

**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**

**MOTION FOR LEAVE TO FILE LATE BRIEF
OF AMICUS CRIMINAL DEFENSE COUNSEL
FOR PETITIONER AS *AMICI CURIAE*
IN SUPPORT OF PETITIONER**

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MOTION OF AMICUS CRIMINAL DEFENSE COUNSEL FOR LEAVE TO FILE LATE AMICUS CURIAE BRIEF

Amici curiae Dodge & Dodge, P.C., and SBBL Law, P.L.L.C., respectfully move this Court for leave to file the accompanying brief as *amicus curiae* in support of Petitioner. Under Supreme Court Rule 37.2, the deadline to file amicus briefs for writ of certiorari was March 31, 2025. Petitioner consents to the filing of this brief.

1. Petitioner, Christopher Schurr ("Petitioner"), filed his petition for writ of certiorari in the above-entitled case on January 21, 2025. Respondent, Peter Lyoya ("Respondent") waived filing a response. The petition, in part, asks the Court to address the constitutionality of Petitioner's use of force under *Graham v. Connor*, 490 U.S. 386 (1989), and to clarify the proper application of qualified immunity at the pleadings stage.

INTEREST OF THE AMICUS CURIAE

2. *Amicus* are the criminal defense attorneys Mark Dodge, Dodge & Dodge, P.C., along with Matthew G. Borgula, Mikayla S. Hamilton, and Kathryn M. Springstead, of SBBL Law, P.L.L.C., representing Petitioner in parallel criminal proceedings in Michigan

state court, where he faces second-degree murder charges arising from the same use-of-force incident at issue in the civil case. As counsel in the criminal matter, *Amicus* have a substantial interest in the Court's consideration of the constitutional questions presented in the petition for certiorari, as any ruling on the constitutionality of Petitioner's actions will directly impact the criminal proceedings.

GOOD CAUSE EXISTS FOR PERMITTING THE LATE FILING

3. There is good cause for permitting this late filing, and the filing will not delay the Court's consideration of the petition. On March 27, 2025—seven days after the amicus filing deadline—the state trial court in Petitioner's criminal case issued a significant ruling regarding the application of the "objectively reasonable officer" standard to criminal prosecutions of law enforcement officers. This ruling directly implicates the constitutional questions presented in the petition before this Court.

4. This recent development could not have been addressed in a timely filed amicus brief because:

a. The trial court's ruling occurred seven days after the amicus filing deadline had already passed, making it impossible to include this critical development in a timely filing;

b. This March 27, 2025 ruling represents the first instance in which the trial court has explicitly acknowledged that the *Graham v. Connor* "objectively reasonable officer" standard applies in the criminal context; and

c. The ruling creates a novel and troubling intersection of constitutional and criminal law that directly impacts the issues before this Court in the civil case, warranting immediate consideration despite the passed deadline.

**THIS BRIEF WILL ASSIST THE COURT'S
CONSIDERATION OF THE PETITION**

5. The accompanying brief will provide the Court with critical information about how the constitutional questions presented in the civil case are simultaneously being litigated in the criminal context, creating the potential for conflicting standards and interpretations of federal constitutional law. Specifically, the brief addresses:

a. The emergent conflict between civil qualified immunity standards and criminal liability standards for the same police conduct;

b. The due process implications of allowing expert testimony on legal standards in criminal proceedings that may differ from this Court's established precedent;

c. The troubling prospect that Petitioner may have more constitutional protection in civil proceedings than in criminal proceedings where his liberty is at stake; and

d. The national importance of providing clear guidance on the application of *Graham v. Connor* to law enforcement officers, echoing that of the amicus brief previously filed in this case.

6. This information could not have been provided by other amici, as it derives from counsel's direct involvement in the criminal proceedings and knowledge of recent developments that postdate other amicus filings.

CONCLUSION

For the foregoing reasons, *Amici curiae* respectfully requests that the Court grant leave to late file the accompanying amicus brief in support of Petitioner.

Respectfully Submitted,

/s/ Mark David Dodge

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