NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

PIPER PARTRIDGE, individually as mother and next of kin to KEAGAN SCHWEIKLE and as Special Administratrix of the Estate of KEAGAN SCHWEIKLE; and DOMINIC SCHWEIKLE, individually as father and next of kin to KEAGAN SCHWEIKLE,

Petitioners,

v.

CITY OF BENTON, ARKANSAS; KYLE ELLISON, individually and as employee of the City of Benton; and KIRK LANE, individually and as employee of the City of Benton,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

In *City of Los Angeles v. Heller*, this Court held that "neither Monell, nor any other of our cases authorizes the award of damages against a municipal corporation based on the actions of one of its officers when in fact the jury has concluded that the officer inflicted no constitutional harm." 475 U.S. 796, 799 (1986). The courts of appeals disagree about how *Heller* applies when, in a single trial, a jury returns a general defense verdict for an individual officer but is separately instructed to decide whether municipal policy and a final policymaker's decisions themselves deprived the plaintiff of constitutional rights, and the jury returns verdicts imposing municipal and policymaker liability.

The jury was instructed that Petitioners could prevail against the City if they proved "that Keagan Schweikle was deprived of his constitutional rights because of a City custom, policy, ordinance, regulation, or decision," and that they could prevail against former Chief Lane if they proved Schweikle "was deprived of his constitutional rights because of a City of Benton custom, policy, ordinance, regulation or decision that was instituted by Lane." The jury returned verdicts for Petitioners on those municipal and supervisory claims, awarding $30 million against the City and $2 million against Lane, also returning a general verdict for the shooting officer.

Accordingly, the questions presented in this Petition are as follows:

1. Whether a general defense verdict for an individual officer on a Fourth Amendment excessive-

force claim categorically bars municipal and supervisory liability under 42 U.S.C. § 1983 for a deliberately indifferent failure to train and failure to investigate excessive-force misconduct, where the jury was instructed that such liability required a finding that municipal policy or a policymaker's decisions deprived the decedent of constitutional rights and caused his death, and the jury returned verdicts imposing that liability.

2. Whether, consistent with the Seventh Amendment and Federal Rules of Civil Procedure 49 and 50, a district court may vacate a plaintiff's jury verdict and enter judgment as a matter of law for defendants based on an asserted inconsistency among general verdict forms, where the verdict form directed the jury to answer a special interrogatory that was never submitted, and no party objected before the jury was discharged.

PARTIES TO THE PROCEEDING

Petitioners were Plaintiffs-Appellants in the court of appeals and Plaintiffs in the district court:

(1) Piper Partridge, individually as mother and next of kin to Keagan Schweikle and as Special Administratrix of the Estate of Keagan Schweikle;
(2) Dominic Schweikle, individually as father and next of kin to Keagan Schweikle

Respondents were Defendants-Appellees in the court of appeals and Defendants in the district court:

(1) City of Benton, Arkansas;
(2) Kyle Ellison, individually and as employee of the City of Benton, Arkansas; and
(3) Kirk Lane, individually and as employee of the City of Benton, Arkansas

Additional defendants were named in the district court proceedings but are not parties to this petition: John Does 1–20, individually and as employees of the City of Benton, Arkansas.

RULE 29.6 CORPORATE DISCLOSURE STATEMENT

As Petitioners are natural persons, no corporate disclosure statement is required under Rule 29.6.

RELATED PROCEEDINGS

This case arises from the following proceedings:

(1) *Partridge v. City of Benton, Ark.*, No. 24-1780, U.S. Court of Appeals for the Eighth Circuit (judgment entered Nov. 10, 2025);

(2) *Partridge v. City of Benton*, Ark., No. 4:17-cv-00460-BSM, U.S. District Court for the Eastern District of Arkansas (order granting renewed motion for judgment as a matter of law entered Apr. 9, 2024);

(3) *Partridge v. City of Benton, Ark.*, No. 21-3001, U.S. Court of Appeals for the Eighth Circuit (judgment entered June 12, 2023); and

(4) *Partridge v. City of Benton, Ark.*, No. 18-1803, U.S. Court of Appeals for the Eighth Circuit (judgment entered July 3, 2019).

There are no other proceedings in state or federal trial or appellate courts, or in this Court, related to this case under Supreme Court Rule 14.1(b)(iii).

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This case presents an important and recurring question about the scope of municipal liability under 42 U.S.C. §1983 and the proper interpretation of *City of Los Angeles v. Heller*. After the court of appeals twice reversed the district court in published decisions, this case proceeded to a full federal jury trial on a developed evidentiary record. The jury found that the City of Benton's policies and the deliberate indifference of its police chief were a moving force behind the deprivation of Keagan Schweikle's constitutional rights and his death, returning a $32 million damages verdict against them. The district court nevertheless vacated that verdict, and the Eighth Circuit affirmed solely because the jury also returned a general defense verdict for the individual officer, adopting a rule that conflicts with other courts of appeals and effectively immunizing municipalities from liability for unconstitutional policies whenever an officer avoids personal liability.

The rule adopted below effectively insulates municipalities from liability for unconstitutional policies in precisely the cases where such policies are most consequential – those in which a jury finds that systemic failures in training, supervision, or discipline caused the deprivation of constitutional rights and the death of a citizen.

This case also presents an unusually clean vehicle to resolve a federal trial-practice issue. Specifically, the verdict form directed the jury to answer a "Special Interrogatory 1," but the interrogatory was never provided. No party objected

before the jury was discharged. Only afterward did respondents argue that the general verdicts were inconsistent and seek judgment as a matter of law.

The Court's review is warranted to restore uniformity in federal law and clarify the circumstances under which municipalities may be held liable for unconstitutional policies under §1983.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eighth Circuit affirming the judgment below was issued on November 10, 2025. *Partridge v. City of Benton, Arkansas*, 157 F.4th 970 (8th Cir. 2025). The opinion is reproduced at Pet. App. 1a–16a.

The order of the United States District Court for the Eastern District of Arkansas granting Respondents' renewed motion for judgment as a matter of law and vacating the jury verdict was entered on April 9, 2024. The order is reproduced at Pet. App. 17a–19a.

Earlier opinions in this case include *Partridge v. City of Benton,* 929 F.3d 562 (8th Cir. 2019), and *Partridge v. City of Benton,* 70 F.4th 489 (8th Cir. 2023).

JURISDICTION

The court of appeals entered its judgment on November 10, 2025. Pet. App. 1a.

This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourth Amendment to the United States Constitution provides, in relevant part: "The right of the people to be secure in their persons … against unreasonable searches and seizures, shall not be violated …."

The Seventh Amendment to the United States Constitution provides, in relevant part: "In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law."

42 U.S.C. § 1983 provides, in relevant part: "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State … subjects, or causes to be subjected, any citizen of the United States … to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured …"

Federal Rule of Civil Procedure 49(b)(3) provides: "When the answers are inconsistent with each other and one or more is also inconsistent with the general verdict, judgment must not be entered; instead, the court must direct the jury to further consider its answers and verdict, or must order a new trial."

Federal Rule of Civil Procedure 50(b) provides, in relevant part: "If the court does not grant a motion for judgment as a matter of law made under Rule 50(a), the court is considered to have submitted the action to the jury subject to the court's later deciding the legal questions raised by the motion. … In ruling on the renewed motion, the court may: (1) allow judgment on the verdict …; (2) order a new trial; or (3) direct the entry of judgment as a matter of law."

STATEMENT OF THE CASE

I. The underlying shooting and killing of Keagan Schweikle by defendant Kyle Ellison and Petitioners' claims against the municipality and former police chief Kirk Lane.

On October 17, 2016, Benton Police Officer Kyle Ellison shot and killed Keagan Schweikle during a police encounter. Petitioner Piper Partridge called police after her teenage son, Keagan Schweikle, went into the woods holding a gun and threatening suicide. Responding officers located Keagan in the woods. Officer Kyle Ellison ordered Keagan to show his hands. Keagan moved slightly, revealing a gun in his right hand. Ellison drew his weapon and repeatedly

commanded Keagan to drop the gun. Keagan raised the gun to his temple. As Keagan moved the gun away from his head, Ellison fired multiple shots and killed the teenage boy.

Petitioners (Keagan's parents and next of kin) filed this action under 42 U.S.C. § 1983 and state law. As relevant here, Petitioners tried claims against Officer Ellison for excessive force under the Fourth Amendment and pursued municipal-liability and supervisory-liability claims against the City of Benton and former Chief of Police Kirk Lane based on a deliberately indifferent failure to train and a deliberately indifferent failure to investigate prior accusations of excessive force against Ellison.

Petitioners' municipal and supervisory claims were not abstract. Petitioners presented evidence that Benton officers regularly encountered individuals experiencing mental-health crises, yet the department provided no meaningful mental-health training for those recurring encounters. Trial Tr. Vol. 4, at 749–50. Petitioners also presented evidence that the only crisis negotiator on scene remained roughly 1,000 feet away and did not engage in crisis negotiation before the shooting. Trial Tr. Vol. 2, at 301. And Petitioners' theory as to former Chief Lane and the City was that deliberate indifference was shown not only by inadequate training, but also by inadequate investigative practices regarding prior excessive-force accusations, including evidence that Lane did not adequately investigate, and evidence Petitioners argued showed a pattern of exoneration in prior excessive-force accusations involving Ellison. The jury's verdict for Petitioners on failure-to-train

and failure-to-investigate theories reflected those factual findings under instructions requiring the jury to find that municipal practices and policymaker decisions caused a constitutional deprivation and Keagan's death.

Critically, the jury was instructed that the City and Lane could be held liable only if Petitioners proved a constitutional deprivation caused by municipal policy or policymaker decision-making. Instruction 12 required Petitioners to prove "that Keagan Schweikle was deprived of his constitutional rights because of a City custom, policy, ordinance, regulation, or decision," and specified Petitioners' two theories: "(1) failure to train, and (2) failure to investigate." Instruction 13 likewise required Petitioners to prove Schweikle "was deprived of his constitutional rights because of a City of Benton custom, policy, ordinance, regulation, or decision that was instituted by Lane," again on the same two theories. *Jury Instructions,* 4:17-cv-00460-BSM, Dkt. 144 (E.D. Ark.).

II. Procedural history and the jury's verdict

This case has twice been before the Eighth Circuit. The district court dismissed the case on the pleadings; the court of appeals reversed and remanded in part. The district court then granted summary judgment for defendants; the court of appeals again reversed and remanded.

A jury trial proceeded in January through February of 2024. The jury returned a general defense verdict for Officer Ellison on Petitioners' Fourth

Amendment excessive-force claim, and also returned defense verdicts for Ellison on state-law assault and battery claims. *Verdict,* 4:17-cv-00460-BSM, Dkt. 146 (E.D. Ark.).

At the same time, the jury returned verdicts for Petitioners against the City and former Chief Lane on Petitioners' failure-to-train and failure-to-investigate theories. Specifically, the jury awarded $15 million against the City on the failure-to-train claim and $15 million against the City on the failure-to-investigate claim (total $30 million). It also awarded $1 million against Lane on the failure-to-train claim and $1 million against Lane on the failure-to-investigate claim (total $2 million). *Verdict,* 4:17-cv-00460-BSM, Dkt. 146 (E.D. Ark.).

III. The verdict-form error and the post-discharge "inconsistency" ruling

Before trial, Respondents moved to bifurcate the claims against Officer Ellison from the municipal and supervisory claims against the City and Lane. The district court denied bifurcation, and all claims were tried together before a single jury. *Order,* 4:17-cv-00460-BSM, Dkt. 103 (E.D. Ark.).

The court of appeals emphasized an unusual and case-dispositive feature of the verdict process. Verdict Form 1, which recorded the jury's defense verdict for Officer Ellison on excessive force, instructed the jury to proceed to "Special Interrogatory 1." But no such interrogatory was provided to the jury. Pet. App. 3a.

That omission mattered because the absence of a special interrogatory deprived the trial court and the parties of the very clarification that special interrogatories are designed to supply when multiple theories are tried together. Had the referenced interrogatory been provided, it could have asked the jury to make one or more narrow predicate findings that would illuminate what the general verdict for Ellison meant and whether it truly could not be reconciled with the City/Lane verdicts. For example, the interrogatory could have required the jury to specify whether it found (i) that Ellison's use of force was objectively reasonable under the Fourth Amendment, or instead (ii) that a constitutional violation occurred but Ellison was not personally liable for some other reason reflected in the verdict structure (e.g., a defense unique to the individual officer). Or it could have required the jury to identify which element of Petitioners' excessive-force claim it found unmet (such as whether a constitutional violation occurred at all, whether causation was proved, or whether Petitioners failed on a required element). In short, the missing interrogatory prevented the jury from specifying the predicate finding that would have shown whether the officer verdict could be harmonized with the municipal and supervisory verdicts.

Because the interrogatory was omitted, and because no party objected or sought clarification before the jury was discharged, the ordinary Rule 49 mechanism for reconciling verdicts, resubmission to the jury for clarification, was unavailable. Yet Respondents invoked the resulting ambiguity only after discharge to obtain judgment as a matter of law

nullifying Petitioners' municipal and supervisory verdicts. *Brief in Support of Defendant's Renewed Motion for Judgment as a Matter of Law,* 4:17-cv-00460-BSM, Dkt. 150 (E.D. Ark.). These circumstances frame Question Presented No. 2.

IV. The decisions below

The district court granted Respondents' renewed motion for judgment as a matter of law, vacated the verdicts against the City and Lane, and dismissed the claims against them with prejudice. Pet. App. 18a. The court held that the City and Lane "cannot be held liable" for failure to train or failure to investigate prior accusations of excessive force because "there was no underlying violation of Schweikle's rights," and it entered judgment for the City and Lane "even if" departmental rules or regulations authorized constitutionally excessive force, which the court described as "quite beside the point." Pet. App. 18a-19a.

The Eighth Circuit affirmed. Pet. App. 1a-7a. The court held that "controlling precedent forecloses" municipal and supervisory liability when the jury "concluded that [Officer Ellison] inflicted no constitutional harm." Pet. App. 4a–5a (quoting *City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986)). Invoking its decision in *Speer v. City of Wynne*, 276 F.3d 980 (8th Cir. 2002), Petitioners argued that *Heller* does not impose an automatic dismissal rule and that the verdicts could be harmonized. Pet. App. 5a–6a. The court of appeals rejected that argument, concluding this was "not a *Speer* case" because "Ellison was the only officer who used deadly force" and there was no "violation by Ellison or by any

combination of officials or employees." Pet. App. 6a–7a.

REASONS FOR GRANTING REVIEW

I. The Eighth Circuit's categorical rule that a defense verdict for an individual officer automatically bars *Monell* and supervisory liability conflicts with other circuits and expands *Heller* beyond its rationale.

The Eighth Circuit affirmed judgment as a matter of law for the City and former Chief Lane on the ground that Petitioners' municipal and supervisory verdicts "cannot stand" once the jury returned a general defense verdict for Officer Ellison. That categorical approach effectively transforms *Heller* into a universal rule of automatic dismissal whenever the individual officer prevails, even where the jury is separately instructed to decide whether municipal policy and policymaker decisions themselves deprived the plaintiff of constitutional rights.

Several courts of appeals hold that municipal liability does not require a personal-liability verdict against an officer. Those courts recognize that constitutional violations may result from the collective actions of multiple officials or from systemic policy failures.

Other circuits, including the decision below, treat an officer defense verdict as dispositive and require vacatur of municipal liability.

The conflict is direct and outcome-determinative. The Second and Seventh Circuits reject a categorical rule that a general defense verdict for an individual officer automatically nullifies municipal and policymaker liability; instead, they ask whether the plaintiff proved an underlying constitutional deprivation caused by municipal policy and whether the verdicts can be reconciled. By contrast, the Eighth Circuit treated the officer's general defense verdict as dispositive and vacated Petitioners' municipal and supervisory verdicts as a matter of law. Federal civil-rights liability for unconstitutional municipal policies should not turn on geography.

A. The jury here was instructed to make distinct constitutional-deprivation findings against the City and the policymaker, and it did so.

Instruction 12 required Petitioners to prove "that Keagan Schweikle was deprived of his constitutional rights because of a City custom, policy, ordinance, regulation, or decision," and the City's deliberate indifference under failure-to-train and failure-to-investigate theories. Instruction 13 required the same constitutional-deprivation finding as to former Chief Lane, based on a "custom, policy, ordinance, regulation, or decision that was instituted by Lane," again under failure-to-train and failure-to-investigate theories. The jury returned verdicts for Petitioners on those claims, awarding $30 million against the City and $2 million against Lane.

On those instructions and verdicts, this case does not present the simple scenario *Heller* addressed: a municipal defendant sued only as a derivative

matter for an officer's conduct, where the jury was never asked to decide (and did not decide) whether municipal policy itself caused a constitutional deprivation. Here, the jury was told that the City and Lane could be liable only if the jury found a constitutional deprivation caused by municipal policy and policymaker decision-making, and the jury found exactly that.

The Eighth Circuit's categorical approach also rests on an unwarranted assumption about what the officer's general verdict necessarily decided. A general defense verdict on an excessive-force claim is opaque: it does not reveal whether the jury found no constitutional violation at all, or instead found that Petitioners failed to carry their burden on some element tied to the individual officer's personal liability, or found that the officer's conduct was reasonable in the particular moment even though systemic municipal failures foreseeably produced the encounter and the deprivation found against the City and policymaker under Instructions 12 and 13. That is precisely why the Eighth Circuit in *Speer* recognized that "the appropriate question under Heller is whether a verdict … exonerating the individual governmental actors can be harmonized with a concomitant verdict … imposing liability on the municipal entity," and that automatic dismissal is "not required in every case." *Speer v. City of Wynne*, 276 F.3d 980, 986 (8th Cir. 2002).

Here, the jury was separately instructed that the City and Lane could be liable only if municipal policy and policymaker decisions "deprived" Keagan Schweikle of "constitutional rights" and proximately caused his death, and the jury found for Petitioners on

those claims. Treating the officer's general verdict as a categorical veto ignores that the verdicts can be harmonized, and it allows municipalities and policymakers to erase adverse jury findings based on post hoc judicial inferences about what the jury "must have meant."

B. Other courts of appeals reject the Eighth Circuit's automatic-dismissal rule.

The decision below treats a defense verdict for the individual officer as a categorical veto over municipal and supervisory liability. That approach is not shared nationwide. Multiple circuits hold that *Monell* liability turns on whether municipal actors committed a constitutional tort and whether municipal policy was the moving force, not on whether the plaintiff also obtained (or could obtain) a personal-liability judgment against a particular officer. Other circuits, by contrast, treat the officer's exoneration on the underlying constitutional claim as automatically foreclosing municipal liability. This division warrants this Court's review.

1. The Second and Seventh Circuits hold that municipal liability may be established without a judgment against an individual officer, so long as the plaintiff proves an underlying constitutional tort by municipal actors and causation by municipal policy.

The Second Circuit has explained that while a municipality "cannot be liable under Monell where [a] Plaintiff cannot establish a violation of his constitutional rights," it "does not follow … that the plaintiff must obtain a judgment against the

individual tortfeasors in order to establish the liability of the municipality." *Askins v. City of New York*, 727 F.3d 248, 253–55 (2d Cir. 2013). Instead, "it suffices to plead and prove against the municipality that municipal actors committed the tort against the plaintiff and that the tort resulted from a policy or custom of the municipality," and "the plaintiff need not sue the individual tortfeasors at all." Id.; see also *Wilson v. Town of Mendon*, 294 F.3d 1, 7 (1st Cir. 2002) (same, as quoted in *Askins*). And critically, *Askins* makes clear that an officer's personal defense (e.g., qualified immunity) does not carry over to the municipality: "the entitlement of the individual municipal actors to qualified immunity … is … irrelevant to the liability of the municipality," because municipalities have "no immunity" for their own constitutional violations. *Askins*, 727 F.3d at 255–56.

The Seventh Circuit has likewise rejected the rule Respondents urged below. In *Thomas v. Cook County Sheriff's Department*, the County argued "that the district court should have directed a verdict in its favor after all of its employees were acquitted," citing *Heller*. 604 F.3d 293, 303–05 (7th Cir. 2010). The Seventh Circuit held that this was an "unreasonable extension of Heller," explaining that *Heller*'s rule is "much narrower": "a municipality can be held liable under *Monell*, even when its officers are not, unless such a finding would create an inconsistent verdict." Id. at 305. *Thomas* further explained why: the jury could rationally find that "none of the [individual employees] were individually responsible," yet that systemic breakdowns in municipal policy caused the constitutional harm. Id.

Other courts of appeals have likewise recognized that municipal liability may exist even where individual officers are not found liable, so long as the constitutional injury resulted from municipal policy or custom. In *Garcia v. Salt Lake County*, the Tenth Circuit affirmed a verdict against the county even though the jury found for all individual employees, explaining that municipal liability may arise from "the combined acts or omissions of several employees acting under a governmental policy or custom." 768 F.2d 303, 310 (10th Cir. 1985).

The Third Circuit has reached the same conclusion. In *Fagan v. City of Vineland,* the court held that a municipality may be liable under § 1983 for failure to train officers regarding high-speed pursuits even if no individual officer participating in the chase violated the Constitution, explaining that a municipality's liability for its own policy decisions does not "depend automatically or necessarily on the liability of any police officer." 22 F.3d 1283, 1292–94 (3d Cir. 1994).

The Ninth Circuit's decision in *Fairley v. Luman* underscores that *Heller* is not a one-size-fits-all rule: it distinguished between municipal liability premised on the same excessive-force theory rejected by the jury, and municipal liability premised on a distinct constitutional deprivation attributable to municipal policy or collective inaction. 281 F.3d 913, 916–17 (9th Cir. 2002).

Those holdings conflict with the Eighth Circuit's approach in this case. Here, the jury was instructed to decide, and did decide, that municipal policy and policymaker decision-making deprived Keagan

Schweikle of constitutional rights and caused his death, yet the verdicts were nullified because the jury also returned a general defense verdict for the officer. App., infra, 4a–7a.

2. The Eighth Circuit treats the officer's general defense verdict as dispositive and vacates municipal and policymaker verdicts as a matter of law.

The decision below holds that "controlling precedent forecloses" municipal and supervisory liability because the jury "concluded that [Officer Ellison] inflicted no constitutional harm." App., infra, 4a–5a (quoting *Heller,* 475 U.S. at 799). That reasoning operates as a categorical bar in precisely the posture that other circuits treat differently: a single trial with general verdicts where the jury is instructed to make distinct findings against the municipality and policymaker. *Askins* and *Thomas* reject treating the officer verdict as an automatic veto in that posture and instead focus on whether the verdicts can be reconciled and whether the plaintiff proved an underlying constitutional tort by municipal actors caused by policy. The Eighth Circuit, by contrast, treated the officer verdict as dispositive as a matter of law and nullified the City/Lane verdicts without a retrial. That split warrants this Court's review.

C. The split is especially consequential in failure-to-train and failure-to-investigate cases tried on general verdicts.

The doctrinal disagreement described above has its greatest practical impact in failure-to-train and failure-to-investigate cases. Those claims target institutional decisions that occur far from the split-

second use-of-force event and frequently involve multiple actors, multiple layers of review, and systemic breakdowns. In that setting, juries often receive general verdict forms for the individual officer and separate verdict forms for *Monell* and policymaker liability, as occurred here.

The Seventh Circuit's approach in *Thomas* captures why the Eighth Circuit's rule is wrong and destabilizing in precisely this category of cases. *Thomas* rejected the contention "that the district court should have directed a verdict [for the County] after all of its employees were acquitted," holding that this would be an "unreasonable extension of Heller," because "a municipality can be held liable under Monell, even when its officers are not, unless such a finding would create an inconsistent verdict." 604 F.3d at 305. *Thomas* further explained that verdicts can be reconciled where systemic policy failures, rather than individual culpability, are the moving force behind the constitutional deprivation. Id. at 305.

By contrast, the Eighth Circuit's rule forecloses municipal and policymaker liability in the very posture *Thomas* and *Askins* treat as viable: where the jury is instructed to make constitutional-deprivation findings against the municipality and policymaker and does so, but the officer receives a defense verdict on a general excessive-force claim. App., infra, 4a–7a. That rule makes municipal liability depend not on the jury's policy findings but on verdict-form mechanics and post-verdict judicial relabeling of what the officer's general verdict "must have meant." The resulting geographic disparity is substantial and recurring. This Court should grant review to resolve

that conflict and to clarify *Heller*'s scope in deliberate-indifference training and investigative-failure cases.

II. The judgment below endorses post-discharge nullification of jury verdicts, undermining the Seventh Amendment and Rules 49 and 50.

This case presents a clean and recurring question of federal trial procedure: when a jury returns general verdicts that a court later deems in tension, may a court erase the plaintiff's verdict by entering judgment for defendants after the jury has been discharged, even though the court's own verdict form referenced an interrogatory that was never submitted, and no party sought timely clarification?

As the court of appeals noted, Verdict Form 1 (addressing Officer Ellison) instructed the jury to proceed to a special interrogatory, but the special interrogatory was not provided to the jury. No party objected to the verdict forms or sought clarification before the jury was discharged. Only after discharge did Respondents seek judgment as a matter of law premised on inconsistency. Absent a contemporaneous objection, any asserted inconsistency should have been addressed, if at all, through Rule 49 mechanisms while the jury remained empaneled; once the jury was discharged, Rule 49's cure mechanism was unavailable.

Special interrogatories exist precisely to prevent post hoc judicial guesswork about what a general verdict means when multiple related theories are submitted together. Here, the verdict form itself signaled that the jury should make an additional clarifying finding. Had "Special Interrogatory 1" been provided and answered, it could have resolved the

very ambiguity Respondents later used as the basis for post-discharge judgment. At minimum, it could have revealed whether the jury's defense verdict for Ellison reflected a finding of no constitutional violation at all, or instead reflected some narrower basis for rejecting Ellison's personal liability while still finding that municipal policy and policymaker deliberate indifference caused a constitutional deprivation under Instructions 12 and 13. In that circumstance, the correct remedy would have been contemporaneous jury clarification under Rule 49 while the jury remained empaneled, not the post-discharge nullification of Petitioners' verdicts by judgment as a matter of law. Allowing post-discharge judgment to "cure" an omission the verdict form itself contemplated invites exactly the kind of sandbagging Rule 49 is designed to prevent: silence when the jury can clarify, followed by nullification once the jury cannot.

That sequence matters because federal trial practice is designed to preserve the jury's role by resolving verdict-form problems while the jury remains available to clarify its findings. Rule 49 contemplates that inconsistencies should be addressed through resubmission or a new trial while the jury is still empaneled, not by post hoc judicial revision that necessarily substitutes the court's view for the jury's factfinding. Yet the rulings below allow a party to remain silent in the face of a missing interrogatory or perceived inconsistency, wait for discharge, and then obtain judgment that nullifies the jury's verdict.

Review is warranted to prevent that kind of sandbagging and to clarify the relationship between

Rules 49 and 50 in cases involving general verdict forms and an absent or omitted interrogatory. The Seventh Amendment's re-examination clause exists precisely to prevent post-verdict judicial rewriting of facts "tried by a jury," and the decision below undermines that protection by treating post-discharge judgment as a permissible substitute for timely clarification.

III. The questions presented are exceptionally important and recurring in modern § 1983 litigation involving police shootings and systemic training and discipline failures.

Failure-to-train and failure-to-investigate claims are among the principal mechanisms for litigating systemic causes of constitutional deprivations. Encounters with individuals experiencing mental-health crises, including suicidal individuals, occur frequently, and municipal training and discipline policies directly shape how officers respond. The decision below forecloses municipal accountability in the Eighth Circuit even when a jury is instructed to *and does* find that municipal policymaking decisions deprived a citizen of constitutional rights and proximately caused death, so long as the jury also returns a defense verdict for the officer on a general excessive-force verdict form. Pet. App., 4a–7a. Whether that rule is correct is a question of profound national importance. This Court should grant certiorari.

This case cleanly presents both issues. The jury instructions squarely required constitutional-deprivation findings as to the City and Lane, and the jury returned plaintiff verdicts on those claims with

specific damages awards. At the same time, Verdict Form 1 referenced a special interrogatory that was never provided, and no party objected or sought clarification before discharge, yet the courts below wiped out Petitioners' verdict post-discharge on "inconsistency" grounds. There are no interlocutory posture complications and no threshold procedural barriers that would prevent this Court from resolving the legal questions presented.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully Submitted:

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APPENDIX

TABLE OF APPENDICES

APPENDIX A — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT, FILED NOVEMBER 10, 2025

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 24-1780

PIPER PARTRIDGE, INDIVIDUALLY AS MOTHER AND NEXT OF KIN TO KEAGAN SCHWEIKLE AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF KEAGAN SCHWEIKLE; DOMINIC SCHWEIKLE, INDIVIDUALLY AS FATHER AND NEXT OF KIN TO KEAGAN SCHWEIKLE,

Plaintiffs-Appellants

v.

CITY OF BENTON, ARKANSAS; KYLE ELLISON, INDIVIDUALLY AND AS EMPLOYEE OF CITY OF BENTON, ARKANSAS; KIRK LANE, INDIVIDUALLY AND AS EMPLOYEE OF CITY OF BENTON, ARKANSAS,

Defendants-Appellees

JOHN DOES, 1-20, INDIVIDUALLY AND AS EMPLOYEES OF CITY OF BENTON, ARKANSAS,

Defendant

Appendix A

Appeal from United States District Court
for the Eastern District of Arkansas - Central

Submitted: September 17, 2025
Filed: November 10, 2025

Before BENTON, GRASZ, and KOBES, Circuit Judges.

BENTON, Circuit Judge.

Benton police officer Kyle Ellison shot and killed Keegan Schweikle. His parents, Piper Partridge and Dominic Schweikle, sued Ellison, the Chief of Police, and the City of Benton, Arkansas, under 42 U.S.C. § 1983 and state law. The district court dismissed the case on the pleadings. This court reversed and remanded in part. ***Partridge v. City of Benton***, 929 F.3d 562 (8th Cir. 2019). On remand, the district court granted summary judgment to defendants. This court reversed and remanded. ***Partridge v. City of Benton***, 70 F.4th 489 (8th Cir. 2023). At trial, the jury returned a verdict for Ellison, but against the City and Chief Kirk Lane. The district court[1] granted defendants' judgment as a matter of law. The parents appeal. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

I.

Partridge called police on October 17, 2016. Her teenage son, Keegan, had gone into the woods holding

1. The Honorable Brian S. Miller, United States District Judge for the Eastern District of Arkansas.

a gun and threatening suicide. Officer Ellison, Sergeant Ronald Davidson, and Detective Douglas Speer found Keegan in the woods alone.

Ellison ordered Keegan to show his hands. Keegan moved slightly, revealing a gun in his right hand. Ellison drew his weapon and demanded he drop it. Instead, Keegan raised the gun to his right temple. Ellison continued commanding him to drop the gun. As Keegan moved the gun away from his head, Ellison shot and killed him.

The parents sued Ellison and Lane in their individual capacities for, as relevant here, excessive force. They brought related *Monell* claims against the officers in their official capacities and the City, claiming failure to train and failure to adequately investigate prior accusations of excessive force.

Before trial, the defendants moved to bifurcate the proceedings. They requested that the claims against Ellison be tried separately from those against the City and Lane. The court denied the motion.

At trial, the jury found that Ellison did not use excessive force. The foreperson recorded the jury's findings by signing and dating Verdict Form 1. That form instructed the jury to proceed to a special interrogatory. The special interrogatory was not provided to the jury.

The jury found municipal and supervisory liability against the City and Lane under theories of failure to train

and failure to investigate prior accusations of excessive force. No party objected to the verdict before the jury was discharged. Defendants did make an oral motion for judgment as a matter of law following the verdict. They later renewed their motion for judgment as a matter of law. The district court agreed, vacating the verdicts. The parents appeal.

II.

The parents argue the district court erred in granting judgment as a matter of law. "We review *de novo* the grant of a renewed motion for judgment as a matter of law, viewing the evidence in the light most favorable to the verdict." ***Hopman v. Union Pac. R.R.***, 68 F.4th 394, 399 (8th Cir. 2023). "Judgment as a matter of law is only appropriate when no reasonable jury could have found for the nonmoving party." ***Mattis v. Carlon Elec. Prods.***, 295 F.3d 856, 860 (8th Cir. 2002).

The parents believe that municipal and supervisory liability may exist despite the verdict that Ellison did not violate Keegan's constitutional rights. Controlling precedent forecloses this argument.

Monell liability exists "only where the municipality *itself* causes the constitutional violation at issue." ***City of Canton v. Harris***, 489 U.S. 378, 385, 109 S.Ct. 1197, 103 L.Ed.2d 412 (1989), *citing* ***Monell v. New York City Dep't. of Soc. Servs.***, 436 U.S. 658, 694, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978). Defendant City of Benton "may be liable under § 1983 for constitutional violations if a violation resulted

from (1) an official municipal policy, (2) an unofficial custom, or (3) a deliberately indifferent failure to train or supervise." ***Leftwich ex rel. Leftwich v. Cnty. of Dakota***, 9 F.4th 966, 972 (8th Cir. 2021). To establish a municipal custom based on the failure to adequately investigate police misconduct, "a plaintiff must show that the municipality acted with deliberate indifference to the rights of persons with whom the officers come into contact." ***Perkins v. Hastings***, 915 F.3d 512, 521 (8th Cir. 2019). The same deliberate indifference standard applies to claims of municipal liability based on inadequate police training. *See* ***Canton***, 489 U.S. at 379, 109 S.Ct. 1197 (1989).

For supervisory liability, the supervisor must be personally involved in violating a federally protected right, or the supervisor's "corrective inaction" must constitute deliberate indifference to the violation. ***Ottman v. City of Independence***, 341 F.3d 751, 761 (8th Cir. 2003). "The supervisor must know about the conduct and facilitate it, approve it, condone it, or turn a blind eye for fear of what he might see." ***Ripson v. Alles***, 21 F.3d 805, 809 (8th Cir. 1994), *quoting* ***Jones v. City of Chicago***, 856 F.2d 985, 992 (7th Cir. 1988).

The Supreme Court has held that "neither [*Monell*], nor any other of our cases authorizes the award of damages against a municipal corporation based on the actions of one of its officers when in fact the jury has concluded that the officer inflicted no constitutional harm." ***City of Los Angeles v. Heller***, 475 U.S. 796, 799, 106 S.Ct. 1571, 89 L.Ed.2d 806 (1986) (per curiam). "If a person has suffered no constitutional injury at the hands of the individual

police officer, the fact that the departmental regulations might have *authorized* the use of constitutionally excessive force is quite beside the point." ***Id.***

Following *Heller*, this court has recognized the general rule that municipal and supervisory liability cannot attach without a prior finding of individual liability on an underlying substantive claim. *See* the cases listed in the appendix to this opinion.

Invoking *Speer v. City of Wynne*, 276 F.3d 980, 985-86 (8th Cir. 2002), the parents claim that there is no categorical rule requiring automatic dismissal of claims against a municipality or police chief when the individual officer is not found to have committed a constitutional violation. Instead, "the appropriate question under *Heller* is whether a verdict or decision exonerating the individual governmental actors can be harmonized with a concomitant verdict or decision imposing liability on the municipal entity." ***Speer***, 276 F.3d at 986.

The *Speer* case itself acknowledges that the automatic dismissal of municipal liability is not required in *every* case if an individual officer is exonerated. ***Id***. However, liability may not be imposed where no municipal official or employee committed a constitutional violation. ***Id***. *See generally* ***Moyle v. Anderson***, 571 F.3d 814, 817 (8th Cir. 2009) (explaining that when a policy itself is constitutional and no underlying constitutional violation occurs, municipal liability cannot attach). *Speer* identifies an exception to the general rule: Liability may attach where no single official or employee is personally liable, but "the combined

actions of multiple officials or employees may give rise to a constitutional violation." ***Id***. *See also* ***S.L. ex rel. Lenderman v. St. Louis Metro. Police Dep't Bd. of Police Comm'rs***, 725 F.3d 843, 854-55 (8th Cir. 2013) (same).

This is not a *Speer* case. The verdicts here cannot be harmonized because there are no combined actions of multiple officials or employees that could give rise to a constitutional violation. Ellison was the only officer who used deadly force against Keegan. The jury determined he did not use excessive force and did not violate Keegan's constitutional rights. Without a violation by Ellison—or by any combination of officials or employees—there is no basis for imposing municipal or supervisory liability. *See* ***Ridgell v. City of Pine Bluff***, 935 F.3d 633, 636 (8th Cir. 2019) ("The verdict establishes as a matter of law that [the officer] did not unlawfully discriminate, so the finding against the City cannot be harmonized unless there was [a constitutional violation] by some other official or combination of officials."). [2]

The district court properly granted judgment as a matter of law.

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The judgment is affirmed.

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2. The jury was not instructed that finding liability against the City and Lane was inconsistent with finding no constitutional violation by Ellison. Nor was the trial bifurcated, postponing consideration of *Monell* claims until after finding a constitutional violation.

Appendix A

Appendix

Aden v. City of Bloomington, 128 F.4th 952, 960 (8th Cir. 2025) ("The supervisory officers did not commit a constitutional violation; therefore, the City of Eagan is not subject to *Monell* liability.").

Jones v. Faulkner Cnty., 131 F.4th 869, 876 (8th Cir. 2025) ("[A]bsent a constitutional violation by a county employee, there can be no § 1983 or *Monell* liability for the County.").

Green v. City of St. Louis, 134 F.4th 516, 526 (8th Cir. 2025) ("As we are upholding the dismissal of Officer Green's individual claims against Officer Tanner, there was no constitutional violation and no error in granting summary judgment to the City.").

Torgerson v. Roberts Cnty., 139 F.4th 638, 646 (8th Cir. 2025) ("Absent a constitutional violation' by a County employee, there can be no § 1983 or *Monell* liability.").

Davenport v. City of Little Rock, 142 F.4th 1036, 1044 (8th Cir. 2025) (" 'Absent a constitutional violation by a city employee, there can be no § 1983 or *Monell* liability for the City.").

Brown v. City of Dermott, 151 F.4th 985, 991 (8th Cir. 2025) ("Since his First or Fourth Amendment rights were not violated, Brown cannot maintain a § 1983 claim against the City.").

Stearns v. Wagner, 122 F.4th 699, 704 (8th Cir. 2024) ("Because Stearns's constitutional rights were not violated, his *Monell* claim fails.").

Edwards v. City of Florissant, 58 F.4th 372, 376 (8th Cir. 2023) ("Absent a constitutional violation by a city employee, there can be no § 1983 or *Monell* liability for the City.").

Brabbit v. Capra, 59 F.4th 349, 354 (8th Cir. 2023) ("Because there is no cognizable constitutional violation, there is no basis for *Monell* liability.").

Leonard v. St. Charles Cnty. Police Dep't, 59 F.4th 355, 363 (8th Cir. 2023) ("[T]he lack of a constitutional violation means there can be no § 1983 or *Monell* liability.").

Kiefer v. Isanti Cnty., 71 F.4th 1149, 1154 (8th Cir. 2023) ("Without a constitutional violation, there can be no § 1983 liability.").

Smith v. Lisenbe, 73 F.4th 596, 601 (8th Cir. 2023) ("[A] local government can be held liable for a constitutional violation, but it cannot be liable unless there was an unconstitutional act by one of its employees.").

LaCoe v. City of Sisseton, 82 F.4th 580, 586 (8th Cir. 2023) ("Unless a municipal custom or practice itself violates federal law, there can be no § 1983 or *Monell* liability absent a constitutional violation by a City or County employee.").

Bloodworth v. Kansas City Bd. of Police Comm'rs, 89 F.4th 614, 628 (8th Cir. 2023) ("[T]hese [*Monell*] claims clearly fail because, as we have explained, Bloodworth failed to establish a constitutional violation. . . .").

Leftwich ex rel. Leftwich v. Cnty. of Dakota, 9 F.4th 966, 972 (8th Cir. 2021) ("There can be no § 1983 or *Monell* liability absent a constitutional violation by a City or County employee.").

Irvin v. Richardson, 20 F.4th 1199, 1209 (8th Cir. 2021) ("The district court granted summary judgment dismissing the individual capacity claims against Chief Jerman and the official capacity claims . . . against the City because, absent a constitutional violation by the police officers, these defendants cannot be held liable for failure to train their officers. We agree.").

Stockley v. Joyce, 963 F.3d 809, 823 (8th Cir. 2020) ("[W]e need not consider whether [the Circuit Attorney's] public statements provide the basis for the *Monell* claim because we have already determined that this conduct did not violate Stockley's constitutional rights.").

Kingsley v. Lawrence Cnty., 964 F.3d 690, 703 (8th Cir. 2020) ("Because we have already determined that the individual officers' conduct did not violate Kiman's constitutional rights, Lawrence County is entitled to summary judgment on Kiman's *Monell* claim.").

K.W.P. v. Kansas City Pub. Sch., 931 F.3d 813, 829 (8th Cir. 2019) ("Because we hold that no violation of K.W.P.'s

constitutional rights occurred, we necessarily hold that the district court erred in denying summary judgment to KCPS on K.W.P.'s municipal liability claim for failure to train and supervise its school resource officers on the use of handcuffs on young children.").

Meier v. St. Louis, 934 F.3d 824, 829 (8th Cir. 2019) ("Municipal liability requires a *constitutional violation* by a municipal employee. . . .").

Whitney v. City of St. Louis, 887 F.3d 857, 861 (8th Cir. 2018) ("[A]bsent a constitutional violation by a city employee, there can be no § 1983 or Monell liability for the City.").

Webb v. City of Maplewood, 889 F.3d 483, 486 (8th Cir. 2018) ("As the City notes, we have stated in the past that it is a general rule that for municipal liability to attach, individual liability first must be found on an underlying substantive claim.").

Malone v. Hinman, 847 F.3d 949, 955 (8th Cir. 2017) ("Because we conclude that [the officer] did not violate Malone's constitutional rights, there can be no § 1983 or Monell liability on the part of [the chief] and the City.").

Mendoza v. U.S. Immigration & Customs Enf't, 849 F.3d 408, 420 (8th Cir. 2017) ("[T]he claims against [the Sheriff] and the County automatically fail for lack of an underlying constitutional violation.").

White v. Jackson, 865 F.3d 1064, 1075 (8th Cir. 2017) ("Municipal liability will not attach unless individual liability is found on an underlying substantive claim.").

Corwin v. City of Independence., 829 F.3d 695, 700 (8th Cir. 2016) ("[I]n light of our upholding of the grant of summary judgment to the individual defendants on [the plaintiff's] underlying substantive claim, municipal liability cannot succeed as a matter of law.").

Schoettle v. Jefferson Cnty., 788 F.3d 855, 861-62 (8th Cir. 2015) ("We have long held that neither municipal nor supervisory liability may attach in section 1983 actions unless individual liability is first found on an underlying substantive claim.").

Folkerts v. City of Waverly, 707 F.3d 975, 983 (8th Cir. 2013) (finding that without an underlying constitutional violation, no § 1983 or *Monell* liability can attach).

Carpenter v. Gage, 686 F.3d 644, 651 (8th Cir. 2012) ("Without a showing that the deputies violated the Constitution, however, there can be no liability for failure to train.").

Moore v. City of Desloge, 647 F.3d 841, 849 (8th Cir. 2011) ("Because [the plaintiff] failed to establish [the officer] violated Moore's constitutional rights, Moore cannot maintain this action against either [the Chief] or the city.").

Sitzes v. City of W. Memphis, 606 F.3d 461, 470 (8th Cir. 2010) (agreeing with the district court that plaintiffs'

failure to train and failure to supervise claims "could not be sustained absent an underlying constitutional violation by the officer").

Cook v. City of Bella Villa, 582 F.3d 840, 853 (8th Cir. 2009) ("Absent a constitutional violation, there can be no municipal liability.").

Sanders v. City of Minneapolis, 474 F.3d 523, 527 (8th Cir. 2007) ("Without a constitutional violation by the individual officers, there can be no § 1983 or *Monell* failure to train municipal liability.").

Hassan v. City of Minneapolis, 489 F.3d 914, 920 (8th Cir. 2007) (finding that without an underlying constitutional violation by the individual officers, there can be no § 1983 or *Monell* liability).

Hayek v. City of St. Paul, 488 F.3d 1049, 1055 (8th Cir. 2007) ("Without a constitutional violation by the individual officers, there can be no § 1983 or *Monell* . . . municipal liability.").

Brockinton v. City of Sherwood, 503 F.3d 667, 674 (8th Cir. 2007) ("[N]o Van Buren County defendant is individually liable for an underlying substantive claim. Therefore, the County cannot be held liable under § 1983.").

McVay v. Sisters of Mercy Health Sys., 399 F.3d 904, 909 (8th Cir. 2005) ("Since we have found that [the officer's] actions were not unconstitutional, McVay cannot make a prima facie case against the City under section 1983.").

McCoy v. City of Monticello, 411 F.3d 920, 922 (8th Cir. 2005) ("Officer Ouelette's act of drawing his gun was objectively reasonable, and the accidental discharge did not constitute an unreasonable seizure violating McCoy's constitutional rights. Therefore, the City cannot be held liable on either an unconstitutional policy or custom theory or on a failure to train or supervise theory.").

Turpin v. County of Rock, 262 F.3d 779, 784 (8th Cir. 2001) (because summary judgment was granted in favor of officers, the county likewise was entitled to summary judgment).

Veneklase v. City of Fargo, 248 F.3d 738, 748 (8th Cir. 2001) (en banc) ("[W]here arresting police officers are absolved of liability to arrestees, the City ordinarily is not liable.").

Williams v. Davis, 200 F.3d 538, 539 (8th Cir. 2000) ("Absent a constitutional violation, there was no basis for section 1983 liability on the part of the other defendants.").

Thomas v. Dickel, 213 F.3d 1023, 1026 (8th Cir. 2000) ("Because we have found that the officers' stop of the plaintiffs' car did not violate their fourth amendment rights, it follows that the plaintiffs' claim against the city (inadequate training and municipal custom) must likewise fail.").

Roe v. Humke, 128 F.3d 1213, 1218 (8th Cir. 1997) ("Because there was no underlying violation of Doe's constitutional rights by a state actor, however, her claim against [the officer] necessarily fails.").

Eagle v. Morgan, 88 F.3d 620, 628 (8th Cir. 1996) (Because the officers' conduct did not violate plaintiff's constitutional right to privacy, the related claims against the city are disposed of).

Abbott v. City of Crocker, 30 F.3d 994, 998 (8th Cir. 1994) ("The City cannot be liable in connection with . . . the excessive force claim . . . , whether on a failure to train theory or a municipal custom or policy theory, unless Officer Stone is found liable on the underlying substantive claim.").

Parrish v. Luckie, 963 F.2d 201, 206 (8th Cir. 1992) ("[A] claim against an actor in his official capacity fails when the jury determines that the plaintiff's constitutional rights were not violated.").

Robinson v. City of St. Charles, 972 F.2d 974, 977 (8th Cir. 1992) ("The Robinsons have no § 1983 claim against the City because the jury determined that their constitutional rights were not violated by the police officers.").

Reynolds v. City of Little Rock, 893 F.2d 1004, 1007 (8th Cir. 1990) ("The necessary predicate for liability of the City and individual supervisors, however, is a finding that [the officers] who shot [the plaintiff] used excessive force under the circumstances.").

Swink v. City of Pagedale, 810 F.2d 791, 795 (8th Cir. 1987) (jury verdict for the officers mooted the jury's finding for the City).

Clay v. Conlee, 815 F.2d 1164, 1169 (8th Cir. 1987) (with no violation of Clay's constitutional rights, the county could not be held liable).

Hannah v. City of Overland, 795 F.2d 1385, 1392 (8th Cir. 1986) ("In view of the jury verdict in favor of defendants Coffell and Crump, which necessarily meant that Hannah's constitutional rights were not violated, there can be no liability on the part of the other defendants who were granted directed verdicts since their liability was predicated on the underlying liability of Crump and Coffell.").

APPENDIX B — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, CENTRAL DIVISION, FILED APRIL 9, 2024

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

CASE NO. 4:17-CV-00460-BSM

PIPER PARTRIDGE, INDIVIDUALLY AND AS NEXT OF KIN TO KEAGAN SCHWEIKLE AND AS SPECIAL ADMINISTRATRIX OF THE ESTATE OF KEAGAN SCHWEIKLE; DOMINIC SCHWEIKLE, INDIVIDUALLY AS FATHER AND NEXT OF KIN TO KEAGAN SCHWEIKLE

PLAINTIFFS

v.

CITY OF BENTON, ARKANSAS; KYLE ELLISON; AND KIRK LANE

DEFENDANTS

ORDER

The renewed motion for judgment as a matter of law [Doc. No. 149] submitted by the City of Benton and its former police chief Kirk Lane is granted, the verdicts entered against them are vacated, and all claims against them are dismissed with prejudice.

Appendix B

The parents of Keagan Schweikle sued the City, Lane, and police officer Kyle Ellison following Ellison's fatal shooting of Schweikle. After six days of trial, an eleven-person jury returned a verdict in favor of Ellison, finding that he neither used excessive force, nor did he batter or assault Schweikle. The jury, however, returned a verdict against the City and Lane on plaintiffs' claims that they failed to adequately train their officers and to investigate prior accusations of excessive force. Jury Verdict, Doc. No. 146. The question presented is whether the City and Lane can be held liable for failing to adequately train their officers and for failing to adequately investigate prior accusations of excessive force when the officer who used deadly force against Schweikle did not violate his rights.

The answer is no. *See, e.g., City of Los Angeles v. Heller*, 475 U.S. 796, 799 (1986); *Swink v. City of Pagedale*, 810 F.2d 791, 794–95 (8th Cir. 1987). The City and Lane cannot be held liable for Schweikle's unfortunate death because there was no underlying violation of Schweikle's rights. *See Smith v. Kilgore*, 926 F.3d 479, 486 (8th Cir. 2019) (*Monell* claim properly dismissed in lawsuit by mother of man fatally shot by police officers because there was no constitutional violation by an individual officer and the fact that the decedent began to raise his gun toward officers would alone justify deadly force); *McCoy v. City of Monticello*, 411 F.3d 920, 922–23 (8th Cir. 2005) (city cannot be held liable unless the defendant police officer is found liable on an underlying substantive claim); *Roe v. Humke*, 128 F.3d 1213, 1218 (8th Cir. 1997) (police chief cannot be held liable given absence of underlying violation of constitutional rights). Therefore, judgment

must be entered for the City and Lane even if Ellison's use of force against Schweikle resulted from specific rules or regulations of the City and Lane because Ellison did not violate Schweikle's rights. *See Heller*, 475 U.S. at 799 ("the fact that the departmental regulations might have *authorized* the use of constitutionally excessive force is quite beside the point").

IT IS SO ORDERED this 9th day of April, 2024.

/s/ Brian S. Miller
UNITED STATES DISTRICT JUDGE