

No. 22-533

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In The  
**Supreme Court of the United States**

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IFRAH YASSIN,

*Petitioner,*

v.

HEATHER WEYKER,

*Respondent.*

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

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**BRIEF OF AMANDA KNOX AS AMICUS  
CURIAE IN SUPPORT OF PETITIONER**

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## INTEREST OF AMICUS CURIAE<sup>1</sup>

Amanda Knox is an author, activist, and journalist who spent nearly four years in an Italian prison for a crime she did not commit. Amanda’s wrongful conviction stemmed from a botched police investigation and prosecutorial abuses that placed her in the international spotlight and in the crosshairs of public scrutiny and cruelty.

Since her 2015 exoneration by Italy’s high court, Amanda has devoted herself to advocating for the wrongly accused. Through her journalism, documentaries, social media, podcasts, and speaking engagements, Amanda has fought for criminal justice reform and informed the public about the harms of wrongful accusations and improper investigations.

Amanda files this brief to continue her advocacy for those who are wrongfully accused of crimes and to emphasize the importance of holding the government accountable for its abuses of power.

### SUMMARY OF ARGUMENT

A core tenet of any respectable modern legal system is that individuals are innocent until proven guilty. While this presumption of innocence may be codified in U.S. law, it is not a social requirement. As Amanda Knox experienced first-hand, the court of public opinion—both in the United States and

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<sup>1</sup> No counsel for any party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. Timely notice of the intent to file this amicus brief was provided to all parties, and all parties have consented to the filing of this brief.

abroad—operates from a presumption of guilt, believing “that most people who are arrested and charged with crimes are guilty of something.” Andrew D. Leipold, *The Problem of the Innocent, Acquitted Defendant*, 94 Nw. U. L. Rev. 1297, 1399 (2000).

This public presumption of guilt has devastating consequences for the wrongly accused and convicted. The implication of innocent people in criminal wrongdoing imposes a lifelong sentence, wherein the taint of accusation can never be washed away.

When this injury is imposed at the hands of government officials who violated constitutional protections, there must be a remedy. Without accountability for abuses of power that lead to wrongful arrests and convictions, victims of government abuse lose their rights and society loses the safeguard that prevents similar harms in the future. It creates an environment in which no one is safe from unjustified accusations. And worse, it engenders a justice system in which rights are nothing more than hollow shells.

Amanda personally experienced these harms when she was wrongly accused of murder while studying abroad in Italy. At the time, those in the United States who believed in Amanda’s innocence insisted that the injustices Amanda endured were a result of Italy’s system and that such abuses would never occur here. But as Ifrah Yassin’s case demonstrates, that is simply not true.

We in the United States are not exempt from government abuse; we are not immune to rights deprivations. To the contrary, Ifrah’s case demonstrates that it is government officials who are immunized from re-



sponsibility for upholding the Constitution’s demands. By sanctioning yet another avenue for government officials to escape liability—through simple cross-deputization on federal task forces—the First, Second, Sixth, and Eighth Circuits have eroded constitutional protections and placed every citizen in their jurisdictions at greater risk.

This Court should grant certiorari to uphold the Constitution and 42 U.S.C. 1983.

## ARGUMENT

### **I. The wrongly accused suffer substantial, lifelong injuries.**

Amanda was a 20-year-old foreign exchange student in Perugia, Italy when investigators wrongly accused her of murdering her roommate. See generally Amanda Knox, *Waiting to be Heard: A Memoir* (2013). With that unfounded accusation and the subsequent unjust conviction, her life changed forever.

From the moment of her arrest, speculations about her guilt spread like wildfire through the tabloids and nascent social media platforms. Over the course of eight years, Amanda was tried and wrongly convicted of the same crime twice. She also twice appealed. All the while, as Amanda defended her innocence, the international public scrutinized her private life, gossiped about her sexual history, and speculated about her guilt or innocence over the water cooler. And even though Amanda’s conviction was ultimately va-

cated—with Italy’s highest court declaring her innocent<sup>2</sup>—Amanda is still regularly harassed on social media, her character is called into question, and her innocence is doubted.<sup>3</sup> She receives death threats, is called a killer, and is told she should be rotting in prison. Even her infant daughter is not immune from wishes of harm and vitriolic slurs.

This is the consequence of wrongful accusations and convictions. Amanda may have been declared innocent by the court of law, but she has been sentenced to life by the court of public opinion.

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The day Amanda walked out of prison, the version of her invented by the prosecution and depicted in the media—the vindictive, promiscuous killer—preceded

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<sup>2</sup> On March 27, 2015, the Italian Supreme Court of Cassation ruled that the case against Amanda was without foundation. See Cass., sez. quinto, 7 Settembre 2015, n. 32598, Foro it. V 2015, 4, 25,42 (It.), *translated in Supreme Court Motivation Report*, <https://perma.cc/9VJZ-QEQ2>. Instead of merely concluding that there was not enough evidence to support Amanda’s conviction, the Court went so far as to hold that Amanda was in fact *innocent* of any involvement in the murder. *Id.*

<sup>3</sup> See, e.g., Azazil (@Azazil\_06), Twitter (Dec. 2, 2022), <https://perma.cc/3WC7-PJ4J> (“No one believes you Amanda Knox”); Meredith Kercher remembered (@MKRemembered), Twitter (Nov. 29, 2022), <https://perma.cc/DW39-BV66> (“#AmandaKnox has always lied to you. Promise.”); GirlNamedAubrey (@Aubrey19x), Twitter (Nov. 29, 2022), <https://perma.cc/KN8X-ZKGN> (“Casey Anthony and Amanda Knox got away with murder and i think we should not give them any platform to prove otherwise!!”); Amelia Cloud (@ameliabee7721), Twitter (Nov. 28, 2022), <https://perma.cc/G7UH-TLMS> (“[Amanda’s] a racist, pathological liar.”).

her. She knew that everyone she would meet in freedom had already met and judged the fictitious Amanda created by the government and media. These preformed opinions and beliefs made it impossible for Amanda to resume her life as an anonymous college student and, later, to find employment. When she first began writing for a local newspaper, she had to do so under a pseudonym. Trapped by this false narrative and stalked by the media, Amanda largely hid for years, trusting only those she knew before her wrongful conviction.

Eventually, Amanda discovered that she was not alone. In the years since her wrongful conviction, Amanda has connected with countless other wrongly convicted men and women through the Innocence Project. The support she has received from this community has helped her to reclaim her identity—once stolen from her by the Italian government’s abuse—and become the outspoken activist she is today.

While we will never know the true number of those who are wrongly incarcerated—much less the number of individuals who suffer from wrongful indictments that ultimately result in non-prosecution or acquittal—the numbers that do exist are staggering. As of December 13, 2022, the National Registry of Exonerations reports 3,332 exonerations in the United States since 1989, amounting to 28,450 years of unjust incarceration.<sup>4</sup> By way of example, in 2020, nearly 80% of those exonerated on murder charges were victims of

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<sup>4</sup> The National Registry of Exonerations, *Exonerations in the United States, 1989–2022* (Dec. 13, 2022), <https://perma.cc/F7RY-YJXY>.

government misconduct.<sup>5</sup> These numbers increase every day.<sup>6</sup>

Wrongfully convicted men and women have a shared experience that those who have not endured the trauma of government abuse cannot relate to. Through gatherings like those offered by the Innocence Network Conference,<sup>7</sup> Amanda and others have an opportunity to share and heal, knowing that they do not have to explain themselves to one another.

It is at the Innocence Network Conference that Amanda met others who, like she, were coerced into signing false admissions and confessions:

People like Juan Rivera, who was questioned relentlessly for four days until he had a mental break, ultimately signing an untruthful self-incriminating statement that led to his wrongful murder conviction.<sup>8</sup> Juan spent nearly twenty years in prison before DNA proved his innocence.<sup>9</sup>

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<sup>5</sup> The National Registry of Exonerations, *Annual Report* (Mar. 30, 2021), <https://perma.cc/2Z4V-U8SA>.

<sup>6</sup> On average, in the last year, at least one new person was exonerated each day. Compare The National Registry of Exonerations, *Exonerations in the United States, 1989–2022* (Dec. 13, 2022) (reporting 3,332 exonerees), with The National Registry of Exonerations, *Exonerations in the United States, 1989–2021* (Dec. 17, 2021), <https://tinyurl.com/2p9e49e7> (reporting 2,927 exonerations).

<sup>7</sup> The Innocence Network, *Conference*, <https://perma.cc/N4GH-ANY3>.

<sup>8</sup> Andrew Martin, *The Prosecution's Case Against DNA*, N.Y. Times Magazine (Nov. 25, 2011), <https://tinyurl.com/567e6ve6>.

<sup>9</sup> *People v. Rivera*, 962 N.E.2d 53, 67 (Ill. App. Ct. 2011).

People like the Central Park Five, who were also victims of coercive interrogation and, collectively, spent nearly 45 years wrongfully imprisoned for a rape they did not commit.<sup>10</sup>

People like Damien Echols, Jason Baldwin, and Jesse Miskelly, Jr.—known as the West Memphis Three—who, like many, suffered at the hands of prosecutors who withheld exculpatory evidence from the defense and who each served eighteen years of their life sentences before being released.<sup>11</sup>

But it is not just the ways in which people are wrongly convicted—junk science, false confessions, eye-witness misidentification, prosecutorial misconduct, and the list goes on—that they have in common; it is also the ways in which they struggle in the aftermath of their wrongful convictions. The obstacles to freedom are many, and all too often the state fights tooth and nail to prevent wrongful convictions from being overturned. And even when the government knows it has lost, it is often unwilling to admit fault. Take, for instance, the West Memphis Three, who—faced with the choice between release and life in prison—accepted Alford pleas after the government’s misconduct was revealed.<sup>12</sup> Because the three men technically pled guilty, the courthouse doors were slammed shut to any suit they may have pursued to

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<sup>10</sup> Jonah E. Bromwich, *Sixth Teenager Charged in Central Park Jogger Case is Exonerated*, N.Y. Times (July 25, 2022), <https://tinyurl.com/mt3m2ce5>.

<sup>11</sup> Suzi Parker, *After 18 Years, “West Memphis 3” Go Free on Plea Deal*, Reuters (Aug. 19, 2011), <https://perma.cc/QT5G-7M8H>.

<sup>12</sup> *Id.*

hold the responsible authorities accountable for their constitutional violations.<sup>13</sup>

In freedom, the wrongly convicted, like Amanda, face the endless stigma of having been accused. Even as recently as 2019, long after the Central Park Five were exonerated, then-President Trump stood by his earlier insistences that the group should be put to death because the five then-teenage boys had “admitted guilt,” referring to their coerced confessions.<sup>14</sup> No matter how much time passes, there is no absolution from a wrongful accusation.

As demonstrated, the harms that Amanda endured are not unique to her experience in Italy. They reflect the universal experience of being wrongly accused.

In the case before this Court, Minnesota police officer Heather Weyker lied and manipulated to bring criminal charges against dozens.<sup>15</sup> Though none of her victims were convicted, Weyker’s misconduct—made possible only through her powers as a state official—branded these individuals, including Ifrah, as

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<sup>13</sup> See *Heck v. Humphrey*, 512 U.S. 477, 486–487 (1994) (holding that individuals may not recover damages for unconstitutional convictions or imprisonment under 42 U.S.C. 1983 unless their conviction or sentence has been reversed on direct appeal, expunged by executive authority, declared invalid by a state tribunal, or called into question by issuance of a writ of habeas corpus).

<sup>14</sup> Jan Ransom, *Trump Will Not Apologize for Calling for Death Penalty Over Central Park Five*, N.Y. Times (June 18, 2019), <https://tinyurl.com/4pn8zxy5>.

<sup>15</sup> See, e.g., *United States v. Fahra*, 643 Fed. Appx. 480, 482 (6th Cir. 2016) (recounting examples of Weyker’s misconduct).

“accused,” deprived them of their liberty, and forced them into the labyrinth of the criminal justice system. And even now that their criminal fight is over, in the eyes of the public, they will forever be considered “guilty of something.” Leipold, *The Problem of the Innocent, Acquitted Defendant*, 94 Nw. U. L. Rev. at 1297. This is a constitutional injury that demands remediation.

## **II. The justice system fails common sense expectations.**

### **A. People expect accountability for constitutional harms.**

Throughout Amanda’s trials and appeals, the United States disparaged the Italian system as inferior,<sup>16</sup> and following her acquittal, some U.S. citizens demanded that the Italian government compensate Amanda for the miscarriage of justice.<sup>17</sup> Although the European Court of Human Rights recently issued a ruling in Amanda’s favor, holding that the Italian government violated her rights during the interrogation process,<sup>18</sup> Italy has never provided compensation

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<sup>16</sup> See, e.g., Terry Baynes, *Knox Case Could Pit Extradition Treaty Against U.S. Constitution*, Reuters (Mar. 26, 2013), <https://perma.cc/RK22-QEYW> (discussing inadequacies in the Italian criminal system).

<sup>17</sup> See, e.g., Judy Bachrach, *How Much Does Italy Owe Amanda Knox? A Lot*, Vanity Fair (Apr. 3, 2015), <https://perma.cc/XU8C-XP5A> (arguing that Amanda should “collect” after the experience the Italian government put her through, noting that she “deserve[d] a lot of money,” and concluding that no amount of money could ever be enough).

<sup>18</sup> See, e.g., Eliza Mackintosh, *European Court Orders Italy to Pay Damages to Amanda Knox*, CNN (Jan. 24, 2019),

for the years she spent wrongfully imprisoned. And it is unlikely that it ever will, or that the Italian state will ever acknowledge its fault.

In this regard, the Italian and U.S. justice systems are equally flawed. And yet, many of the people Amanda encounters assume, incorrectly, that wrongly convicted individuals are generally compensated by the government. For instance, in her work, Amanda often meets with people who, like most who have never experienced government abuse, assume that if someone is accused of a crime, there must be good evidence against them. She talks with individuals who are unaware that police can, and do, lie during interrogations, coercing suspects into confessing. And even when individuals do acknowledge that government officials occasionally abuse their power, they generally assume that those in the wrong are censured and punished, though they rarely are. In Amanda's case, the police and prosecutors responsible for her wrongful conviction were not censured or punished, they were awarded and promoted.

The average person's assumptions, and the demands people made on Amanda's behalf for remediation from the Italian government, reveal Americans' expectations about the way the justice system functions and what they expect remediation of wrongdoing to look like. In other words, they reveal what the American people believe is common sense.

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<https://perma.cc/M8PH-379D>. In 2019, the European Court of Human Rights officially recognized the rights violations that Amanda endured during her interrogation and ordered Italy to pay approximately \$21,000 in damages.



The reality, however, is that the U.S. system defies logic. Where people expect an officer who lies and deceives to lose her job as a police officer, Heather Weyker remains employed as a St. Paul police sergeant, making \$119,905 last year.<sup>19</sup> Where people expect compensation for wrongful imprisonment, the federal courts have so far denied Ifrah Yassin all avenues to relief, despite government lies forcing her into two years of federal custody. Pet. App. 9a–10a; 18a–27a.

**B. The Supreme Court has foreclosed nearly all avenues for accountability, contrary to people’s expectations.**

Far from reflecting common-sense remediations for government abuse, the courts have cut off nearly all avenues for relief from constitutional violations, and without this Court’s intervention in this case, the lack of accountability will only increase.

For instance, last term, this Court all-but reversed *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971), foreclosing lawsuits against federal officials for constitutional violations. See *Egbert v. Boule*, 142 S. Ct. 1793, 1800 (2022). Although the *Egbert* majority did not go so far as to explicitly abrogate *Bivens*, “the Court’s real message” is that *Bivens* is a dead letter and litigants seeking a remedy against federal misconduct have only “false hope” in litigation “destined to yield nothing.” *Id.* at 1810 (Gorsuch, J., concurring).

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<sup>19</sup> GovSalaries.com, Results for “Heather Weyker,” <https://perma.cc/9UQG-SQ4Q>.

In suits against state officials, victims of government misconduct fair only slightly better, even though the command of 42 U.S.C. 1983 is clear: Every person who, acting under color of state law, violates another’s rights “*shall be liable*” to the injured party. 42 U.S.C. 1983 (emphasis added).

Despite this unequivocal instruction from Congress—which the *Egbert* Court claimed is *the* authority on causes of action<sup>20</sup>—the Supreme Court created the doctrine of qualified immunity to shield state officials from liability for constitutional violations. See *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982) (holding that “government officials \* \* \* generally are *shielded from liability* for civil damages insofar as their conduct does not violate clearly established” law (emphasis added)). Because of the evolution of qualified immunity in favor of state officials, the courthouse doors are generally closed to victims of government abuse unless they can provide a factually analogous case where a court in their jurisdiction previously held the officer’s specific behavior to be unconstitutional.<sup>21</sup> See, e.g., *Kisela v. Hughes*, 138 S. Ct.

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<sup>20</sup> *Egbert*, 142 S. Ct. at 1800 (“[P]rescribing a cause of action is a job for Congress, not the courts.”).

<sup>21</sup> Litigation is made more difficult, complicated, and uncertain for plaintiffs by courts’ ability to grant qualified immunity without first establishing whether the official’s conduct amounted to a constitutional violation, see *Pearson v. Callahan*, 555 U.S. 223, 236 (2009); courts’ failure to recognize unpublished cases as capable of clearly establishing the law, see, e.g., *Grissom v. Roberts*, 902 F.3d 1162, 1168–1169 (10th Cir. 2018) (noting that an unpublished decision “provides little support for the proposition that the law is clearly established” but can demonstrate that the law is *not* clearly established (internal quotation

1148, 1152–1153 (2018) (explaining that “police officers are entitled to qualified immunity unless existing precedent squarely governs the specific facts at issue” (internal quotation omitted)). In other words, in almost every case, there is no remedy for blatant constitutional violations unless that exact violation has been previously litigated.

The roadblocks of qualified immunity are further entrenched by related doctrines such as absolute immunity and municipal immunity. As the federal courts of appeals have recognized, “[w]orthy civil rights claims are often never brought to trial” because “an unholy trinity of legal doctrines—qualified immunity, absolute prosecutorial immunity, and *Monell v. Department of Social Services of City of New York*, 436 U.S. 658 (1978)—frequently conspires to turn winnable cases into losing ones.” *Wearry v. Foster*, 33 F.4th 260, 278 (5th Cir. 2022) (Ho, J., dubitante).

Importantly for this case, the prospects for redress are even more grim for those who have been accused of crimes. Under *Heck v. Humphrey* and its progeny, those with criminal convictions are barred from bring a lawsuit for constitutional violations related to their conviction unless that conviction has been terminated in their favor. 512 U.S. at 486–487. And, due to vagueness in this Court’s precedent, some jurisdictions ban even those who never had the opportunity to challenge

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omitted)); and this Court’s continued suggestion that only the Supreme Court can clearly establish the law, see, e.g., *Reichle v. Howards*, 566 U.S. 658, 665–666 (2012) (“Assuming arguendo that controlling Court of Appeals’ authority could be a dispositive source of clearly established law \* \* \* the Tenth Circuit’s cases do not satisfy the ‘clearly established’ standard here.”).

their convictions from seeking remediation. See, e.g., *Randell v. Johnson*, 227 F.3d 300, 301–302 (5th Cir. 2000) (concluding that *Heck* “unequivocally held” that the favorable-termination rule applies even in cases where a plaintiff had “no procedural vehicle to challenge their conviction,” despite “dicta” in *Spencer v. Kemna*, 523 U.S. 1 (1998), suggesting otherwise).

The barriers to accountability continue even beyond suits for monetary relief. As with suits for retrospective relief, the Supreme Court has shut the door on civil rights plaintiffs seeking to enjoin government misconduct. Under this Court’s precedent, plaintiffs who have been previously harmed by government misconduct and seek to end an unconstitutional practice—like, for instance, chokeholds—lack standing to sue for injunctive relief unless they can show that they are likely to be subjected to the practice again. See *City of Los Angeles v. Lyons*, 461 U.S. 95, 105 (1983). Apprehension is not enough; plaintiffs must show “a real and immediate threat of future injury by the defendant,” *id.* at 109—a nearly impossible standard to satisfy.

In other words, even though the Constitution has enshrined protections against government abuse, victims of official misconduct cannot ask a court to stop unconstitutional practices that they have endured unless they can prove that they will endure the practice again in the immediate future. See *id.* at 113 (Marshall, J., dissenting).

Together, this plethora of government-shielding doctrines shut off accountability in ways the general public would not expect. If the Eighth Circuit’s deci-

sion in the case at bar stands, the few remaining opportunities for relief will be further diminished. By filling out a simple form,<sup>22</sup> state officials will be able to take themselves out of the qualified immunity space—where accountability is difficult but not impossible—and into the world of *Egbert*—where victims of government abuse have only “false hope” and fruitless suits “destined to yield nothing.” *Id.* at 1810 (Gorsuch, J., concurring).

### **III. The United States’ promise of liberty is empty without government accountability.**

When defenders of Amanda touted the American legal system over the Italian, they were not without reason. On paper, the United States is a rights-protecting, freedom-affirming nation. Unlike Italy, where Amanda was tried and convicted twice for the same crime, the United States prohibits double jeopardy. U.S. Const. Amend V. Unlike Italy, the United States affords criminal defendants a trial by their peers. U.S. Const. Amend. VI. Unlike Italy, the United States permits juries to be sequestered and kept from the media, particularly in public trials like Amanda’s. See *id.* (guaranteeing the right to trial by an impartial jury); *Nebraska Press Ass’n v. Stuart*, 427 U.S. 539, 564 (1976) (“Sequestration of jurors is, of course, always available.”). So the problem is not with the protections that are enshrined in our system; the problem is enforcement. Or, more accurately, the lack thereof.

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<sup>22</sup> Form USM-3A, *Application for Special Deputation/Sponsoring Federal Agency Information* (Rev. July 2012), <https://perma.cc/2HDF-WCTB>.

**A. Constitutional rights must be enforced to have meaning.**

Redress is fundamental to constitutional rights. One does not exist without the other. As William Blackstone explained, without a method for “recovering and asserting” fundamental rights, “in vain would rights be declared, in vain directed to be observed.” William Blackstone, *Commentaries on the Laws of England* 55–56 (1765). This sentiment was reiterated in *Marbury v. Madison*, where Chief Justice Marshall observed that “it is a general and indisputable rule, that where there is a legal right, there is also a legal remedy by suit or action at law, whenever that right is invaded.” 5 U.S. (1 Cranch) 137, 163 (1803) (internal quotation omitted). This axiom is not a platitude. This Court has acknowledged that any system in which “courts cannot give remedy when the citizen has been deprived of [his rights] by force” would undermine our nation’s character and “sanction[] a tyranny which has no existence in \* \* \* any other government which has a just claim to well-regulated liberty and the protection of personal rights.” *United States v. Lee*, 106 U.S. 196, 221 (1882).

Members of today’s Supreme Court have observed the consequences of departing from *Marbury*’s clear standard of accountability. In *Mullenix v. Luna*, Justice Sotomayor recognized that modern application of the qualified immunity analysis reveals a “culture” that “sanction[s] a ‘shoot first, think later’ approach to policing,” which “renders the protections of the Fourth Amendment hollow.” 577 U.S. 7, 26 (2015) (Sotomayor, J., dissenting). Similarly, in *Kisela v. Hughes*, Justice Sotomayor, joined by Justice Ginsburg, admonished this Court’s “disturbing” and “one-

sided approach to qualified immunity,” wherein the “Court routinely displays an unflinching willingness to summarily reverse courts for wrongly denying officers the protection of qualified immunity but rarely intervenes where courts wrongly afford officers the benefit of qualified immunity.” 138 S. Ct. at 1162 (Sotomayor, J., dissenting). Reflecting the warnings of Chief Justice Marshall, Justice Sotomayor observed that the modern application of qualified immunity “transforms the doctrine into an absolute shield for law enforcement officers, gutting the deterrent effect of the Fourth Amendment.” *Id.*

Allowing the Eighth Circuit’s decision here to stand will further deteriorate accountability and hollow out the Constitution.

**B. Enforcement through remediation is particularly important in cases of wrongful accusation.**

Government accountability is especially important in cases like Ifrah’s and Amanda’s, where the constitutional harm stems from a wrongful accusation of criminal misconduct. Closing the courthouse doors on these plaintiffs further entrenches misconceptions of their guilt and impedes the wrongly accused’s ability to heal.

Without official acknowledgment of government misconduct, it is impossible for the wrongly accused to clear their names. Without accountability, the official position remains that the government had reason to implicate the victim in wrongdoing, leaving intact the stain and stigma of accusation.

There is a reason courts allow victim impact statements and why parole boards consider whether or not

an offender expresses remorse. As Amanda personally knows, the acknowledgment of wrongdoing and of the harm caused to a victim is an important part of restoring the fabric of society that is ripped when a crime is committed and is necessary to victims' healing.<sup>23</sup>

Society recognizes this need for accountability when one private citizen is victimized by another,<sup>24</sup> but it has an entirely different set of standards when a person is victimized by the government. See Section II.B, *supra*. It should not. A wrongly accused person, just like the victim of a crime or a tort, needs acknowledgment of wrongdoing, accountability, and commitment to reform to heal their trauma and to be made whole.

In Amanda's case, Italy still has not acknowledged any wrongdoing or that it irreparably harmed her. In an effort to receive some recognition of Italy's violations, Amanda filed her case with the European Court of Human Rights. Through this process, she challenged the underpinnings of the slander charge for which she remains wrongly convicted, a charge that stems from statements she was coerced into signing by police after fifty-three hours of unrecorded interrogation over five days, conducted largely in a foreign language she barely understood and often without a

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<sup>23</sup> Prison Fellowship International, *Restorative Justice: Principles and Practice* 2–3 (March 2021), <https://perma.cc/F3SC-3ZEC>.

<sup>24</sup> See generally, *e.g.*, Restatement (Second) of Torts (1963 and 1964); Restatement (Third) of Torts: Liability for Physical and Emotional Harm (2010 and 2012).



translator, and during which she was hit, deprived of food, and denied bathroom access.

Ultimately, the European Court acknowledged that Italy's government officials violated her most basic human rights during that interrogation process.<sup>25</sup> And that acknowledgment provides Amanda some solace in knowing that at least one official body understands the deep abuse she suffered and that she is not to blame—though many others still do blame her—for the statements she was coerced into signing. The ruling also opens the door for Amanda to pursue further relief from Italy and to overturn the slander conviction. Similar to the processes in the United States,<sup>26</sup> it is only after the slander conviction is reversed—which is no guarantee—that Amanda can even attempt to bring a claim against Italy for wrongful imprisonment. At present, according to the Italian State, three of Amanda's four years of imprisonment were rightfully served because that slander conviction still stands.

Fifteen years have passed since Amanda's nightmare first began. If she is to continue fighting to clear her name, the onus of seeking any form of acknowledgment, accountability, or compensation from the government authorities who violated her rights, stole her freedom, put her through eight years of trials and appeals, and forever damaged her reputation is on her and her alone. And continuing that fight for accountability imposes tremendous costs—monetary costs,

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<sup>25</sup> See, e.g., Mackintosh, *European Court Orders Italy to Pay Damages to Amanda Knox*, *supra* n. 18.

<sup>26</sup> See *Heck*, 512 U.S. at 486–487.

additional *years* in the court system, and further media scrutiny and harassment. These are costs she cannot currently afford. And that is the tragedy for too many wrongly accused: The government will always have more power and money, and the fight is often more costly than the victimized can afford.

Before this Court is an issue that directly impacts this fight for justice and the balance of power: Whether, in some circuits, police officers will be able to shroud themselves in absolute immunity by filling out a form to be cross-deputized on a federal task force, or whether state officials will be held to the demands of the U.S. Constitution and 42 U.S.C. 1983 when performing their state-official duties. Accountability demands the latter.

Although Amanda is not hopeful that she will ever experience remediation from Italy, she is more optimistic about the United States' potential for change and for the restoration of government accountability so that wrongly accused people in the United States, like Ifrah, can be made whole again.

## CONCLUSION

The Court should grant the petition.

Respectfully submitted,

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