

No. 25-1323

IN THE
Supreme Court of the United States

CITY OF BOSSIER CITY, LOUISIANA,

Petitioner,

v.

RICHARD HERSHEY, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

**BRIEF OF INTERNATIONAL MUNICIPAL
LAWYERS ASSOCIATION AS *AMICUS CURIAE*
IN SUPPORT OF PETITIONER**

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INTEREST OF *AMICUS CURIAE*¹

The International Municipal Lawyers Association (IMLA) is the nation's oldest and largest organization devoted to the furtherance of local government law. A nonprofit, nonpartisan professional association whose membership includes thousands of local government entities and their legal counsel across the United States, IMLA's mission is to advance the professional practice of municipal law and to advocate on behalf of local governments before federal and state appellate courts. In pursuing that mission, IMLA regularly participates as *amicus curiae* in cases presenting questions of significant importance to local governments, including cases arising under 42 U.S.C. § 1983.

The question presented in this case bears directly on the fiscal stability and governance of every municipality in the United States. The decision below creates an extraordinary and previously unknown form of municipal liability: a city may be held responsible under *Monell* on a failure-to-train claim for a single, isolated incident involving a constitutional right that the same court—in the same opinion—holds is not clearly established enough to defeat qualified immunity for the officers on the scene. If allowed to stand, this approach will subject local governments to crippling liability for isolated mistakes

1. Pursuant to Supreme Court Rules 37.2 and 37.6, *Amici Curiae* state that counsel for all parties received notice of the intention to file this brief at least 10 days prior to the filing deadline, no counsel for any party authored this brief in whole or in part, and no outside entity or person, other than *Amicus Curiae* and its counsel, made any monetary contribution for the preparation and submission of this brief.

occurring in areas of genuine legal uncertainty, precisely where officers deserve—and courts have consistently accorded—the benefit of the doubt.

Local governments have a material interest in clear standards governing *Monell* liability for failure-to-train claims. More particularly, they require this Court to restore the proper relationship between qualified immunity and local government deliberate indifference/failure to train liability.

SUMMARY OF ARGUMENT

Ordered liberty is the essence of America's free society. That tension between order and liberty is maintained on the one hand by front line police officers and the superstructure that trains them, and on the other hand by the court system that reviews their work. A locality cannot function as a microcosm of civilized society without both of those—police to enforce the law and a competent judiciary to protect against overreach.

The Fifth Circuit's fractured decision in this case produces a result that cannot be reconciled with the foundational principles of either qualified immunity or *Monell's* municipal liability doctrine. In a single opinion, a majority of the panel holds that individual officers who removed Richard Hershey from the area surrounding the Bossier City Arena are entitled to qualified immunity because the contours of Hershey's First Amendment rights in that specific location are not clearly established. But a different majority of that very panel simultaneously holds that Bossier City itself should face *Monell* liability for failing to train its officers about those same constitutional

rights—rights that two of the three judges had just agreed were insufficiently settled to defeat the officers’ qualified immunity defense.

This paradox cannot be rationalized as a logical consequence of differing legal standards applicable to individual officers and local governments. It is a clear contradiction: On one hand, qualified immunity applies because officers cannot be required to conform to constitutional requirements that have not been clearly established. On the other hand, the single-incident liability driving the respondent’s *Monell* claim rests on precisely the opposite premise: that the need for training was so evident, and the constitutional violation so predictable, that Bossier City’s failure to train amounted to a conscious choice to permit the violation. These two predicates cannot simultaneously point to the same legal question.

The jurisprudence on single incident failure to train liability makes the misfit all the more obvious. This Court has repeatedly emphasized—most forcefully in *Connick v. Thompson*, 563 U.S. 51 (2011)—that single-incident failure-to-train liability is available only in the rarest of circumstances: when the constitutional violation is a highly predictable consequence of failing to equip officers with specific tools for a recurring situation, and when the need for that training is patently clear to any reasonable policymaker. (See also *City of Canton v. Harris*, 489 U.S. 378 (1989) (rejecting single incident failure to train claim where officers’ inability to recognize detainee’s need for medical assistance was not due to deliberate indifference).

The analogue most frequently offered is arming officers without any training in the use of deadly force—a

situation where constitutional violations would be a nearly inevitable result. This case presents nothing remotely similar.

Whether the sidewalks surrounding the Bossier City Arena constitute a traditional public forum—and thus whether removing a leafleteer from those sidewalks without more violates the First Amendment—turns on a site-specific factual analysis. The officers who confronted Hershey apparently believed, and two circuit judges agreed, that the legal question was not clearly settled. Yet the panel’s *Monell* majority concluded that the city was deliberately indifferent for failing to train its officers on a question that those same officers had a reasonable basis to get wrong. This cannot be what *Canton* and *Connick* intended.

IMLA urges this Court to grant certiorari for two reasons. First, the decision creates an irreconcilable inconsistency: it expands *Monell* liability to reach municipal training failures in areas where qualified immunity protects the officers involved—thereby punishing the city for uncertainty that the law itself creates, resulting in respondeat superior liability. Second, and independently, the holding below improperly extends single-incident failure-to-train liability to facts bearing no resemblance to the narrow class of cases this Court has said can justify the single-incident inference.

ARGUMENT

I. LOCAL GOVERNMENTS DEVOTE SIGNIFICANT RESOURCES TO INSTRUCT LAW ENFORCEMENT IN CLEARLY ESTABLISHED LAW.

The span of constitutional subtlety which the uniformed officer is presumed to know is exhaustive. From First Amendment prerogatives of agitated protestors, intrusive auditors, and insult-spewing hecklers to Fourth Amendment rights of gun- and weapon-wielding adversaries, lawbreakers under the influence of drugs or suffering mental illness, detainees with deficiencies in hearing, sight, or language, and much more—all are applied against the larger tableau of behavioral and sociological nuance in evaluating and responding to rapidly unfolding human interactions. And that store of already-existing law is merely a foundation for the steady evolution of new law, making “clearly established” a continually moving target. The expansive knowledge required of officers is the product of continuous instruction by local government, which take seriously their duty to educate law enforcement—spending an average of over 800 hours in academy classroom training prior to field training,² followed by annual or biennial training of approximately 24 to 40 hours per year.³

2. Emily D. Buehler, State and Local Law Enforcement Training Academies’ Training Topics and Instructors, 2022 – Statistical Tables, Bureau of Justice Statistics (June 2025), <https://bjs.ojp.gov/document/slletatti22st.pdf>

3. CSG South News, Question of the Month, November, <https://csgsouth.org/question-of-the-month-november-4/> (November 4, 2025); Georgia State Senate, Senate Research Office

To hold a municipality liable, a plaintiff must establish that a municipal policy or practice was the moving force of a constitutional violation. *Monell v. Department of Social Services of City of New York*, 436 U.S. 658, 694 (1978). In *City of Canton v. Harris*, this Court held that “the inadequacy of police training may serve as the basis for § 1983 liability only where the failure to train amounts to deliberate indifference to the rights of persons with whom the police come into contact.” 489 U.S. 378, 388. The Court clarified the narrow circumstances under which governmental liability might arise:

[I]t may happen that in light of the duties assigned to specific officers or employees the need for more or different training is so obvious, and the inadequacy so likely to result in the violation of constitutional rights, that the policymakers of the city can reasonably be said to have been deliberately indifferent to the need.¹⁰ In that event, the failure to provide proper training may fairly be said to represent a policy for which the city is responsible, and for which the city may be held liable if it actually causes injury. *Id.* at 389.

But that prospect is exceedingly rare: “Only where a failure to train reflects a ‘deliberate’ or ‘conscious’ choice by a municipality—a ‘policy’ as defined by our prior cases—can a city be liable for such a failure under § 1983.” *Id.* The extensive training described below dispels any

Memorandum re Nationwide Minimum Training Hours for Law Enforcement, <https://www.senate.ga.gov/committees/Documents/LEONationwideTrainingTable-Memo.pdf>.

notion that police hold a “deliberate indifference to the rights of persons with whom the police come into contact.”

A. Police Training is a Rigorous Process that Covers Many Topics on Law Enforcement, Including the Constitutional Constraints on Officers.

Police departments devote extensive time to training their cadets and to continuing education for their veteran officers. The vast majority of that training involves teaching the officers how to enforce the law that imposes restrictions on civilian conduct. It also includes training in the constitutional restraints that apply to officers as they go about enforcing the law.

The amount of minimum training required of officers varies from state to state. According to the Bureau of Justice Statistics, as of 2013, the nationwide average for police officer academy classroom training was 840 hours over 21 weeks.⁴ In 2018, the BJS reported that the average was 833 hours.⁵ As of 2022, BJS reported the average to be 806 hours.⁶

Houston Police Department is the fifth largest police department in the nation,⁷ serving the fourth largest

4. State and Local Law Enforcement Training Academies, 2013.

5. State and Local Law Enforcement Training Academies, 2018 - Statistical Tables.

6. State and Local Law Enforcement Training Academies and Recruits, 2022 – Statistical Tables | Bureau of Justice Statistics.

7. <https://www.hpdcareer.com/faqs.html>

city in the nation, with approximately 5,300 classified personnel—i.e., sworn officers—and over 900 civilian personnel.⁸ To prepare officers for serving this city, HPD’s Academy puts its cadets through approximately 1,300 hours of classroom training,⁹ well above the Texas state mandated 736 hours.¹⁰ HPD Academy training is full-time for six months in the classroom followed by three to six months in the field.¹¹ Houston Police Departments General Orders, which are publicly available on HPD’s website, cover 161 subjects and run to approximately 1,000 pages.¹²

An overview of topics covered in Houston’s training overall provides the context for time allocated to constitutional law training. The state mandates the following topics and the number of hours on each:

Professional Police Practices

1. Professionalism and Ethics	12
2. Professional Policing	12
3. Fitness, Wellness, and Stress Management	16

8. <https://www.houstontx.gov/council/committees/fy26workshops/police-may20.pdf>.

9. HPD Academy Cadet Training Basic Peace Officer Course Hour Tracker (on file with amicus author).

10. For comparison, a single year of full-time college coursework consisting of 30 semester hours would typically require 450 classroom hours. The Texas mandated minimum of 736 equates to more than three semesters, while HPD’s 1,300 is approximately three full-time years of classroom training, all completed within six months.

11. <https://www.hpdcareer.com/academy.html>

12. https://www.houstontx.gov/police/general_orders/index.htm

4. TCOLE Rules	4
5. Multiculturalism and Human Relations	8
6. Racial profiling	4
Constitutional Law, Criminal Law, and the Criminal Justice System	
7. US, Texas Constitution and Rights	10
8. Penal Code	50
9. Code of Criminal Procedure	12
10. Arrest, Search, and Seizure	40
11. Asset Forfeiture	4
12. Identity Crimes	4
13. Consular Notification	1
14. Civil Process	4
Illegal Substances and Special	
15. Health and Safety Code and Controlled Substance Act	12
16. Alcoholic Beverage Code	4
Family, Children, and Victims of Crime	
17. Sexual Assault and Family Violence	12
18. Missing and Exploited Children	8
19. Child Safety Check Alert List	1
20. Victims of Crime	10
21. Human Trafficking	4
Traffic Regulation	
22. Traffic code/Crash Investigation/Traffic Incident Management	74
23. Intoxicated Driver	24

Communication/Language	
24. Written Communication	16
25. Verbal Communication/Public Interaction	16
26. Spanish	16
Use of Force	
27. De-escalation Strategies	8
28. Force Options Theory	28
Special Populations	
29. Crisis Intervention Training	40
30. Traumatic Brain Injury	2
Arrest Procedures	
31. Arrest and Control	40
Investigations	
32. Criminal Investigations	40
33. Juvenile Offenders	10
Vehicle Operation	
34. Professional Police Driving	32
Patrol Operation	
35. Patrol Skills/Traffic Stops	46
36. Radio Communications/Amber-Silver Alert	16
37. Civilian Interaction Training	2
38. Interacting with Deaf and Hard of Hearing	4
39. Canine Encounters	4

Medical	
40. Emergency Medical Assistance	16
Weapons	
41. Firearms	48
All Hazards Training	
42. HazMat Awareness	4
Active Shooter Response	
43. ALERRT Level 1	16
End of Course Review	2
Total hours: 736 ¹³	

While Constitutional Law has a specific place in this curriculum, a quick scan of the list shows multiple topics that incorporate constitutional elements, which would be covered organically during the presentation. Many additional classes are available as electives.

Houston is not alone in providing such comprehensive training. The State of Utah requires that police academies teach arrest control, de-escalation training, mental health and other crisis intervention responses, intervention responses for mental illnesses, autism spectrum disorder, and other neurological and developmental disorders, and responses to sexual trauma and investigations of sexual assault and sexual abuse.¹⁴ It also requires 40 hours of

13. Basic Peace Officer Course: Licensing Requirement, Instructor Resource Guide (2025), Texas Commission on Law Enforcement, at 5, 11-12.

14. Utah Code Section 53-6-202

continuing education annually.¹⁵ Salt Lake City’s training requires 832 hours of instruction during 26 weeks of training, covering Constitutional Law, State Law, City Law, use of force, defensive tactics and handcuffing skills, emergency vehicle operation, police weapons and tactics training.¹⁶

Massachusetts, which operates one of the most systematically documented state police training programs in the country, mandates that its officers complete 40 hours of annual in-service training on topics ranging across use of force, de-escalation, hate crimes, crowd management, human trafficking, autism spectrum disorders, electronic control weapons, and firearms requalification.¹⁷

Of those 40 hours, three hours are devoted to the “Freedom of Speech” — a course whose learning objectives encompass the entire scope of First Amendment protections, their intersection with criminal law and police procedure, *and* the assessment of sovereign citizen ideology, all within a single session. *Id.* Another three hours address “Freedom of Assembly: Crowd Management,” which must cover the dynamics of protests, mass gathering response,

15. Basic Training Bureau | DPS – Peace Officer Standards and Training; Georgia State Senate, Senate Research Office, Memorandum re “Nationwide Minimum Training Hours for Law Enforcement” <https://www.senate.ga.gov/committees/Documents/LEONationwideTrainingTable-Memo.pdf> at 3.

16. FAQs – SLCPD (<https://police.slcc.gov/careers/joinourteam/faqs/>)

17. *See* Municipal Police Training Committee, Training Year 2025 In-Service Syllabus (Mass. EOPSS 2024) <https://www.mass.gov/doc/mptc-training-year-2025-in-service-syllabus/download>.

and the preservation of assembly rights while maintaining public safety. *Id.* The Legal Update component — six hours covering the latest developments in First, Fourth, and Fifth Amendment case law across all of criminal law and motor vehicle enforcement — is where any recent doctrinal developments would be addressed, competing for attention with the full range of constitutional law bearing on day-to-day policing. *Id.*

The City of Albuquerque, New Mexico, Police Department includes training on constitutional law, presented by a deputy district attorney.¹⁸ It covers the First Amendment, Second Amendment, Fourth Amendment, Fifth Amendment, Sixth Amendment, Eighth Amendment, and Fourteenth Amendment. Regarding the First Amendment, it trains on the protections for freedom of religion, the right to assemble, and the freedom of speech, along with the limits on those freedoms.¹⁹

The New York City Police Department’s publicly available Patrol Guide Procedure 213-20, “Response to First Amendment Activities” — one of the most detailed departmental policies of its kind, developed after extensive post-2020 reform — focuses on event planning, command structure, barrier configuration, de-escalation, protest liaison assignments, and the distinction between lawful

18. Constitutional Law (Review of Amendments affecting Law Enforcement), presented by 2nd Judicial District Attorney’s Office, Albuquerque, New Mexico (on file with amicus counsel).

19. *Id.* at 4-5. The provided materials do not cover distinguishing among traditional public, designated public, and nonpublic forums.

and unlawful assembly.²⁰ In the midst of such complexity, the three-tier public forum taxonomy — traditional, designated, or nonpublic — is competing for attention with more immediate and recurring priorities.

In addition to in-house continuing education, many departments use outside training providers. One such firm, Blue to Gold, has served over 7,000 law enforcement agencies across more than 30 states and trained over 100,000 officers, and provides ongoing training to agencies.²¹ Training includes Search and Seizure; Complying with Fourth Amendment during Traffic Stops; Warrantless Searches; Law Enforcement Liability; Duty to Intervene; Report Writing; and Cops and Cameras (dealing with “auditors” who record law enforcement activity; protestors; time, place and manner restrictions; “contempt of cop” and obstruction).²² While this training is focused on helping make police officers better at understanding clearly established law and what they are allowed to do without violating the First Amendment, distinguishing among the various forums is not a major topic.

The same is true of the Bureau of Justice Assistance’s nationally distributed reference card for officers responding to First Amendment events, which instructs officers to enforce laws impartially and observe reasonable

20. N.Y.C. Police Dep’t, Patrol Guide Proc. 213-20 (eff. Sept. 10, 2021) <https://www.nyc.gov/site/nypd/about/about-nypd/policy/pg--213-20-response-to-first-amendment-activities.page>.

21. <https://bluetogold.com/about-us/>

22. <https://bluetogold.com/>; Cops & Cameras by Blue to Gold (PowerPoint slides on file with amicus author).

time and manner restrictions, without ever invoking the *Perry Education Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983) framework by name.²³

And the COPS Office/Police Executive Research Forum's widely used *Police Response to Mass Demonstrations* guide grounds its guidance in constitutional principle at a high level of generality, emphasizing that officers need to understand the First, Fourth, and Fourteenth Amendments — not that they should be expected to correctly classify a location as a traditional public forum versus private property with public access.²⁴

B. The Complexity and Breadth of Police Training Make Granular Public Forum Analysis Unrealistic for Line Officers.

This Court's Section 1983 municipal liability jurisprudence has long recognized that what a city can reasonably be expected to train its officers about must be assessed against the full universe of knowledge officers are asked to master. *City of Canton v. Harris*, 489 U.S. 378, 390–91 (1989). That reality produces a corollary that courts have sometimes underweighted: the more comprehensive the legal landscape officers must navigate, the less reasonable it is to expect any specific refinement

23. See Bureau of Justice Assistance, Role of State and Local Law Enforcement at First Amendment Events Reference Card (U.S. Dep't of Justice) (<https://ncirc.bja.ojp.gov/training/first-amendment-online-training>).

24. See Police Executive Research Forum, The Police Response to Mass Demonstrations: Promising Practices (2016) (<https://www.policeforum.org/assets/PoliceResponseMassDemonstrations.pdf>).

— especially one that turns on subtle distinctions in constitutional law — to receive extended treatment in the classroom.

The focus of police training on many areas of First Amendment jurisprudence other than specifics of public forum indicia cannot reasonably be characterized as a categorical failing in police training programs. It is merely an accurate reflection of the breadth of legal knowledge required of law enforcement and what practical pedagogy can accomplish. An officer must understand protestors' rights, traffic law, use of force, search and seizure, domestic violence response, mental health crisis intervention, hate crimes identification, human trafficking indicators, and dozens of other domains — all to a level sufficient to make split-second judgments under pressure. Against that backdrop, to impute to a line officer detailed knowledge of the doctrinal distinction between a sidewalk abutting a public building (a traditional public forum) and a privately owned plaza adjacent to it (potentially a nonpublic forum or no forum at all) — a distinction that has generated significant scholarly debate and divided judicial panels — would impose an obligation beyond the training officers actually receive or can realistically receive.

That unrealistic burden is evident in the context of this case. While the respondent—a repeat First Amendment tester, having brought no fewer than 14 cases against localities around the country based on the nuances of free speech—characterizes the failure of Bossier City officers to recognize the public forum/private property distinction as a categorical constitutional violation, that situation had never confronted these officers before. And when the specifics of the Bossier City Arena (named

“CenturyLink Arena” at the time Mr. Hershey was distributing vegetarianism brochures as a paid leafleteer) are examined, the nuances are more obvious:



The varied landscape outside the Arena, comprising wide stairways, enclosed grassy areas, a circumferential road, more grassy areas, and acres of parking lots, present a public forum Rorschach test for officers. Contrary to the crystal-clear imagery proffered by the respondent, cultivating an impression that only the most inept of law enforcement would fail to recognize the division between public and private property, the grounds surrounding the Arena provide no such certainty. That blurring is even more aggravated by the conflicting record cited in the dissent at the Fifth Circuit below, in which the Arena’s only security report of leafleteers on the premises describe them as being in “parking lots A and B”- contradicting Mr. Hershey’s adamant assertion that he was clearly on public property when asked to move.

In sum, evidence from actual training curricula confirms that nuanced public forum line-drawing is not something that Bossier City law enforcement would be expected to apply in the field. It is not something that would give rise to liability for individual officers under Section 1983 or single incident liability for the City under *Monell*.

II. LAW ENFORCEMENT'S ONE-TIME FAILURE TO RECOGNIZE PRECISE BOUNDARIES BETWEEN PUBLIC AND PRIVATE PROPERTY IS NEITHER A CONSTITUTIONAL VIOLATION BY THE OFFICERS NOR AN ACTIONABLE LAPSE IN TRAINING BY LOCAL GOVERNMENT.

As illustrated above, the allegation that (1) police officers in Bossier City should have known whether a given sidewalk on the periphery of a parking lot was public property or part of a privately-run stadium complex; (2) that the officers' one-time failure to recognize that distinction and thereby mistakenly enforce the stadium's prohibition against unauthorized leafletting rose to the level of a constitutional violation under color of law; and (3) that the officers' one-time mistake was attributable to a deliberate indifference on the part of Bossier City, is simply unsupportable. The courts below properly found that the "law" in question (the distinction between private and public property) was not clearly established, applying qualified immunity to dismiss the officers from this misguided litigation.

But despite the elimination of that predicate step—wrongdoing by law enforcement sufficient to qualify as a “clearly established” violation of Mr. Hershey’s rights—the court inexplicably discerned a critical and unforgiveable failing by the City in not hammering home the overarching importance of this private versus public boundary to its uniformed officers. The single known error arising from that alleged failure to train, says the Circuit Court, is grounds for a *Monell* claim—never mind that the precedent for such a contortion of law and logic is a hypothetical locality providing hypothetical firearms to its hypothetical law enforcement without any training whatsoever, resulting in hypothetical mayhem. The gap between that single incident jurisprudence and an innocent mistake by two police on a sidewalk in a stadium parking lot could scarcely be wider.

A. Where the Law Generates Disagreements Among Judges and Even Splits Among Circuits, It Should Not be Treated as Clearly Established for Purposes of Officer or Municipal Liability.

Encounters between police and civilians take on many forms, which very often are unanticipated. Officers must rely on their academy instruction, their field training, general orders, periodic circulars with updates, their experience, and their understanding of the situation confronting them. Two officers working side by side might view a given situation differently, even though they both were taught by the same academy. If their conduct is eventually reviewed in the court system, two judges on the same panel might view it differently, despite having more time to consider, research, and reflect.

This Court has opined that such uncertainty, particularly among judges, cannot provide a foundation for liability: “Given such an undeveloped state of the law, the officers in this case cannot have been ‘expected to predict the future course of constitutional law.’ * * * If judges thus disagree on a constitutional question, it is unfair to subject police to money damages for picking the losing side of the controversy.” *Wilson v. Layne*, 526 U.S. 603, 617-18 (1999) (internal citations omitted). *See also Barts v. Joyner*, 865 F.2d 1187, 1193 (11th Cir. 1989) (“We cannot realistically expect that reasonable police officers know more than reasonable judges about the law.”); *Youmans v. Gagnon*, 626 F.3d 557, 565 (11th Cir. 2010) (“We must not hold police officers to a higher standard of legal knowledge than that displayed by the federal courts in reasonable and reasoned decisions; where ‘judges thus disagree on a constitutional question, it is unfair to subject police to money damages for picking the losing side of the controversy.’”)

The same reasoning applies to local governments. The police departments that do the training should not be held to higher standards of legal knowledge than the federal courts, which can disagree with each other, and whose judges can disagree among themselves. In *Hershey*, the three-judge panel issued three opinions, and in denying en banc review the Fifth Circuit, in a 10-7 split, issued two more. This was not clearly established law, nor was it a matter of deliberate indifference.

B. The Sidewalk at the Perimeter of a Private Arena Hosting a Private Event is Not Remotely Like the Obvious Case in *Taylor v. Riojas*.

The obvious cases are rare where no clearly established law is needed to impose liability upon a municipality for its infirm policies or its deliberate indifference. A prime example of an actual case where the constitutional violation was obvious is *Taylor v. Riojas*, where this Court held, “Confronted with the particularly egregious facts of this case, any reasonable officer should have realized that Taylor’s conditions of confinement offended the Constitution.” 592 U.S. 7,9 (2020). The facts of that case are worth repeating here to show how far this is from the case at hand:

Petitioner Trent Taylor is an inmate in the custody of the Texas Department of Criminal Justice. Taylor alleges that, for six full days in September 2013, correctional officers confined him in a pair of shockingly unsanitary cells. The first cell was covered, nearly floor to ceiling, in “‘massive amounts’ of feces”: all over the floor, the ceiling, the window, the walls, and even “‘packed inside the water faucet.’ ” *Taylor v. Stevens*, 946 F.3d 211, 218 (CA5 2019). Fearing that his food and water would be contaminated, Taylor did not eat or drink for nearly four days. Correctional officers then moved Taylor to a second, frigidly cold cell, which was equipped with only a clogged drain in the floor to dispose of bodily wastes. Taylor held his bladder for over 24 hours, but he eventually (and involuntarily) relieved himself, causing the drain to overflow

and raw sewage to spill across the floor. Because the cell lacked a bunk, and because Taylor was confined without clothing, he was left to sleep naked in sewage.

Id. at 7 (internal footnote omitted). No on-point precedent was required in *Taylor* because the conditions of his incarceration were clearly inhumane and thus violated his constitutional rights. The facts of *Hershey* do not remotely compare.

In the case before the Court, an officer mistook the location of a pamphleteer. Mr. Hershey contends that this was an obvious and inexcusable oversight and that Bossier City should be liable for not training the officer more emphatically to recognize whether a specific sidewalk at the perimeter of private property was or was not a traditional public forum. That argument contorts the law and proposes a damaging precedent. This Court should grant certiorari and hold that a municipality cannot be liable for failure to train its officers to the level that they will never make a single-incident error in assessing how to apply First Amendment forum protections.

CONCLUSION

For the foregoing reasons, this Court should grant the Petition for certiorari.

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