No. 23-259

# In the Supreme Court of the United States

LEWIS COUNTY, KENTUCKY, ET AL.,
*Petitioners,*

*v.*

JULIE HELPHENSTINE, Administratrix of the Estate of Christopher Dale Helphenstine and Guardian of B.D.H., the minor son of Christopher Dale Helphenstine,
*Respondent.*

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

## BRIEF OF SHELBY COUNTY SHERIFF'S OFFICE AS AMICUS CURIAE IN SUPPORT OF NEITHER PARTY

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## INTEREST OF *AMICUS CURIAE*[1]

Shelby County Government is a political subdivision of the State of Tennessee. The Shelby County Sheriff's Office is responsible for and oversees the Shelby County Criminal Justice Complex (hereinafter "Shelby County Jail"). The Shelby County Jail houses an average of 2,000 individuals each day. Those held include both pretrial detainees awaiting trial and convicted inmates who may be awaiting transfer to a prison, or who are being housed in the Jail briefly in order to participate in post-conviction or other similar hearings in the County's Criminal Courts.

Shelby County Sheriff's Office Corrections Deputies supervise all individuals held in the Jail. Although convicted inmates and pretrial detainees are not housed in the same cells or pods[2], they can be housed in adjacent pods. This means a supervising deputy overseeing multiple pods on a given shift can sometimes be responsible for the care and security of both convicted inmates and pretrial detainees. Under *Helphenstine*, such a deputy would be governed by a different constitutional standard in responding to an inmate in the convicted inmate pod than she would if she encountered a pretrial detainee suffering from the

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[1] All parties were timely notified in accordance with Rule 37.2 and no counsel for any party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund its preparation or submission.

[2] A pod is a large, gymnasium-sized room of cells. Adjacent pods are sometimes located next to each other and connected by a shared hallway.

same medical distress a few feet away in the pretrial detainee pod.

As such, Shelby County Government has a direct interest in a uniform standard arising out of this Court's ruling in *Kingsley,*[3] and further, in this Court settling the circuit split regarding whether this ruling speaks to inmate health care deliberate indifference claims.

## SUMMARY OF ARGUMENT

Shelby County Sheriff's Office does not argue to the Court as to which way it should rule in the *Kingsley* debate. Instead, this Amicus asserts only that the Court should grant the Petition for Writ of Certiorari in this case and definitively decide the issue. The Shelby County Jail, like many jails and prisons, is constantly bombarded with lawsuits alleging mistreatment of inmates. The County does its best to defend against these suits but must grapple with a constantly changing legal framework. The Court should rule on the matter and settle the issues raised in *Helphenstine*.

[3] *Kingsley v. Hendrickson*, 576 U.S. 389 (2015).

## ARGUMENT

### I. The Court Should Determine Whether *Kingsley* Applies to Deliberate Indifference Claims Because the Circuits are Split Both Externally and Internally.

There is a growing lack of clarity and predictability in the Sixth Circuit when it comes to inmate medical care claims. What exactly the constitutional standard is changes from case to case, often in split decisions. However, the Court has declined requests to conduct *en banc* review. This leaves parties on both sides of inmate medical care cases stuck in a state of uncertainty, unable to value cases when determining whether settlement or trial is appropriate. This Court should take up this issue and determine once and for all what the constitutional standard in inmate medical care cases is.

#### A. Local Governments Cannot Properly Evaluate Inmate Medical Care Claims Due to the Lack of a Clear Standard.

The Sixth Circuit's lack of consistency in this area makes it more difficult to defend against such lawsuits, or to properly value them for settlement. A classic example is a recent lawsuit filed against Shelby County, which is typical of the kinds of lawsuits Shelby County encounters.

The lawsuit was *Gomez v. City of Memphis, Tennessee*, No. 219CV02412JPMTMP, 2021 WL 1647923 (W.D. Tenn. Apr. 27, 2021). Steven Gomez was arrested and brought into the Shelby County Jail on June 27, 2018. Unknown to Jail personnel, Gomez

had swallowed plastic bags of methamphetamine during his arrest. He did not tell anyone when he came into the Jail that he had ingested the deadly drug; and neither did the City of Memphis police officers (not employed by Shelby County) who arrested him and brought him to the Jail. During his medical screening, Gomez denied having taken drugs, and he did not present with any symptoms of drug use. At some point the following morning, he began to feel sick. He told Jail personnel, who promptly took him to see a nurse. Gomez was then immediately taken to the Regional One hospital. He slipped into a coma at the hospital and later died. *Id.* at *2-3.

Gomez's estate filed suit under 42 U.S.C. § 1983 against Shelby County, among other defendants. The plaintiffs argued that the Jail should have taken more steps to uncover Gomez's drug ingestion, and that it was irrelevant that Jail personnel had no subjective knowledge of his concealed medical condition.

Under the law as it stood at the time, Shelby County's liability was plainly non-existent. The standard at that time included a subjective knowledge requirement on the part of Jail personnel, which the Plaintiff could not show. It was "not enough that there was a danger of which an officer should objectively have been aware." *Watkins v. Cty. of Battle Creek*, 273 F.3d 682, 686 (6th Cir. 2001). Instead, an official needed actual knowledge of the serious risk to the inmate. Thus, based on that law (among other issues), the District Court granted summary judgment to the County. *Gomez*, 2021 WL 1647923, at *15. And although the Sixth Circuit would ultimately affirm that ruling, the road was a winding one that

illustrates the need for this Court to grant the *Helphenstine* petition.

The plaintiff in *Gomez* filed her appeal to the Sixth Circuit on July 1, 2021. Between that date and the Sixth Circuit's ruling, the Sixth Circuit issued multiple conflicting opinions on the application of *Kingsley* to inmate medical care, often either implicitly or explicitly overruling something another panel had held previously on the matter.

At first, the Court refrained from ruling on the issue as not properly before it. *See Burwell v. Cty. of Lansing, Michigan*, 7 F.4th 456, 466 (6th Cir. 2021) ("[W]e need not take a position here on whether *Kingsley* extends to deliberate indifference claims. We have historically declined to resolve this issue when, as here, the plaintiff failed to argue it before the district court . . . Thus, for now, we stick with the conventional test."); *accord Vittetoe v. Blount Cty., Tennessee*, 861 F. App'x 843 (6th Cir. 2021).

In other instances, the Court declined to wade into the issue because the plaintiff could not prevail under either the *Farmer* or the *Kinsley* standard, obviating the need to decide between the two. *See, e.g.*, *Bowles v. Bourbon Cty.*, 2021 WL 3028128, at *8 (6th Cir. July 19, 2021) ("Regardless of whether we analyze Plaintiffs' claims under the objective-unreasonableness standard . . . or under the more stringent subjective deliberate-indifference standard, Plaintiffs' claims fail . . . Accordingly, we do not contribute to the circuit split on the relevant test.").

But then, on September 22, 2021, in a 2-1 decision, the Sixth Circuit delved into the *Kingsley*

question in *Brawner v. Scott County, Tennessee*, 14 F.4th 585 (6th Cir. 2021).[4] The *Brawner* Court stated that *Kingsley* did extend beyond excessive force cases, and applied to inmate medical care cases as well. Thus, *Brawner* seemingly did away with the subjective knowledge requirement.

However, *Brawner* was not the end of the matter; it was only the beginning. Shortly after *Brawner*, the Sixth Circuit issued its ruling in *Hale v. Boyle County*, No. 20-6195, 2021 WL 5370783 (6th Cir. Nov. 18, 2021), which ignored *Brawner* and seemingly did not agree that *Kingsley* extended to anything other than excessive force claims.[5]

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[4] Like the *Helphenstine* case at hand, the *Brawner* defendants petitioned the Sixth Circuit for *en banc* review, but the full panel denied the petition. *Brawner*. *Brawner v. Scott Cty., Tennessee*, 18 F.4th 551 (6th Cir. 2021). Five judges dissented.

[5] In *Hale*, the Court analyzed a sexual-abuse-by-prison-guard claim and, in doing so, assessed whether the claim should be analyzed under *Kingsley*. The *Hale* Court ruled that *Kingsley* applied ***because*** the allegations in *Hale* were of excessive force: "*Kingsley*'s objective test applies to Hale's claims against [Officer] Pennington. Both parties have framed Hale's claim as an excessive-force claim. That framing comports with how other courts have treated similar claims." *Id.* at *5. The *Hale* Court did not address *Brawner*, but its assessment of whether *Kingsley* applied hinged on whether the claim was an excessive force claim or not. *See id.* ("[W]e conclude that Hale's assertions against Pennington are properly viewed as an excessive-force claim that should be evaluated under *Kingsley*'s objective test."). In other words, if the jailer's actions in *Hale* had ***not*** been in the nature of excessive force, *Kingsley* would not have applied, because *Kingsley* applies only to excessive force claims. This was inconsistent with *Brawner*.

The Court reinforced its reliance on *Brawner's* objective standard in a few cases. *See, e.g.*, *Greene v. Crawford County*, 22 F.4th 593 (6th Cir. 2022); *Hyman v. Lewis,* 27 F.4th 1233 (6th Cir. 2022). But that was not the end of the matter.

In *Trozzi v. Lake County, Ohio*, 29 F.4th 745, 754 (6th Cir. 2022), the panel ruled that the new *Brawner* test actually ***did*** "take[ ] account of a jail official's actual knowledge." *Trozzi* did not last long. About ten months later, another panel of the Sixth Circuit ruled in the present case that *Trozzi* was simply not good law. *Helphenstine v. Lewis Cnty., Kentucky*, 60 F.4th 305, 316 (6th Cir. 2023) ("Recently . . . a panel of this court called this reading of *Brawner* into question . . . We hold that [*Trozzi*'s] framing of the elements is irreconcilable with *Brawner*."). The Court made no mention of the fact that, in the Sixth Circuit, "one panel cannot overrule a pre-existing decision of another panel . . . ." *Spengler v. Worthington Cylinders*, 615 F.3d 481, 491 (6th Cir. 2010). Instead, it simply overruled *Trozzi*.

Given this clear lack of consensus among the various Sixth Circuit panels, the *Helphenstine* Defendants filed a petition for *en banc* review. The full Court denied the petition. *Helphenstine v. Lewis Cnty., Kentucky*, 65 F.4th 794, 795 (6th Cir. 2023). Judge Readler issued a dissent. Among other points Judge Readler makes, he urges this Court to take up and resolve this issue one way or the other. *Id.* at 801 ("For the sake of litigants and courts alike, the Supreme Court should soon grant certiorari in a case involving allegedly unconstitutional deliberate indifference

toward a pretrial detainee."). The Court should take up this case.

### B. The Lack of Clarity in This Area of Law Makes the Already Difficult Job of Managing Jails and Prisons More Difficult.

Courts have recognized the challenging decisions inherent in the "unenviable task" of operating corrections facilities, and that prison officials "should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security." *Bell v. Wolfish*, 441 U.S. 520, 547 (1979). "Running a prison is an inordinately difficult undertaking that requires expertise, planning, and the commitment of resources, all of which are peculiarly within the province of the legislative and executive branches of government." *Turner v. Safley*, 482 U.S. 78, 84-85 (1987) (citation omitted).

But the current trend in the Sixth Circuit and several other circuits is to restrict that deference more and more, and to liken federal civil rights claims to state tort claims. This trend increases the exposure of local governments and local taxpayer dollars to uncapped damages and shifting attorney's fees. *See Brawner v. Scott Cnty., Tennessee*, 18 F.4th 551, 557 (6th Cir. 2021) (Readler, J., dissenting from denial of *en banc* review) ("And these cases have real world consequences for those charged with the difficult task of running our detention facilities. After all, one cannot easily overstate the 'Herculean obstacles'

prison administrators face in 'effective[ly] discharg[ing] the[ir] duties.' Yet how, as a jurisprudential matter, have we rewarded those who take up the 'unenviable task' of ensuring the safety and rehabilitation of detainees? With the likelihood of a summons and jury trial.") (citations omitted).

COVID-19 and the labor shortages that followed made this issue even more challenging. Governmental entities like Shelby County found themselves beset on all sides, defending lawsuits against some plaintiffs who alleged that they were taking too many precautions to protect against the virus, and others who alleged they were not doing enough.

And as the legal landscape continues to shift, local governments find it more and more difficult to sort which cases should be defended at trial and which should be settled, or for how much, because the cases' values could change at a moment's notice with the next 2-1 appellate decision. In the interest of providing a consistent and predictable legal standard that local governments can rely on in assessing these cases, the Court should grant the *Helphenstine* petition.

## CONCLUSION

For the foregoing reasons, Shelby County Sheriff's Office respectfully submits that the Petition for Writ of Certiorari should be granted.

Respectfully submitted,

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