow the civil commitment proceedings to move forward. Pet. App. 3, 39. On that same day, however, the chancery court dismissed the civil commitment proceedings based on the pending criminal charges. Pet. App. 3-4. As a result, there was no longer any legal basis for Harris's continued detention. Pet. App. 14.

Harris nonetheless remained in the Clay County jail, where he was under the charge of petitioners, Sheriff Laddie Huffman and Deputy Sheriff Eddie Scott. Pet. App. 4. On October 25, 2010—five days after the circuit court's detention order expired due to the dismissal of the civil commitment proceedings—petitioners submitted a “plainly false” declaration to the circuit court indicating that Harris had been released. Pet. App. 4, 92. The declaration, which was filed in relation to the sealed simple assault *capias* and signed by both petitioners, stated: “After diligent search and inquiry, [we] have been unable to find the

within named Steven J. Harris in [our] county.” Pet. App. 4.

Harris remained jailed and under petitioners’ charge for two more years without any inquiry into his status. *Id.* In 2012, Allgood purportedly learned about the state court impasse for the first time, and reached out to Huffman. This time, Huffman acknowledged that Harris was still at the jail, and indicated that in his view Harris’s mental health was improving. *Id.* Allgood submitted a motion to the circuit court seeking a reevaluation of Harris’s competency to stand trial. Pet. App. 4-5. The court never acted upon the motion, however, possibly because Harris’s case was on its inactive docket. Pet. App. 5. Allgood “washed [his] hands” of the matter and neither Allgood nor Huffman pursued it further. Pet. App. 48.

Four more years passed. Finally, in 2016, a local newspaper began investigating why Harris had remained in jail for so many years despite the circuit court’s determination of mental incompetence. Pet. App. 48-49. By then, Allgood had been replaced by a new district attorney, Scott Colom, who told the newspaper that Harris had “fallen through the cracks.” Pet. App. 49. The day before the article was set for publication,² Colom filed a motion in the chancery court to renew the civil commitment petition. Pet.

² See Jerry Mitchell, *Man in Mississippi Jail 11 Years Without Trial*, Clarion Ledger (May 22, 2016, 9:50 AM), <https://www.clarionledger.com/story/news/2016/05/21/man-still-in-mississippi-jail-11-years-later/84253880/>.

App. 5. A few weeks later, on June 15, 2016, the chancery court entered a commitment order transferring Harris to a medical facility for treatment for his mental illness. Pet. App. 49-50.

On April 28, 2017, after Colom filed a motion for reevaluation of Harris's competency, the circuit court again ruled that Harris was incompetent to stand trial. Pet. App. 50. On July 25, 2017, the circuit court accepted Colom's dismissal of the charges. Pet. App. 50-51.

Harris was released to his family on August 15, 2017, and continues to receive medical care for his mental illness. Pet. App. 5, 51.

II. District Court Proceedings

Respondent Rachel Harris is Harris's guardian. Following Harris's release, she brought suit on Harris's behalf under 42 U.S.C. § 1983 against petitioners, Allgood, and Clay County. Pet. App. 6. In relevant part, she alleged that the defendants violated Harris's due process rights by detaining him without any lawful basis for nearly six years. *Id.* She further asserted that petitioners were final policymakers for the county for the purposes of municipal liability. *Id.*

Following discovery, the defendants moved for summary judgment. Pet. App. 36. The district court granted the motion with respect to Allgood, but not petitioners or the county. Pet. App. 86, 135.

The court explained that *Jackson v. Indiana*, 406 U.S. 715 (1972), establishes that once a criminal defendant is found incompetent to stand trial, and the

court determines he will not regain competency, due process requires the State to “either institute civil proceedings applicable to the commitment of those not charged with a crime or release the defendant.” Pet. App. 37. Allgood’s “decision to essentially do nothing for years” while Harris remained jailed despite the discharge of his civil commitment proceedings was thus “difficult to reconcile with the U.S. Constitution.” Pet. App. 57. But that decision, the court concluded, “was, for better or worse, a *prosecutorial* one,” and thus entitled Allgood to prosecutorial immunity. *Id.*

The district court denied summary judgment with respect to petitioners because it determined that the evidentiary record presented genuine disputes of material fact as to whether petitioners, as Harris’s jailers, violated Harris’s clearly established due process rights. Pet. App. 87-104.

The district court emphasized in particular the evidence that petitioners submitted a false declaration to the circuit court stating that they “were unable to locate [Harris] during a time when it seems clear that they knew he was located in their jail.” Pet. App. 89. This attestation, the court observed, “raise[d] very serious concerns regarding their good faith, or lack thereof.” *Id.* Moreover, although petitioners asserted that they filed the declaration according to circuit court practice, they failed to offer any factual support for that claim and left “a number of important unanswered questions.” Pet. App. 90.

The summary judgment record thus sufficed to allow a reasonable jury to conclude that petitioners

“ma[de] knowingly false representations regarding their knowledge of [Harris’s] whereabouts” in an effort to “hide [Harris] from the courts and keep him in the ‘black hole’ of the Clay County jail indefinitely.” Pet. App. 92-93; *see also* Pet. App. 107 (“While Huffman and Scott’s precise intent in issuing the [d]eclaration is a question for a jury to decide, it seems clear that one *potential* interpretation is that it represented evidence of an intent on the part of one or both of these individuals to deprive plaintiff of his due process rights and keep him locked up for years in the Clay County jail, without attracting the notice of the courts.”).

The district court also noted that the defendants had offered diverging explanations for their justifications for keeping Harris detained: Allgood asserted that Harris had been held on the original murder charge, whereas petitioners contended it was the outstanding prison assault charge, which was never served on Harris. Pet. App. 93-94. The court explained that a reasonable factfinder could conclude that this inconsistency supported Harris’s theory that petitioners sought to “drag out” the prison assault charge and use its “lingering and unresolved status as a pretext for [Harris’s] lengthy incarceration in their jail.” Pet. App. 95.

The district court reiterated that at the summary judgment stage, any “ambiguities in the evidence . . . must clearly be resolved in [Harris’s] favor” as the non-moving party. Pet. App. 90. In particular, the dispute over petitioners’ subjective motivations in filing the false declaration was so “inherently fact and credibility-intensive” that “it could not [be] resolve[d] . . .

in [petitioners'] favor on summary judgment," especially given their failure to proffer any competent evidence supporting their explanation for the false declaration. Pet. App. 92. "Resolving issues such as this one," the court observed, "is the reason that juries and trials exist in the first place." Pet. App. 93.

The district court further explained that, if the jury did find that petitioners "knowing[ly] and deliberate[ly] lie[d] . . . in order to deprive [Harris] of his due process rights," that would be an obvious constitutional violation foreclosing petitioners' qualified immunity defense. Pet. App. 101-02 (citing *Hope v. Pelzer*, 536 U.S. 730 (2002)). Accordingly, petitioners could not obtain summary judgment based on qualified immunity. *Id.*

As for the county, the district court ruled that genuine issues of material fact existed as to whether petitioners were "final policymakers" who could establish municipal liability, thereby foreclosing summary judgment. Pet. App. 105.

III. Court of Appeals Proceedings

Petitioners and the county appealed to the Fifth Circuit. The court of appeals first determined that it lacked jurisdiction to consider the county's appeal because summary judgment rulings against municipalities are not appealable collateral orders. Pet. App. 8-10.

Proceeding to petitioners' appeal, the Fifth Circuit affirmed the district court's denial of summary judgment. Pet. App. 16. Like the district court, the court

of appeals explained that Harris’s prolonged detention violated *Jackson*’s “commit-or-release rule,” which prohibits confining a criminal defendant “solely on account of his incapacity to proceed to trial’ for more than ‘the reasonable period of time necessary to determine whether there is substantial probability that he will attain that capacity in the foreseeable future.’” Pet. App. 11 (quoting 406 U.S. at 738). Where, as here, the court determines that there is no real probability the defendant will become competent, “the state must institute civil commitment proceedings—to gauge the dangerousness of the defendant—or release him.” *Id.* Detaining Harris for six years “[w]ithout a chance at his competency being restored or a pending civil [commitment] proceeding” thus violated Harris’s due process rights. Pet. App. 11-12.

Petitioners, the Fifth Circuit noted, did “not push back much against the notion that the Constitution required Harris’s release.” Pet. App. 12. Instead, they “mostly argue[d] that they are not responsible for any constitutional violation.” *Id.* The court of appeals rejected that argument for largely the same reasons as the district court.

It first noted caselaw from the Fifth Circuit and other courts of appeals “reject[ing] jailers’ just-following-orders defenses in cases with much briefer unlawful detentions.” Pet. App. 12-13 (citing, *e.g.*, *Jones v. City of Jackson*, 203 F.3d 875 (5th Cir. 2000)). Furthermore, the Fifth Circuit explained, “the length of time Harris was held without a pending hearing—substantial as it was—is not the only basis for tying the sheriffs to the due process violation.” Pet. App. 13-14. Petitioners’ declaration “testifying that Harris

was not in the jail (this in a relatively small county with . . . roughly 100 inmates at a given time)” was a “lie” that “allow[ed] a factfinder to infer that [petitioners] were covering something up—that they knew there was no longer any basis to hold Harris.” Pet. App. 13.

The court of appeals also pointed to “[o]ther holes in the sheriffs’ story,” including the fact that they justified Harris’s six-year detention based on the prison assault *capias* even though “that could not be the case because the indictment was never served on Harris.” Pet. App. 13 n.8. And it noted that petitioners continued to hold Harris in violation of the circuit court’s order that he remain in custody “*until* the determination of [the civil commitment] proceedings”; this order “inform[ing] the jailers what due process required” made this an “easier” case than ones “in which jailers should have pieced together the need to release the defendant based on the passage of time.” Pet. App. 14.

In its original opinion, the Fifth Circuit held that it need not reach whether the unconstitutionality of petitioners’ conduct was obvious under *Hope*, because there was binding circuit precedent on point. Pet. App. 31. Citing its decision in *Jauch v. Choctaw County*, 874 F.3d 425, 436 (5th Cir. 2017), the court of appeals explained that it had “recently held that it has been established for decades that a sheriff can be liable for the unlawful detention of an inmate.” Pet. App. 31-32. Indeed, the Fifth Circuit observed, “a sheriff’s responsibility for the unlawful detention of an inmate long predates *Jauch* and *Jones*,” noting that it had imposed liability as early as 1968 on a sheriff for continuing to detain a person after a court

had ordered him released. Pet. App. 32 (citing *Whirl v. Kern*, 407 F.2d 781 (5th Cir. 1968)). Finally, the court of appeals rejected petitioners' arguments distinguishing this case from *Jauch*, explaining that the constitutional violation here is even more severe than the one found to violate clearly established law in *Jauch*. Pet. App. 33-34.

After petitioners filed a petition for rehearing and rehearing en banc, the panel amended the "clearly established" section of its qualified immunity analysis. Rather than relying on *Jauch*, the panel affirmed the district court's holding that petitioners' actions were an "obvious" constitutional violation under *Hope* and *Taylor v. Riojas*, 141 S. Ct. 52 (2020). Pet. App. 15-16. The amended decision explained that *Jackson* made it "clear as day" that Harris's six-year detention was unlawful and that *Whirl* had established decades earlier that "sheriffs can be held responsible for unlawful detentions, especially when a court order tells them that the detainee should be released." Pet. App. 15. Thus, "[d]etaining Harris for more than six years after he should have been released under Supreme Court precedent and a state court order is a violation of clearly established law." Pet. App. 15-16.

The petition for rehearing en banc was denied, with no member of the Fifth Circuit requesting a poll. Pet. App. 1-2.

IV. Post-Petition District Court Order

After filing their petition for certiorari, petitioners moved in the district court for a continuance of trial pending this Court's resolution of the petition. The district court denied the motion, and then took the

“opportunity to correct what it believes to be a mis-characterization of its ruling” in the petition for certiorari. BIO App. 1a-2a.

The district court explained that, contrary to the petition’s assertions, it had not applied the *Hope* “obvious case” rule to deny qualified immunity “based upon the county’s general obligations to ensure that it is not wrongfully imprisoning a suspect.” BIO App. 3a. Instead, the court applied *Hope* “based upon its conclusion that fact issues existed regarding whether Huffman and Scott had deliberately lied in their Sheriff’s Diligence Declaration in order to deprive Harris of his due process rights.” BIO App. 3a.

The district court reiterated the significance of the declaration, which contained “a deliberate lie . . . by defendants to a court attempting to grant Harris his due process rights, in order to manufacture a basis to keep him unlawfully incarcerated in their jail.” BIO App. 9a. It quoted the Fifth Circuit’s similar characterization of the declaration as a “lie.” BIO App. 4a. It repeated its conclusion from its summary judgment order that “it was ‘obvious’ under *Hope* that defendants could not lie to a court regarding their knowledge of Harris’ whereabouts in order to deprive him of his due process rights.” BIO App. 5a. It expressed a “strong suspicion . . . that defendants specifically sought to keep [Harris] from receiving due process with regard to the *prison assault charges* so that they could use those charges as a pretext to continue to hold him.” BIO App. 10a. And it noted that the defendants’ divergent explanations of their justification for Harris’s six-year detention in the absence of a

valid commitment order “cast[] doubt upon [petitioners’] position that they were simply following [the prosecutor’s] direction in this case.” BIO App. 8a.

The district court also took issue with the petition’s mischaracterization of its suggestions for actions the county could have taken as “its basis for concluding that *Hope* applies in this case.” BIO App. 12a (citing Pet. 9-10). “In reality, nowhere did this court indicate that it was ‘obvious’ that the County should have taken th[o]se steps . . . Indeed, at no point in its order did this court maintain that it was obvious what defendants *should have* done in this case, merely that it was obvious what they *should not* have done, namely lie to a court in order to manufacture a pretext to keep Harris in jail.” BIO App. 12a.

The district court explained that its reason for issuing this remarkable order was that the mischaracterizations in the petition for certiorari required it to “set the record straight.” BIO App. 3a. The court found those mischaracterizations “concerning,” because it was “difficult to see how [the declaration] could have been overlooked [by petitioners] as even one basis for this court’s denial of qualified immunity.” BIO App. 8a-9a. Despite the fact that “[t]wo separate courts have now concluded that fact issues exist regarding whether a knowing lie was told by defendants,” the petition for certiorari “offer[s] nothing more than conclusory denials of any wrongdoing, in a single footnote to their brief.” BIO App. 9a. The court described this as a failure by petitioners to “fully and accurately confront the actual record in this case.” BIO App. 13a.

The district court concluded by requesting that its order “be filed as an exhibit on the Supreme Court’s docket, so that the Court may have a more accurate picture of the nature of the proceedings below.” BIO App. 14a. Respondent accordingly has included the order in an appendix to this brief.

REASONS FOR DENYING THE PETITION

I. The Petition Misrepresents The Decisions Below.

The petition fails at the outset because it rests entirely on mischaracterizations of the decisions below.

Petitioners begin by cherry-picking record citations to give the misimpression that the summary judgment evidence establishes only that they continued to detain Harris based on a reasonable, good-faith belief that they had been court-ordered to do so. *See* Pet. 6-9. Then, building on that distorted factual record, petitioners falsely assert that the decisions below hold that they are not entitled to qualified immunity because jailers have a clearly established affirmative constitutional duty to confirm the legality of a prisoner’s detention order and to release “even violent and mentally ill” prisoners if the jailers determine the court order is invalid. Pet. 6. This holding, petitioners claim, puts jailers in an “untenable bind [that] threatens to wreak havoc,” necessitating this Court’s review. *Id.*

The purported factual record and legal holdings that petitioners ask this Court to review bear little resemblance to this case. To start, the petition wholly disregards the summary judgment standard: As this

Court has repeatedly explained, in determining whether a public officer is entitled to qualified immunity at the summary judgment stage, “[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor.” *Tolan v. Cotton*, 572 U.S. 650, 651 (2014) (per curiam) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)); *see also* Pet. App. 2, 90 (properly applying this standard to petitioners’ motion).

Not only does petitioners’ factual recitation fail to draw all justifiable inferences in Harris’s favor, it essentially omits a central piece of evidence relied upon by the courts below in denying summary judgment: the false declaration petitioners submitted to the circuit court a few days after Harris’s detention became unlawful, which contained “a straight-forward factual assertion that [petitioners] were unable to locate plaintiff during a time when it seems clear that they knew he was located in their jail.” Pet. App. 89. Although the district court and Fifth Circuit both held that the declaration created a triable issue of fact as to whether petitioners intentionally hid Harris’s whereabouts to prolong his unlawful detention in violation of his clearly established due process rights, *see supra* pp. 8-12, the only mention of the declaration in the petition is a footnote vaguely referencing an arrest warrant that “was returned . . . with an indication that Harris could not be located,” described by petitioners as “an administrative oversight,” Pet. 12 n.3.

The misrepresentations in the petition are so remarkable that when the district court entered its or-

der denying petitioners' motion to stay the trial proceedings, the court felt compelled "to set the record straight regarding the nature of the holding it made in this case, since the cert petition in this case mischaracterizes it." BIO App. 3a; *see also* BIO App. 9a ("Two separate courts have now concluded that fact issues exist regarding whether a knowing lie was told by defendants in this context, and yet, in their cert petition, they offer nothing more than conclusory denials of any wrongdoing, in a single footnote to their brief.").

As the decisions below make clear, neither the district court nor the Fifth Circuit held that petitioners are not entitled to qualified immunity simply because they failed to release Harris while his "court proceedings were stalled," Pet. i-ii (Question Presented 1) or because they failed "to inquire as to the status of [Harris's] court proceedings," Pet. ii (Question Presented 2). Rather, the district court explained, it was "obvious' under *Hope* that defendants could not lie to a court regarding their knowledge of Harris' whereabouts in order to deprive him of his due process rights." BIO App. 5a; *see also, e.g.*, Pet. App. 101-02 (the *Hope* "obvious case' exception" applies to petitioners' "knowing and deliberate lie . . . in submitting the Sherriff's Diligence Declaration, in order to deprive him of his due process rights").

The Fifth Circuit likewise explained that "the length of time Harris was held without a pending hearing—substantial as it was—is not the only basis for tying the sheriffs to the due process violation." Pet. App. 13-14. Among other things, petitioners' declaration "testifying that Harris was not in the jail (this in

a relatively small county with . . . roughly 100 inmates at a given time)” was a “lie” that “allow[ed] a factfinder to infer that [petitioners] were covering something up—that they knew there was no longer any basis to hold Harris.” Pet. App. 13; *see also* Pet. App. 13 n. 8 (noting “[o]ther holes in the sheriffs’ story”). Although the court of appeals did not repeat the factual basis for petitioners’ due process violation in its discussion of qualified immunity, those facts were necessarily enfolded into its determination that that due process violation was obvious under *Hope*. *See* Pet. App. 15-16.

The Court need go no further than the disconnect between the petition and the decisions below to deny review: The questions presented by the petition are not presented by this case.

II. The Fifth Circuit’s Decision Is Correct.

Properly understood, the decisions below narrowly hold that, reviewing the summary judgment evidence in a light most favorable to Harris, petitioners violated Harris’s clearly established due process rights by intentionally imprisoning him for six years while knowing they had no legal authority to hold him and by deliberately lying in court documents to prolong that unlawful imprisonment. The Fifth Circuit correctly affirmed the district court’s determination that petitioners are not entitled to qualified immunity on those facts.

A. The Fifth Circuit correctly determined that Harris had a due process right to be committed or released after he was declared incompetent to stand trial.

The Fifth Circuit’s determination that Harris had a due process right to be civilly committed or released after he was declared incompetent to stand trial follows directly from this Court’s decades-old precedent. In *Jackson v. Indiana*, 406 U.S. 715 (1972), the Court concluded that a detainee’s due process rights were violated when he was imprisoned for three-and-a-half years pursuant to a state statute authorizing indefinite commitment without requiring a finding of dangerousness. *See id.* at 737-38. The Court held that “a person charged by a State with a criminal offense who is committed solely on account of his incapacity to proceed to trial cannot be held more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain that capacity in the foreseeable future.” *Id.* at 738. Once a detainee is found to be incompetent to stand trial, “the State must either institute the customary civil commitment proceeding that would be required to commit indefinitely any other citizen, or release the defendant.” *Id.*

The Court reinforced this holding a few years later in *Addington v. Texas*, 441 U.S. 418, 425 (1979), explaining that “civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection.” Because “[t]he individual should not be asked to share equally with society the risk of error when the possible injury to the individual is significantly greater than any possible harm

to the state,” “the individual’s interest in the outcome of a civil commitment proceeding is of such weight and gravity that due process requires the state to justify confinement by proof more substantial than a mere preponderance of the evidence.” *Id.* at 427. The Court also reasoned in a different case that term that even a detention “pursuant to a valid warrant but in the face of repeated protests of innocence will after the lapse of a certain amount of time deprive the accused of ‘liberty . . . without due process of law.’” *Baker v. McCollan*, 443 U.S. 137, 145 (1979).

In accordance with this precedent, the Fifth Circuit has long recognized that due process protections apply to extended pretrial detentions. Most relevant, the Fifth Circuit held in 2000 that a nine-month detention without a hearing was a clearly established due process violation. *See Jones v. City of Jackson*, 203 F.3d 875, 880-81 (5th Cir. 2000). It accordingly denied qualified immunity to the responsible jailers: the sheriff who devised and enforced county jail policy and the sheriff’s deputy who had requested the detainer that resulted in the plaintiff’s detention. *Id.* at 877-78, 881.

There is no real dispute that, consistent with this precedent, the Fifth Circuit properly determined that Harris was entitled to be civilly committed or released in 2010 after the circuit court found him incompetent to stand trial, and that his further detention for six more years violated due process. *See* Pet. App. 12 (noting that petitioners did “not push back much against the notion that the Constitution required Harris’s release”). Rather, petitioners’ primary contention is

that the due process violation was not their responsibility. *See id.*; *see also* Pet. 12-17.

That argument fails on multiple fronts. First, as the Fifth Circuit explained, there is ample precedent “reject[ing] jailers’ just-following-orders defenses in cases with much briefer unlawful detentions.” Pet. App. 12-13 (citing *Jones*, 203 F.3d at 875, 880-81; *Jauch v. Choctaw Cnty.*, 874 F.3d 425, 436 (5th Cir. 2017); *Hayes v. Faulkner Cnty.*, 388 F.3d 669, 675 (8th Cir. 2004); *Armstrong v. Squadrito*, 152 F.3d 564, 567, 573-76 (7th Cir. 1998); *Oviatt v. Pearce*, 954 F.2d 1470, 1474-77 (9th Cir. 1992)).

Second, petitioners again wholly ignore the Fifth Circuit’s determination that a reasonable jury could find that petitioners did not simply follow orders that happened to result in Harris’s unlawful detention but, instead, knowingly and intentionally orchestrated the continuation of that unlawful detention by lying in court documents to conceal Harris’s whereabouts. *See* Pet. App. 13. Unsurprisingly, it is well-established in this Court and the Fifth Circuit that jailers may be liable where, as here, the constitutional violations arise from their *own* misconduct. *See, e.g., Farmer v. Brennan*, 511 U.S. 825 (1994); *Carlson v. Green*, 446 U.S. 14 (1980); *Jones*, 203 F.3d at 875; *Whirl v. Kern*, 407 F.2d 781 (5th Cir. 1968).

Petitioners’ attempts to distinguish the precedent cited by the Fifth Circuit similarly disregard the summary judgment standard. Petitioners frame *Jackson* as requiring only “the State to petition the courts to commit incompetent criminal defendants,” Pet. 14,

thereby removing themselves from the chain of responsibility for Harris's illegal detention, *see* Pet. 14—again ignoring the evidence that they affirmatively sought to “hide [Harris] from the courts and keep him in the ‘black hole’ of the Clay County jail indefinitely.” Pet. App. 93; *see also* Pet. App. 107

Petitioners assert that *Whirl* is distinguishable because the sheriffs in that case continued to detain the plaintiff for nine months after the dismissal of his criminal charges, whereas here there was “[n]o such evidence” that “the criminal charges had been dismissed.” Pet. 16. This argument is a sleight of hand: Petitioners do not and cannot contest that after the circuit court found Harris incompetent to stand trial, it authorized his continued detention only until the civil commitment proceedings concluded and that they nonetheless continued to detain Harris for six years after those proceedings were dismissed. *See* Pet. App. 3. The Fifth Circuit thus properly relied on *Whirl* for the proposition that “it has long been the law that sheriffs can be held responsible for unlawful detentions, especially when a court order tells them that the detainee should be released.” Pet. App. 15.

To the extent petitioners argue that *Whirl* is inapposite because they were unaware they lacked legal authority to continue holding Harris, *see* Pet. 16, that claim yet again defies the summary judgment evidence that they *did* have personal knowledge of the due process violation and affirmatively hid Harris's whereabouts in order to prolong his unlawful imprisonment, *see supra* pp. 17-19, 22.

B. The Fifth Circuit correctly affirmed the district court’s determination that petitioners are not entitled to qualified immunity if they held Harris for six years while knowing they had no legal authority to detain him and intentionally lied in court documents to hide Harris’s whereabouts.

Qualified immunity is designed “to ensure that before they are subjected to suit, officers are on notice their conduct is unlawful.” *Saucier v. Katz*, 533 U.S. 194, 206 (2001). Officers must therefore have “fair warning that their conduct violated the Constitution.” *Hope v. Pelzer*, 536 U.S. 730, 741 (2002). This “fair warning” is typically provided by prior cases establishing the unlawfulness of the conduct. *See, e.g., Brosseau v. Haugen*, 543 U.S. 194, 200-01 (2004) (*per curiam*).

But an official’s conduct may also be so “obvious[ly]” illegal that no “body of relevant case law” is necessary to establish the violation. *Id.* at 199 (citing *Hope*, 536 U.S. at 738); *see also Hope*, 536 U.S. at 753 (Thomas, J., dissenting) (“Certain actions so obviously run afoul of the law that an assertion of qualified immunity may be overcome even though court decisions have yet to address ‘materially similar’ conduct.”); *United States v. Lanier*, 520 U.S. 259, 270-71 (1997) (particularly egregious conduct may be clearly unconstitutional even if “the very action in question has [not] previously been held unlawful”). And “a general constitutional rule already identified in the decisional law may apply with obvious clarity to the spe-

cific conduct in question.” *Hope*, 536 U.S. at 741 (quoting *Lanier*, 520 U.S. at 270-71). This Court recently reaffirmed that obviously illegal conduct can defeat qualified immunity. *See, e.g., Taylor v. Riojas*, 141 S. Ct. 52, 53-54 (2020) (per curiam); *see also McCoy v. Alamu*, 141 S. Ct. 1364 (2021); *City of Escondido v. Emmons*, 139 S. Ct. 500, 504 (2019) (per curiam); *District of Columbia v. Wesby*, 138 S. Ct. 577, 590-91 (2018); *White v. Pauly*, 137 S. Ct. 548, 552 (2017) (per curiam).

The obviousness principle follows directly from the fair warning requirement. For conduct that is “obvious[ly]” illegal, “officials can still be on notice that their conduct violates established law even in novel factual circumstances.” *Hope*, 536 U.S. at 741; *see also Taylor*, 141 S. Ct. at 53-54. This principle is essential to ensuring that the most egregious conduct gives rise to liability. Obviously unconstitutional conduct is by its nature less likely to lead to the development of precedent to serve as clearly established law: Because it is obviously unconstitutional, officials are—or should be—less likely to do it. *See Safford Unified Sch. Dist. No. 1 v. Redding*, 557 U.S. 364, 377-78 (2009) (“[O]utrageous conduct obviously will be unconstitutional, this being the reason . . . that the easiest cases don’t even arise.” (internal quotation marks and brackets omitted)).

This Court first articulated the principle that obviously illegal conduct defeats qualified immunity in *Hope*. In that case, an incarcerated plaintiff brought an Eighth Amendment claim after prison officials handcuffed him to a hitching post. 536 U.S. at 734-35. *Hope* was left shirtless in the sun and handcuffed to

the post for seven hours, given water only once or twice, and provided no bathroom breaks. *Id.* A guard taunted Hope while he was restrained. *Id.* at 735. This Court readily concluded that these conditions constituted a clearly established constitutional violation: the “obvious cruelty inherent in this practice should have provided respondents with some notice that their alleged conduct violated” the Eighth Amendment. *Id.* at 745.

In the decision below, the Fifth Circuit correctly affirmed the district court’s determination that petitioners’ conduct amounts to the rare case of an “obvious” constitutional violation. Pet. App. 15-16. It has been firmly established for over half a century that a criminal defendant who is found to be incompetent to stand trial must promptly be civilly committed or released. *See Jackson*, 406 U.S. at 738. This is precisely the kind of “general constitutional rule already identified in the decisional law” that “may apply with obvious clarity to the specific conduct in question,” *Hope*, 536 U.S. at 741 (quoting *Lanier*, 520 U.S. at 270-71)—here, providing petitioners fair notice that due process prohibited them from continuing to hold Harris for six years after he was found to be incompetent to stand trial and his civil commitment proceedings were dismissed, and from making false statements to a court to effectuate that continued detention.

Petitioners’ attempts to distinguish *Hope*, *see* Pet. 18-19, fail. *Hope* does not suggest that an “obvious case” of unconstitutionality must be confirmed by some external source like a Department of Justice report. Such a requirement would defeat the premise of

providing an “obviousness” exception to the typical qualified immunity analysis. Indeed, the Court made no mention of any external validation of the obviousness of the constitutional violation in *Taylor*, 141 S. Ct. at 53-54. And even if external indicia of unconstitutionality were required, petitioners were put on notice that Harris’s continued detention was unlawful by the circuit court order authorizing his detention only “until the determination of [the] civil [commitment] proceedings.” Pet. App. 3.

Petitioners try to situate this case outside the *Hope* rule by characterizing Harris’s six-year detention as involving “highly unusual circumstances . . . over which they had no control.” Pet. 13. Once again, petitioners’ claim that they had “no control” over Harris’s six years of detention defies the summary judgment evidence that petitioners were personally responsible for prolonging Harris’s unlawful detention. *See supra* pp. 17-19, 22. And to the extent that the circumstances here are “highly unusual,” Pet. 13, it is precisely because the facts are so “outrageous” and unlikely to recur that the obviousness rule exists. *Safford*, 557 U.S. at 377.

The petition spends several paragraphs quarreling with the panel’s original qualified immunity holding, *see* Pet. 19-20, even though that decision was withdrawn and therefore no longer has any relevance, Pet. App. 2. In any event, petitioners misstate that decision too. The Fifth Circuit did not initially rely on its 2017 decision in *Jauch* to establish the constitutional violation. Rather, the panel cited *Jauch* for the proposition that “it has been established for decades” in the Fifth Circuit “that a sheriff can be liable for the

unlawful detention of an inmate.” Pet. App. 31-32. The panel pointed in particular to *Jones*, which predates the incidents in this case by at least a decade. See Pet. App. 31 n.9 (explaining that *Jauch* recognized that *Jones* “clearly established that a sheriff could be responsible for an unlawful detention” in 2000).

The fact that six judges dissented from the denial of rehearing en banc in *Jauch*, see Pet. 19-20, is likewise irrelevant. This Court subsequently denied the petition for certiorari in that case, see *Choctaw Cnty. v. Jauch*, 139 S. Ct. 638 (2018), and *Jauch* is still binding precedent in the Fifth Circuit. Moreover, whether or not the due process violation in *Jauch*—ninety-six days of pretrial detention without a hearing—was clearly established by *Jones* has nothing to do with the obviousness of the constitutional violation here, where petitioners intentionally misled a court about Harris’s whereabouts in an attempt to prolong his detention absent court authorization. Indeed, it is telling that despite the internal disagreement over *Jauch*, not a single Fifth Circuit judge dissented from the denial of rehearing en banc in this case. Pet. App. 1-2.

III. This Case Does Not Meet Any Of The Court’s Criteria For Review.

Finally, the Court should deny the petition because it does not meet any of its criteria for review. Significantly, petitioners do not suggest that the decision below implicates any circuit split requiring the Court’s resolution; indeed, they do not identify a sin-

gle decision from any other court of appeals even arguably in tension with the Fifth Circuit’s determination here.

Petitioners’ assertion of exceptional importance, *see* Pet. 20-22, is easily dismissed. As with the rest of the petition, petitioners’ claims about the dire consequences of denying review are wholly untethered from the decisions below. The Fifth Circuit has not “impose[d] upon every government an affirmative constitutional duty to become involved in resolving jurisdictional questions, questioning slow-downs in the judicial process, and ascertaining the status of criminal proceedings.” Pet. 20. It held only that petitioners had no reasonable basis for believing that the Constitution permitted them knowingly detain Harris for six years without any lawful basis and to intentionally conceal Harris’s whereabouts to prolong the unlawful detention. *See supra* pp. 17-19, 22.

Petitioners’ concern about the impact of that holding on “[l]arger jails and prisons that process thousands of inmates,” Pet. 21, is a non sequitur: The Fifth Circuit affirmed the district court’s denial of qualified immunity based on evidence of petitioners’ *personal knowledge* that they were holding Harris unlawfully—evidence which included the small size of petitioners’ detainee population. Pet. App. 13 (noting that petitioners oversaw “roughly 100 inmates at a given time”).

The only thing exceptional about this case is the extent to which petitioners intentionally and affirmatively disregarded Harris’s due process rights and the profound liberty deprivation inflicted on Harris as a result. The Fifth Circuit’s affirmance of the district

court’s denial of qualified immunity under these “highly unusual” circumstances—where jailers lied in court documents in order to unlawfully prolong the imprisonment of a mentally ill man by six years—is unlikely to have any application beyond the uniquely troubling facts of this case.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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