In the Supreme Court of the United States

CHRISTOPHER SCHURR,

Petitioner,

v.

PETER LYOYA, AS THE PERSONAL REPRESENTATIVE FOR THE ESTATE OF PATRICK LYOYA,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Video evidence has come quite far in the 17 years since this Court decided *Scott v. Harris*, 550 U.S. 372 (2007). Cameras are ubiquitous in our society; they are in our pockets with surprising resolution, on our doorbells, and on the chests of law enforcement officers. Yet, the implications of videos in qualified immunity decisions have not kept pace. Courts are reluctant to rely on videos for factual findings, particularly at the pleadings stage. *Scott's* central insight was not merely about contradicting the opposing party's versions of events, but about courts' ability to rely on objective evidence.

Presently, parties can vaguely plead around video evidence to avoid an early application of qualified immunity; when the video cannot "utterly discredit" the vague pleadings, district courts conclude they cannot decide immunity questions and circuit courts find they have no jurisdiction to review such conclusions, leaving the case set to return at summary judgment with the same video and same qualified immunity questions. The results are antithetical to *Scott*, impractical for law enforcement, and illogical.

1. Whether *Scott v. Harris* permits courts to resolve qualified immunity at the pleading stage based on objective video evidence that demonstrates the implausibility of complaint allegations, even without "utterly discrediting" them?

2. Whether, upon proper consideration of video evidence under *Scott v. Harris*, clearly established law prohibited an officer's use of deadly force after losing control of his taser during a prolonged physical struggle with an actively resistant suspect who remained in close physical proximity to both the officer and the operable weapon?

PARTIES TO THE PROCEEDINGS

Petitioner and Defendant-Appellant

• Christopher Schurr

Respondent and Plaintiff-Appellee

• Peter Lyoya, as the personal representative for the Estate of Patrick Lyoya

Dismissed Party

• The City of Grand Rapids was a party to the District Court action and was dismissed by the District Court; the City was not a party to the appeal.

CORPORATE DISCLOSURE STATEMENT

Petitioner is an individual and thus there is no parent corporations or stock.

LIST OF PROCEEDINGS

U.S. Court of Appeals for the Sixth Circuit No. 23-1887

Peter Lyoya, Personal Representative for the Estate of Patrick Lyoya (deceased), *Plaintiff-Appellee*, v. Christopher Schurr, *Defendant-Appellant*.

Final Opinion and Judgment: September 9, 2024 Rehearing Denial: October 21, 2024

U.S. District Court for the Western District of Michigan No. 1:22-cv-1160

Peter Lyoya, Personal Representative for the Estate of Patrick Lyoya, *Plaintiff*, v. Christopher Schurr, and City of Grand Rapids, *Defendants*.

Final Opinion and Order: August 28, 2023

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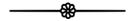
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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Christopher Schurr, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit in this case.



OPINIONS BELOW

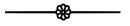
The opinion of the court of appeals (App.1a-9a) is unreported but available at 2024 WL 4120236. The court of appeals denied rehearing (App.36a-37a). The district court issued an opinion on Petitioner's Motion for Summary Judgment (App.11a-35a), which was appealed to the Sixth Circuit.

JURISDICTION

The Sixth Circuit entered its opinion on Sep. 9, 2024 and denied rehearing on Oct. 21, 2024. (App.1a, 36a). This Court has jurisdiction under 28 U.S.C. § 1254(1).

The jurisdiction of the court of appeals below and the interwoven question of this Court's jurisdiction arise from 28 U.S.C. § 1291 and its application to qualified immunity appeals under *Mitchell v. Forsyth*, 472 U.S. 511, 525 (1985). While the court of appeals held it lacked jurisdiction to review the denial of qualified immunity, that conclusion stems from a fundamental disagreement over how courts should evaluate video evidence at the pleading stage under *Scott v. Harris*, 550 U.S. 372 (2007). This Court has jurisdiction under 28 U.S.C. § 1254(1) not only to review the merits, but to resolve the threshold question of when courts may exercise jurisdiction over qualified immunity appeals involving video evidence.

The district court had jurisdiction to address this case because it raises questions arising under the Constitution. 28 U.S.C.A. § 1331 (West 2018).



CONSTITUTIONAL PROVISIONS INVOLVED

United States Constitution, Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

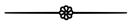
INTRODUCTION

Courts are grappling with how objective video evidence of a police officer's use of force impacts the qualified immunity analysis, especially at the pleadings stage. This case presents two critical questions flowing from that determination. These questions are inextricably linked. Without clarity on how courts should evaluate video evidence at the pleading stage, they cannot properly analyze whether an officer's actions violated clearly established law. This case presents both issues cleanly: comprehensive video evidence from multiple angles establishes objective facts crucial to the qualified immunity analysis, yet the lower court's rigid approach to *Scott* prevented it from considering those facts in determining whether Officer Schurr's actions violated clearly established law.

First is the foundational question of how courts should evaluate video evidence when deciding qualified immunity at the pleading stage. The Sixth Circuit held it could not consider qualified immunity because the videos did not "utterly discredit" the complaint's carefully worded allegations. This reflects deep confusion in the lower courts that spans circuits about both the timing of qualified immunity decisions and the proper application of *Scott v. Harris*, 550 U.S. 372 (2007), at the pleading stage.

The second question presented concerns the errant result reached below and illustrates the importance of resolving the above confusion: whether an officer violates clearly established law by using deadly force after losing control of his taser during a prolonged physical struggle, when the suspect who took the taser remains within striking distance of both the officer and the weapon. Multiple cameras captured Officer Christopher Schurr's fatal encounter with Patrick Lyoya from different angles. That video evidence establishes key objective facts about the struggle over the taser, the parties' proximity, and the weapon's capabilities. Yet under the Sixth Circuit's rigid approach, these objective facts could not be considered because they did not "utterly discredit" the complaint's strategic characterizations. Officer Schurr has effectively been denied qualified immunity since the lower courts have refused to answer the question of whether it applies.

This case thus presents an ideal vehicle for clarifying both when courts may decide qualified immunity based on video evidence and how such evidence should inform the analysis. The current uncertainty frustrates qualified immunity's core purpose of resolving insubstantial claims at the earliest possible stage, and leaves officers without clear guidance about the constitutional boundaries of force in dangerous close-quarter encounters.



STATEMENT OF THE CASE

A. Factual Background

The entirety of Officer Schurr's encounter with Patrick Lyoya was captured across four different cameras: Schurr's body camera, his patrol car's dash camera, a neighbor's Ring doorbell camera, and cell phone video recorded by Lyoya's passenger. (App.12a).

This comprehensive video record documented that on April 4, 2022, at approximately 8:00 a.m., Grand Rapids Police Officer Christopher Schurr stopped Patrick Lyoya for driving with an improper license plate, *i.e.*, the plate on the car did not match the registered plate. (App.14a). Before Schurr even approached, Lyoya exited his vehicle and ignored commands to stay in the vehicle. After a brief interaction, Lyoya fled on foot. (App.14a-15a). Schurr pursued and caught up to Lyoya, leading to a physical struggle that would last over two minutes. (App.15a-16a).

The videos documented the escalating struggle as Schurr attempted to subdue Lyoya, who actively resisted. When verbal commands and physical control techniques proved ineffective, Schurr deployed his taser. Lyoya immediately grabbed for the taser's barrel, initiating a prolonged struggle for control of the weapon that lasted over a minute. (App.16a).

During this struggle, both men were in extremely close physical contact, with no space between them. *Id.* Both taser cartridges were discharged during the struggle but remained capable of direct contact use in "drive-stun" mode. *Id.* After wrestling on the ground, with Lyoya continuing to maintain contact with the taser while Schurr was unable to gain control, Schurr drew his firearm and fired a single fatal shot. *Id*.

B. Proceedings Below

Lyoya's estate filed suit under 42 U.S.C. § 1983, alleging excessive force in violation of the Fourth Amendment. The complaint characterized Lyoya's actions as "passive resistance" and alleged he merely "deflected" the taser to protect himself. (App.26a, 7a). Officer Schurr moved to dismiss under Fed. R. Civ. P. 12(b)(6) based on qualified immunity, arguing the videos established objective facts demonstrating the reasonableness of his actions under clearly established law.

The district court denied qualified immunity, and the Sixth Circuit dismissed Schurr's appeal for lack of jurisdiction. (App.9a). The court determined it could not consider the qualified immunity defense at the pleading stage because "the available video footage does not undermine the factual allegations in the complaint so as to make the complaint implausible" — despite the videos demonstrating objective facts about the nature and duration of the struggle, the parties' physical proximity, and Lyoya's sustained contact with the taser. *Id.* To reach this conclusion, the court relied on defunct principles that pre-date the *Iqbal/Twombly* standard and discourage deciding qualified immunity at the pleadings stage. (App.6a (relying on *Barry v. O'Grady* and its progeny, *Anderson-Santos v. Kent County*)).

In rejecting jurisdiction, the circuit court acknowledged but declined to resolve the central legal question: whether clearly established law prohibited the use of deadly force under the objective circumstances shown in the videos. Instead, the court allowed the complaint's carefully crafted characterizations to control, despite video evidence establishing key objective facts about the encounter. The circuit court dismissed the appeal on the grounds that it lacked jurisdiction to consider the factual contentions raised based on the videos. This petition followed.



REASONS FOR GRANTING THE PETITION

In Scott v. Harris, 550 U.S. 372, 380 (2007), this Court directed that "[w]hen opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment." This Court has never addressed how that logical rule applies at the pleadings stage. A pleadings stage motion, under Federal Rule of Civil Procedure 12(b)(6) or 12(c), raising qualified immunity comports with this Court's prior directions to address gualified immunity as early as possible. The intersections of *Scott* and Rule 12 bring the petitioner before the Court now seeking clarification so that questions of constitutional proportions can be answered at the earliest opportunity, providing law enforcement with clear direction.

1. Confusion is apparent amongst the circuits as to how to apply *Scott v. Harris*, 550 U.S. 372 (2007), when evaluating qualified immunity, resulting not only a divide amongst the circuits, but inter-circuit splits. *See*, *e.g.*, Kevin W. Bufford, *Appellate Review* — *The Split on the Proper Standard of Review for Police Video Evidence* — *Scott v. Harris*, 550 U.S. 372 (2007)., 39 AM. J. TRIAL ADVOC. 447, 452 (2015); Barry v. O'Grady, 895 F.3d 440, 445-49 (6th Cir. 2018) (Sutton, J., dissenting); Fuentes v. Riggle, 611 F. App'x 183, 190-191 (5th Cir. 2015); Pryor v. Corrigan, 124 F.4th 475, 498-99 (7th Cir. 2024) (Rovner, J., dissenting); Est. of Anderson v. Marsh, 985 F.3d 726, 737 (9th Cir. 2021) (Fletcher, J., dissenting).

At the pleadings stage, the confusion manifests itself in a rigid application of *Scott*. The Sixth Circuit, for example, requires that video evidence "utterly discredit" or "blatantly contradict" complaint allegations; an inflexible interpretation that allows a party to selectively plead around video evidence, and cuts against both logic and *Scott*'s reasoning. The core message of *Scott* was that objective evidence should guide courts when available. On appeal, the confusion is compounded and manifests in a jurisdictional dispute: to which degree can the circuit court review the lower court's decision?

When qualified immunity is added to the Rule 12 equation, the Sixth Circuit is at a loss. *Guertin v. State*, 912 F.3d 907, 917 (6th Cir. 2019) ("The assertion of qualified immunity at the motion-to-dismiss stage pulls a court in two, competing directions."); *see also Wesley v. Campbell*, 779 F.3d 421 (6th Cir. 2015); *Riddick v. Barber*, 109 F.4th 639, 650 (4th Cir. 2024); *Reed v. Palmer*, 906 F.3d 540, 549 (7th Cir. 2018). As a result, the Sixth Circuit applies a standard to Rule 12 motions that is contrary to this Court's repeated direction to decide immunity questions as early as possible, holding that "it is generally inappropriate for a district court to grant a 12(b)(6) motion to dismiss on the basis of qualified immunity." *Id*. The first question before the Court is twofold: 1) Can qualified immunity be addressed at the pleadings stage? And if it can: 2) How should courts be utilizing video evidence at this early stage?

A. Turning to the first part of issue one, this Court's precedents warrant an explicit pronouncement on this fundamental question. In *Behrens v. Pelletier*, 516 U.S. 299, 309 (1996), this Court directly stated that qualified immunity could be evaluated at both the pleadings stage and summary judgment, although the questions would be framed differently based on the lens of the motion. The Court explained that qualified immunity operates to avoid both trial and pretrial matters like discovery. *Behrens*, 516 U.S. at 308. This principle has been consistently reaffirmed.

Indeed, this Court has repeatedly emphasized that discovery should not proceed until the threshold question of immunity is resolved. Siegert v. Gillev, 500 U.S. 226, 232 (1991). The Court's jurisprudence on this point is unequivocal: "[t]he 'driving force' behind creation of the qualified immunity doctrine was a desire to ensure that 'insubstantial claims' against government officials [will] be resolved prior to discovery." Anderson v. Creighton, 483 U.S. 635, 640, n. 2 (1987) (emphasis added). As this Court has stressed, gualified immunity is "an immunity from suit rather than a mere defense to liability . . . it is effectively lost if a case is erroneously permitted to go to trial." Mitchell v. Forsyth, 472 U.S. 511, 526 (1985) (emphasis deleted). Consequently, the Court has "repeatedly . . . stressed the importance of resolving immunity questions at the earliest possible stage in litigation." Hunter v. Bryant, 502 U.S. 224, 227 (1991) (per curiam).

This Court has put these principles into practice, regularly deciding motions to dismiss raising qualified immunity. See Ashcroft v. Iqbal, 556 U.S. 662, 669, 671-86 (2009); Wood v. Moss, 572 U.S. 744 (2014); Hernandez v. Mesa, 137 S. Ct. 2003, 2005 (2017). The Sixth Circuit's reluctance to address qualified immunity at the pleading stage thus directly contradicts this Court's clear guidance and practice.

Much of the Sixth Circuit's reluctance to address qualified immunity at the pleadings stage stems from the application of a pre-*Iqbal/Twombly* era. See Guertin. 912 F.3d at 917 (citing and relying on Evans-Marshall v. Bd. of Educ. of Tipp City Exempted Vill. Sch. Dist., 428 F.3d 223, 235 (6th Cir. 2005) (Sutton, J., concurring). *Evans-Marshall* was issued before *Iabal/Twombly*. and was concerned that at the pleadings there was not sufficient facts from which the clearly established prong of qualified immunity could be assessed. Marshall, 428 F.3d at 235. This Court's decisions in Igbal and Twombly, address those concerns by requiring more factual specificity in pleadings. See Bell Atl. Corp. v. Twombly, 550 U.S. 544, 554 (2007); Ashcroft v. Iqbal, 556 U.S. 662, 680 (2009). Thus, any reluctance should have dissipated, yet it hangs on through oft quoted, but never analyzed, cases like Wesley and Guertin.

B. The increasing prevalence of video evidence has fundamentally altered the landscape of pretrial litigation, particularly at the pleadings stage. Lower courts now struggle to reconcile traditional pleading standards with objective video evidence, creating a tug-of-war between written allegations and recorded facts.

This tension traces back to two seminal decisions from this Court. In *Johnson v. Jones*, 515 U.S. 304,

313 (1995), the Court held that circuit courts lack jurisdiction to decide questions of evidence sufficiency on interlocutory qualified immunity appeals at summary judgment. Twelve years later, in *Scott v. Harris*, 550 U.S. 372 (2007), this Court established that video evidence should be determinative at summary judgment when it "utterly discredits" one party's version of events. The Court instructed that when faced with a "visible fiction," courts "should have viewed the facts in the light depicted by the videotape." *Id.* at 381.

The circuits have struggled to reconcile Johnson and Scott, particularly in determining what constitutes a legal versus factual issue, and how video evidence fits within this framework. This Court previously reenforced Johnson and Scott's standard to the Sixth Circuit at the summary judgment phase in Plumhoff v. Rickard, 572 U.S. 765, 773 (2014). Plumhoff resolved little within the Sixth Circuit, and the circuit's internal divide on this question is particularly pronounced, as evidenced by Barry v. O'Grady, 895 F.3d 440 (6th Cir. 2018) and Bunkley v. City of Detroit, 902 F.3d 552 (6th Cir. 2018). These cases demonstrate how some panels entirely avoid immunity questions due to alleged factual disputes, while others properly separate factual disputes from legal issues to address the immunity question.

The majority in *Barry* found there was no jurisdiction to hear the qualified immunity questions raised in the appeal because the appellant was challenging the district court's factual inferences. 895 F.3d at 445. Judge Sutton's dissent in *Barry* powerfully illustrates the problem: "If appellate courts have no jurisdiction to review the inferences drawn by a district court judge in resolving a claim of qualified immunity at summary judgment, how are they supposed to apply *de novo* review to the district court's decision, as Supreme Court decisions since *Johnson* do?" 895 F.3d at 445 (Sutton, J., dissenting). The dissent noted that as of 2018, the Sixth Circuit had cited *Johnson* seventyone times since *Plumhoff*, while other circuits cited it between zero and twenty-nine times—suggesting the Sixth Circuit is "spending a lot of time doing something that no one else seems to be doing." *Id.* at 448. The lower court relied on *Barry* to find it lacked jurisdiction in this case. (App.6a).

A month after *Barry*, the Sixth Circuit issued Bunkley v. City of Detroit, 902 F.3d 552, 559 (6th Cir. 2018), reaching a different outcome—the correct one regarding the application Jones, following the application laid out by Barry's dissent. The Bunkley court explained that while it could not review questions of evidence sufficiency, it could review legal determinations regarding qualified immunity, challenges to legal aspects of a factual determination, and factual determinations that are clearly contradicted by the record. Bunkley, 902 F.3d at 559. Bunkley further explains that "[the court] may decide a challenge with any legal aspect to it, no matter that it might encroach on the district court's fact-based determinations" Id. at 560. Bunkley also explained that if legal and factual challenges intertwine, the reviewable issues must be separated. Id.: see also Siders v. City of Eastpointe. 819 F. App'x 381, 387 (6th Cir. 2020) (applying similar standard of review); Marvaso v. Sanchez, 971 F.3d 599, 614 (6th Cir. 2020) (Nalbandian, J., dissenting); Sevy v. Barach, 815 F. App'x 58, 66-67 (6th Cir. 2020) (Readler, J., concurring) (noting the inconsistent approach towards qualified immunity appeals after Plumhoff), cert. denied, 141 S. Ct. 1064, 208 L. Ed. 2d

529 (2021); *Est. of Matthews by Matthews v. City of Dearborn*, 826 F. App'x 543, 548 (6th Cir. 2020) (Readler, J., concurring) (criticizing the court's refusal to address the legal issues raised in the qualified immunity appeal).

The present case illustrates the practical consequences of this confusion. The circuit court's requirement that video evidence must "utterly discredit" or "blatantly contradict" well-pled allegations enables parties to selectively plead around video evidence. Here, despite video showing Lyova fighting for control of Officer Schurr's taser for over a minute while actively resisting, the complaint characterized this as merely "reflexively . . . deflect[ing]" the taser. The circuit court held that while "[t]he video does provide a 'fuller picture'... that 'fuller picture' does not utterly discredit the complaint which admits that Lyoya interfered with the taser at the time Schurr first deployed it." (App.7a). Thus, the circuit court accepted this characterization simply because it was not completely contradicted by portions of the video, ignoring the objective reality captured in its entirety.

This approach forces officials like the petitioner into unnecessary discovery to establish facts already demonstrated by video evidence, only to raise the same qualified immunity arguments later under Rule 56. Such a result directly contravenes this Court's repeated instruction that qualified immunity questions should be resolved at the earliest possible stage of litigation.

This case presents a clean vehicle for resolving this important question. The encounter was captured by four different cameras, providing multiple perspectives of the key events. The video evidence establishes several objective facts critical to the qualified immunity analysis, yet none individually "utterly discredits" the complaint's carefully worded allegations. This illustrates perfectly how the Sixth Circuit's rigid approach frustrates *Scott*'s purpose in the modern era of ubiquitous video evidence.

The proper application of *Scott* at the pleading stage has profound implications for qualified immunity doctrine. As video evidence becomes increasingly prevalent in police encounters, courts need clear guidance on how to evaluate such evidence when deciding qualified immunity. The Sixth Circuit's approach effectively nullifies *Scott*'s core insight — that objective, indisputable evidence should guide a court's factual determinations — by allowing artful pleading to defeat qualified immunity despite clear video evidence establishing objective facts.

2. The Sixth Circuit's rigid application of *Scott v*. *Harris* has created an artificial barrier to addressing qualified immunity at the pleading stage, particularly when video evidence presents objective facts crucial to the immunity analysis. This case illustrates how this approach undermines this Court's directive to resolve immunity questions at the earliest possible stage.

The video evidence here presents five objective, undisputed facts that should have formed the foundation for the qualified immunity analysis: (1) the taser was accessible to and within Lyoya's immediate control; (2) Lyoya and Officer Schurr were in direct physical contact with no space between them; (3) Lyoya wrestled for control of the taser for over a minute while ignoring repeated commands to release it; (4) Lyoya remained actively resistant, positioned on his knees; and (5) the taser remained operable and capable of causing serious injury or death. Rather than analyzing these objective facts through the lens of qualified immunity, the Sixth Circuit held that because the complaint's selective characterization of events was not "utterly discredited" by the video, it lacked jurisdiction to consider the immunity defense. This approach fundamentally misunderstands both *Scott* and this Court's qualified immunity jurisprudence. The question is not whether any aspect of the pleadings survives video scrutiny, but whether the video establishes objective facts that allow courts to determine if the officer's actions violated clearly established law.

The Sixth Circuit's analysis particularly falters in the Fourth Amendment context, where the reasonableness of an officer's actions must be judged from the perspective of an objectively reasonable officer. See Graham v. Connor, 490 U.S. 386, 396-97 (1989). Instead of examining whether the video established objective facts sufficient to evaluate the gualified immunity question, the court focused on what the video might not definitively show—such as the exact position of the taser or whether Lyoya maintained a continuous grip on it. This analysis ignores the undisputed facts captured on video-including Lyova's sustained resistance, his proximity to both the officer and the taser, and the taser's continued operability-provide the necessary foundation for determining whether Officer Schurr's actions violated clearly established law.

In addressing the merits, the Respondent failed to identify any caselaw that would have notified Ofc. Schurr that responding with deadly force to the loss of his weapon due to the actions of an actively resistant suspect, with immediate access to a dangerous and deadly weapon, and in his immediate proximity, was unconstitutional. The caselaw of the Sixth Circuit firmly establishes that an officer need not wait until a weapon is aimed at him before he may use deadly force. *Anderson v. Russell*, 247 F.3d 125, 131 (2001); *Jordan v. Howard*, 987 F.3d 537, 544 (2021). Ofc. Schurr should have been granted qualified immunity because his force was reasonable and did not violate clearly established principles.

This case presents an ideal vehicle for the Court to clarify how video evidence should inform qualified immunity analysis at the pleading stage. The question presented is clean and recurring: when video evidence establishes objective facts relevant to the qualified immunity analysis, must courts consider those facts even if portions of the complaint's characterizations are not completely contradicted by the video? The answer to this question will provide crucial guidance to lower courts and ensure that qualified immunity fulfills its intended function of resolving insubstantial claims before subjecting officers to the burdens of discovery.

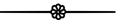
The timing of this case is particularly significant, as it arrives alongside *Barnes v. Felix*, No. 23-612, which presents related questions about the proper analysis of deadly force claims. While *Felix* addresses the temporal scope of the excessive force inquiry at summary judgment, this case presents the antecedent question of how courts should evaluate video evidence of deadly force encounters at the pleading stage. Together, these cases offer the Court an opportunity to provide comprehensive guidance on both when and how courts should analyze video-documented deadly force claims.

The petitioner in *Felix* represents that the Fifth Circuit's approach is in opposite to the Sixth's, but that is

based on a fundamental misunderstanding of the Sixth's standard. The district court did not give adequate consideration to the Sixth Circuit's segmented approach to the use of force analysis. *Livermore ex rel. Rohm v. Lubelan*, 476 F.3d 397, 407 (6th Cir. 2007). Under this approach, the Sixth Circuit looks only to the "split-second judgments made immediately before the officer used allegedly excessive force." Framing this as a hard-line totality approach is inaccurate. Thus, this case allows the Court to fully analyze the proper approach with a representative case from the Sixth Circuit.

Moreover, the prevalence of video evidence in police encounters has increased exponentially since *Scott* was decided in 2007. Body cameras, dashboard cameras, surveillance systems, and cellular phones now routinely capture law enforcement interactions from multiple angles. Courts urgently need clear guidance on how to evaluate this evidence, particularly at the pleading stage where qualified immunity's protection from the burdens of discovery is most critical.

The Sixth Circuit's analysis here demonstrates why guidance is needed on both the temporal scope of the inquiry and its application at the pleading stage. Rather than examining either the precise moment of force or the totality of circumstances captured on video, the court allowed selective pleading to bypass meaningful Fourth Amendment analysis altogether. This approach creates a particularly troubling precedent: it suggests that even when video evidence captures an entire encounter, artful pleading can prevent courts from conducting the proper constitutional analysis whether that analysis should focus on the moment of force or consider the broader context. This case thus offers the Court an opportunity to address both when and how courts should analyze deadly force claims. Its resolution alongside *Felix* would provide comprehensive guidance to lower courts on the proper framework for analyzing video-documented deadly force at both the pleading and summary judgment stages.



CONCLUSION

This case presents an ideal vehicle for resolving these pressing questions. The comprehensive video evidence provides multiple perspectives of the encounter, establishing objective facts crucial to the qualified immunity analysis. The Sixth Circuit's rigid approach prevented consideration of these facts, effectively nullifying qualified immunity's core purpose of resolving insubstantial claims before discovery. The Court's intervention is needed now to clarify how courts should evaluate video evidence at the pleading stage and to provide clear guidance on the constitutional boundaries of force in dangerous close-quarter encounters. The increasing prevalence of video evidence in police encounters makes resolution of these questions both timely and essential.

Respectfully submitted,

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