

No. _____

**In the
Supreme Court of the United States**

CITY OF NORTH LAS VEGAS, NEVADA, ET AL.,

Petitioners,

v.

GENOA JONES, ET AL.,

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

A suspect fled upon North Las Vegas police officers responding to a domestic violence call. Based on information known at the time, including visible injuries to the alleged victim, as well as the suspect's history of violent crimes and outstanding arrest warrants, officers immediately set up a line-of-sight perimeter and called in a K-9 (police dog) unit to help locate the suspect. Upon the K-9 alerting to a scent approximately 18 minutes after the suspect fled, and based on the exigent circumstances, officers entered a backyard approximately four houses away from the victim's residence. Three pitbull mix dogs emerged. Two of them attacked the K-9 and officer. The officer shot and killed the attacking pitbulls, and the pitbulls' owners sued the City and two of its police officers. The United States Court of Appeals for the Ninth Circuit reversed the district court's finding of qualified immunity on the plaintiffs' Fourth Amendment unreasonable search claim based on a single, factually distinct circuit case. The questions presented are:

1. Whether the officers' warrantless search of a backyard in close proximity to the domestic violence victim's residence was a lawful "hot pursuit" when the suspect's trail was temporarily lost within the perimeter for approximately eighteen minutes but recovered through immediate and continuous police efforts.

2. Whether, even if the search did not qualify as a "hot pursuit," the officers were entitled to qualified immunity because no "clearly established law" was violated.

3. Whether, in the interest of avoiding the perpetual flood of federal court qualified immunity litigation, the Court should decide that “clearly established law” means only the decisions of the Court, and not lower court decisions, which fail to provide police departments with meaningful guidance because they are highly fact-determinative and subject to numerous differing and often contradictory judicial interpretations.

PARTIES TO THE PROCEEDINGS

Petitioners and Defendants-Appellees below

- City of North Las Vegas, Nevada
- Scott Salkoff, police officer
- Michael Rose, police officer

Respondents and Plaintiffs-Appellants below

- Genoa Jones
- Cornell Tinsley

LIST OF PROCEEDINGS

U.S. Court of Appeals for the Ninth Circuit

No. 24-3374

Genoa Jones; Cornell Tinsley, *Plaintiffs-Appellants*,
v. City of North Las Vegas; Scott Salkoff;
Michael Rose, *Defendants-Appellees*

Initial Opinion: September 8, 2025

Amended Opinion

and Rehearing Denial: March 6, 2026

U.S. District Court for the District of Nevada

No. 2:21-cv-00241-CDS-DJA

Genoa Jones; Cornell Tinsley, *Plaintiffs*, v.
City of North Las Vegas, et al., *Defendants*

Final Order and Judgment: April 29, 2024

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED.....	i
PARTIES TO THE PROCEEDINGS	iii
LIST OF PROCEEDINGS.....	iv
TABLE OF AUTHORITIES	vii
OPINIONS BELOW	1
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTORY PROVISIONS	2
STATEMENT OF THE CASE.....	3
A. Factual Background.....	3
B. The Lawsuit and Appeal.....	7
REASONS FOR GRANTING THE PETITION.....	9
I. Police Officers Are Entitled to Qualified Immunity Unless They Violate Clearly Established Law	12
II. The City Officers Did Not Violate Any Federal Right Because, During All Relevant Times, They Were in “Hot Pursuit” of a Violent Suspect.....	15
A. The Ninth Circuit Panel Concluded that There Was No “Hot Pursuit” Based on a Single Lower Court Case.....	20
B. The Ninth Circuit Panel Relied on the Misdemeanor-Felony Distinction that This Court Has Effectively Rejected	22
III. The Ninth Circuit’s Reversal Was Not Based on Clearly Established Law	23

TABLE OF CONTENTS (Cont.)

	Page
IV. “Clearly Established Law” Should Mean Law Based Only on This Court’s Decisions, Not Lower Court Opinions That Are Infinitely Fact-Specific and Subject to Widely Varying Judicial Interpretation.....	29
V. Summary Reversal Is Also Warranted	30
CONCLUSION.....	31

APPENDIX TABLE OF CONTENTS

Amended Opinion and Denial of Petition for Rehearing, U.S. Court of Appeals for the Ninth Circuit (March 6, 2026).....	1a
Dissenting Opinion of Judge Collins et al.	18a
Initial Opinion, U.S. Court of Appeals for the Ninth Circuit (September 8, 2025).....	37a
Order Granting Defendants’ Motion for Summary Judgment, U.S. District Court for the District of Nevada (April 29, 2024)	53a
Judgment, U.S. District Court for the District of Nevada (April 29, 2024).....	77a

TABLE OF AUTHORITIES

	Page
CASES	
<i>Anderson v. Creighton</i> , 483 U.S. 635 (1987)	11, 13, 25
<i>Ashcroft v. al-Kidd</i> , 563 U.S. 731 (2011)	11, 14, 23
<i>Brigham City v. Stuart</i> , 547 U.S. 398 (2006)	15
<i>Brosseau v. Haugen</i> , 543 U.S. 194 (2004)	11, 13, 23, 24, 26
<i>California v. Hodari D.</i> , 499 U. S. 621 (1991)	16
<i>Carroll v. Carman</i> , 574 U.S. 13 (2014)	11
<i>City and County of San Francisco v. Sheehan</i> , 575 U.S. 600 (2015)	10, 13, 14, 24, 26
<i>Collins v. Virginia</i> , 584 U.S. 586 (2018)	15
<i>District of Columbia v. Wesby</i> , 583 U.S. 48 (2018)	10, 13, 14, 23, 24, 29
<i>Escondido v. Emmons</i> , 586 U.S. 38 (2019)	14
<i>Estate of Hernandez v. City of Los Angeles</i> , 139 F.4th 790 (9th Cir. 2025).....	28
<i>Graham v. Connor</i> , 490 U.S. 386 (1989)	25
<i>Harlow v. Fitzgerald</i> , 457 U.S. 800 (1982)	12, 13

TABLE OF AUTHORITIES (Cont.)

	Page
<i>Kisela v. Hughes</i> , 584 U.S. 100 (2018)	10, 28
<i>Lange v. California</i> , 594 U.S. 295 (2021)	8, 15, 16, 22
<i>Malley v. Briggs</i> , 475 U.S. 335 (1986)	14
<i>Marmet Health Care Ctr. v. Brown</i> , 565 U.S. 530 (2012)	30
<i>Maryland v. Dyson</i> , 527 U.S. 465 (1999)	30
<i>Mitchell v. Forsyth</i> , 472 U.S. 511 (1985)	26
<i>Monell v. Department of Social Services</i> , 436 U.S. 658 (1978)	7
<i>Mullenix v. Luna</i> , 577 U.S. 7 (2015)	13
<i>Newman v. Underhill</i> , 134 F.4th 1025 (9th Cir. 2025).....	17, 18, 20
<i>Pearson v. Callahan</i> , 555 U.S. 223 (2009)	11, 12, 13, 23, 26
<i>Plumhoff v. Rickard</i> , 572 U.S. 765 (2014)	11, 14, 29
<i>Prado v. Police Dep’t of East Palo Alto</i> , 2018 WL 4103175 (Cal. App. Aug. 29, 2018)	17, 20
<i>Procunier v. Navarette</i> , 434 U.S. 555 (1978)	11, 25

TABLE OF AUTHORITIES (Cont.)

	Page
<i>Reichle v. Howards</i> , 566 U.S. 658 (2012)	13, 14, 29
<i>Rivas-Villegas v. Cortesluna</i> , 595 U.S. 1 (2021)	10, 15, 24, 25, 30
<i>Ryburn v. Huff</i> , 565 U.S. 469 (2012)	11, 25
<i>Safford Unified Sch. Dist. v. Redding</i> , 557 U.S. 364 (2009)	11
<i>Saucier v. Katz</i> , 533 U.S. 194 (2001)	24, 25
<i>Scott v. Harris</i> , 550 U.S. 372 (2007)	16
<i>Stanton v. Sims</i> , 571 U.S. 3 (2013)	9, 18, 19, 22, 23
<i>Taylor v. Riojas</i> , 592 U.S. 7 (2020)	30
<i>Terry v. Ohio</i> , 392 U. S. 1 (1968)	16
<i>United States v. Fuller</i> , 572 Fed. Appx. 819 (11th Cir. 2014).....	17, 20
<i>United States v. Johnson</i> , 256 F.3d 895 (9th Cir. 2001)	10, 20, 21, 22, 26, 27, 28, 30
<i>United States v. Red Bird</i> , 2020 WL 7209760 (D.S.D. Aug. 20, 2020) ..	17, 20
<i>United States v. Santana</i> , 427 U.S. 38 (1976)	15, 19

TABLE OF AUTHORITIES (Cont.)

	Page
<i>United States v. White</i> , 185 F. Supp. 3d 1295 (D. Utah 2016)	17, 20
<i>Welsh v. Wisconsin</i> , 466 U.S. 740 (1984)	16, 19
<i>White v. Pauly</i> , 580 U.S. 73 (2017)	11
<i>Wilson v. Layne</i> , 526 U.S. 603 (1999)	25
<i>Zorn v. Linton</i> , 146 S. Ct. 926 (2026)	11, 14, 26

CONSTITUTIONAL PROVISIONS

U.S. Const. amend IV	i, 2, 7, 8, 9, 11, 15, 17, 22
U.S. Const. amend XIV	7

STATUTES

28 U.S.C. § 1254(1)	1
28 U.S.C. § 1291	8
28 U.S.C. § 1331	8
28 U.S.C. § 1367(a)	8
28 U.S.C. § 2201	8
42 U.S.C. § 1983	2, 7, 8, 10, 13

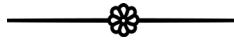
JUDICIAL RULES

Sup. Ct. R. 16(1)	30
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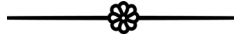
OPINIONS BELOW

The Ninth Circuit’s Amended Opinion, which also included a denial of rehearing, and which is the subject of this petition, is reported at 168 F.4th 1131 (9th Cir. 2026), and is contained in the Appendix [“App.”] at 1a. The Ninth Circuit’s original opinion is reported at 150 F.4th 1030 (9th Cir. 2025). (App.37a). The district court’s decision granting summary judgment in favor of petitioners was not published in the official reports, but is available at 2024 WL 2799331, 2024 U.S. Dist. LEXIS 97658 (D. Nev. April 29, 2024). (App.53a).



JURISDICTION

The Ninth Circuit issued its initial opinion on September 8, 2025. (App.37a). Petitioners timely requested rehearing or rehearing en banc. The Ninth Circuit denied rehearing and issued an amended opinion on March 6, 2026. (App.1a). Eight of the Ninth Circuit Judges dissented from the denial of the rehearing en banc, and the dissent was published with the Amended Opinion. (App.18a). This Court has jurisdiction to review the amended opinion under 28 U.S.C. § 1254(1).



CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Const. amend. IV

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

42 U.S.C. § 1983

Respondents brought the underlying action pursuant to 42 U.S.C. § 1983, which provides, in relevant part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.



STATEMENT OF THE CASE

A. Factual Background

On February 15, 2019, at approximately 3:47 p.m., two police officers from the North Las Vegas Police Department (“NLVPD”), Michael Rose (“Officer Rose”) and Joseph Minelli (“Officer Minelli”), responded to a possible domestic battery at a cul-de-sac residence in North Las Vegas, Nevada. (App.3a). The incident had been reported by the alleged victim’s sister, who had received texts of photographs depicting various injuries to her sister’s face. (App.20a). The sister advised dispatch that her sister’s boyfriend, Demario Shapiro (“Shapiro”), had battered her sister before, and that she was scared for her sister’s safety. (App.20a).

Upon arriving at the residence, Officer Minelli recalled that he had previously responded to the very same house for a domestic-related incident. (App.20a). A records check on Shapiro revealed that he had active domestic battery misdemeanor and traffic warrants, as well as eleven prior arrests, including for domestic battery with strangulation, obstruction, robbery, assault with a deadly weapon, battery with substantial bodily harm, carrying a concealed weapon and possession of a stolen vehicle. (App.22a, 55a n.5).

The officers rang the doorbell at the alleged victim’s residence. In response, the front door opened slightly, and then was immediately closed. (App.20a). Officer Minelli attempted to open the locked door and announced police presence. (*Id.*) The victim eventually opened the door. She appeared flustered, and, despite

Officer Minelli's requests, continued to stall coming out of the house. (App.20a, 55a). The victim denied that there was any domestic violence, but Officer Minelli observed that she had severe injuries to her face, including several injuries around her eyes and a long cut across her chin that had been stitched. (App.4a, 21a). The victim first told Officer Minelli that the facial injuries were from someone else, but then changed her story, stating that she fell in the garage. (App.21a, 55a n.4). Officer Minelli communicated this information over the radio to other responding officers. (App.21a).

As Officer Minelli was attempting to make contact at the front door of the residence, Officer Rose, wary that Shapiro may try to flee, moved toward the eastern side of the residence to view the backyard, at which time he observed a male, who the officers suspected was Shapiro, exit the house and jump over the south wall of the backyard. (App.3a-4a, 21a). Believing that the man who jumped the wall was the domestic battery suspect, Officer Rose quickly ran to his patrol car, drove two streets to the south in an attempt to locate the fleeing suspect, and requested assistance from other officers. (App.21a). Several nearby units quickly responded and established a multi-block perimeter to contain the suspect. (App.4a, 21a). With a perimeter in place, the officers believed that nobody could leave the area without crossing their line of sight. (App.4a). Believing that the suspect was a "dangerous offender" who not only put the alleged victim at risk, but also "anybody else he comes in contact with in the neighborhood," the officers made announcements over their public address systems and began knocking on residents' doors. (App.21a).

A sergeant on the scene called for a K-9 unit to search for the suspect. (App.4a). Lieutenant Scott Salkoff (“Lieutenant Salkoff”)¹ and his certified police service dog (“K-9 Storm”) responded to aid the search at approximately 4:05 p.m., approximately 18 minutes after Officer Rose saw the suspect flee. (App.4a). Lieutenant Salkoff conducted his own records check, which revealed Shapiro’s active domestic battery misdemeanor warrant and his extensive history of violent crimes. (App.22a). Lieutenant Salkoff accordingly deployed K-9 Storm to assist in the search for Shapiro. (App.4a).

K-9 Storm was trained to detect the odor of apocrine, a hormone that humans release when they are scared. (App.4a, 22a). After making K-9 announcements from his vehicle, Lieutenant Salkoff and K-9 Storm began the yard-to-yard search. (App.4a-5a). Another responding police officer, Officer Young, proceeded ahead of Officer Rose and Lieutenant Salkoff to seek consent from residents to search their yards. (App.5a).

Lieutenant Salkoff was searching a backyard located one house south and four houses east of the victim’s home when K-9 Storm alerted to an odor coming from the direction of Respondents’ walled-in backyard at 3808 Vidalia Avenue. (App.5a, 56a). K-9 Storm exhibited a change in behavior, sniffed the air, and gave an alert that a human odor had been detected. (App.5a, 56a).

Lieutenant Salkoff jumped up on the wall so that he could see into the backyard of Respondents’ residence. (App.5a). Lieutenant Salkoff observed trash cans (where

¹ Salkoff is referred to as both lieutenant and sergeant throughout the record, as he was promoted to lieutenant after the subject incident.

he believed the suspect might be hiding), a kennel area with an open gate, three dog houses and bowls. (*Id.*) Lieutenant Salkoff did not, however, see or hear any dogs. (*Id.*)

At the same time, Officer Young tried to make contact with Respondents, but he received no response at the front door. (App.5a). Officer Young also went to the other side of the home where he observed a “Beware of Dog” sign on a closed and locked gate. (App.22a). The officers whistled, shook the locked gate and slapped the wall to determine if any dogs were in the yard, but did not observe any signs of movement or animals. (App.23a).

Lieutenant Salkoff then jumped on the wall into the backyard of Respondents’ residence. (App.23a). Officer Rose handed K-9 Storm to Lieutenant Salkoff over the wall. (*Id.*) Lieutenant Salkoff and K-9 Storm made their way to the southwest corner of the yard to check whether the suspect was hiding in one of two large trash cans. (App.57a). It was not until that time that Lieutenant Salkoff saw three pitbull mix dogs exiting the doghouses. (App.23a).

When the three pitbulls approached, Lieutenant Salkoff attempted to push them away using his legs and using the trash cans as barriers. (App.6a). The pitbulls pushed through the trash cans, and one of them lunged at and bit K-9 Storm on his ear. (App.57a). Two of the pitbulls remained undeterred by Lieutenant Salkoff’s further defensive efforts to kick and pull the pitbulls away from K-9 Storm, and one of them bit K-9 Storm in the ear and throat. (App.58a). Fearing that K-9 Storm was going to be severely injured or killed, and that his own well-being was in danger, Lieutenant

Salkoff drew his service weapon and shot and killed the two pitbulls. (App.6a).

B. The Lawsuit and Appeal

Genoa Jones and Cornell Tinsley (“Respondents”) are the residents of the 3808 Vidalia Avenue property and the owners of the two pitbull mix dogs that were killed during the pursuit for the fleeing suspect. Respondents sued the City of North Las Vegas, Lieutenant Salkoff and Officer Rose.

In their Complaint, Respondents alleged that Petitioners violated their Fourth and Fourteenth Amendment rights by unlawfully searching their residence without a warrant and by shooting and killing their two dogs.² (App.6a). Respondents also asserted a *Monell* claim against the City based on the theory that the City had failed to adequately train and supervise its officers, as well as a state law conversion claim. (App.23a).³

² The lower courts correctly held that Lieutenant Salkoff’s shooting of Respondents’ dogs did not constitute a violation of Respondents’ constitutional rights because Lieutenant’s Salkoff’s actions under the spontaneous circumstances were reasonable, and because the shootings were not precluded by any clearly established precedent. (App.13a-14a). The claims relating to the killing of the dogs are accordingly not at issue.

³ Cities may be held liable under Section 1983 for constitutional violations committed by their officers. See *Monell v. Department of Social Services*, 436 U.S. 658, 694 (1978). The lower courts here correctly concluded that Respondents could not establish a *Monell* claim as a matter of law because Respondents did not offer evidence of a pattern of warrantless search violations or other evidence of constructive notice that the City was deliberately indifferent to Respondents’ Fourth Amendment rights. (App.15a-16a). The *Monell* claim is accordingly not at issue.

The district court had jurisdiction pursuant to 28 U.S.C. §§ 1331, 1367(a), 1983 and 2201.

The district court granted summary judgment in favor of Petitioners, holding that Lieutenant Salkoff and Officer Rose were entitled to qualified immunity because they did not violate a clearly established right, either by entering Respondents' property or by using lethal force on Respondents' dogs. (App.63a-72a).

Respondents appealed. The Ninth Circuit, which had jurisdiction pursuant to 28 U.S.C. § 1291, reversed with respect to the search of Respondents' property. (App.37a). The panel reasoned that, because the officers lost track of the suspect's whereabouts for eighteen minutes, the "hot pursuit" exception to the Fourth Amendment's warrant requirement did not apply under "clearly established law." (App.43a-47a).

Petitioners timely petitioned for rehearing or rehearing en banc. The panel denied rehearing, but issued an amended opinion. (App.1a). The panel reiterated its conclusion that the officers were not entitled to qualified immunity because there was no "hot pursuit" under clearly established law. (App.8a-13a). The panel also supplemented its original decision by adding a footnote stating that exigent circumstances are less likely to exist when the alleged offense is a misdemeanor and there is no risk of "imminent harm to others." (App.11a n.2 [citing *Lange v. California*, 594 U.S. 295, 308 (2021)]). Accordingly, the fact that Shapiro was only alleged to have committed a misdemeanor (domestic battery) weighed "heavily" against a finding of exigent circumstances. (*Id.*)

Eight Ninth Circuit judges dissented from the denial of rehearing en banc, reasoning that the panel

relied on an overbroad reading of precedent and thereby disregarded the Court's repeated admonition that courts must not define clearly established law at a high level of generality. (App.24a-36a). In short, the dissenting judges concluded that "the panel's decision is flatly contrary to controlling Supreme Court authority." (App.36a).



REASONS FOR GRANTING THE PETITION

Police officers are entrusted with the responsibility of keeping the public safe, even at the risk of their own lives. They cannot spend their days (and nights) reviewing, learning and applying the massive body of fact-intensive and at times contradictory Fourth Amendment case law produced by lower federal courts. The doctrine of qualified immunity implicitly recognizes this, as it protects police officers from civil suit unless they "knowingly violate the law" or are "plainly incompetent." *See Stanton v. Sims*, 571 U.S. 3, 6 (2013).

This case, on its face, presents yet another Fourth Amendment question that turns on particularized facts-whether the "hot pursuit" exception to the warrant requirement applies when pursuing officers temporarily lose the trail of a fleeing suspect, but then reasonably believe they had recovered the trail as a result of immediate and continuous law enforcement efforts. The Ninth Circuit panel here concluded, based on an overbroad interpretation of a single lower court opinion, issued in 2001, that it is "clearly established" that once a suspect's trail is lost, it cannot, as a matter of all encompassing law, be recovered. The problem is that

the case relied upon by the court, *United States v. Johnson*, 256 F.3d 895 (9th Cir. 2001), did not even address, much less resolve, the issue of whether a suspect’s trail that is temporarily lost can be promptly recovered. The fact that eight Ninth Circuit judges dissented from the panel’s denial of Petitioners’ rehearing request demonstrates that the constitutional question is, quite obviously, not “beyond debate.” *District of Columbia v. Wesby*, 583 U.S. 48, 62 (2018) (“Clearly established” in the qualified immunity context means that the statutory or constitutional question was “beyond debate,” such that every reasonable official would understand that what he is doing is unlawful.).

As the dissenting judges below explain, “[t]his case is another in a long—and seemingly unending—string of cases in which our court continues to ignore controlling Supreme Court precedent concerning qualified immunity in actions brought under 42 U.S.C. § 1983.” (App.18a [Collins, J. dissenting]). Specifically, the Court has repeatedly been compelled to reverse the Ninth Circuit’s persistent failure to properly identify, articulate and apply “clearly established law” to the conduct of officials (most often police officers) in qualified immunity cases. *See City and County of San Francisco v. Sheehan*, 575 U.S. 600, 613 (2015) (noting the need to counsel the “Ninth Circuit in particular” not to define clearly established law at a high level of generality and reversing denial of qualified immunity); *see also Rivas-Villegas v. Cortesluna*, 595 U.S. 1, 4-6 (2021) (reversing denial of qualified immunity that was based on a single, distinguishable lower court opinion); *Kisela v. Hughes*, 584 U.S. 100, 104-108 (2018) (reversing denial of qualified immunity that was based on distinguishable lower court cases); *Ryburn v. Huff*, 565

U.S. 469, 474-77 (2012) (per curiam) (reversing denial of qualified immunity because officers' conduct did not violate clearly established law); *Ashcroft v. al-Kidd*, 563 U.S. 731, 741-743 (2011) (reversing denial of qualified immunity because official's conduct did not violate clearly established law); *Brosseau v. Haugen*, 543 U.S. 194, 199 (2004) (per curiam) (reversing denial of qualified immunity because law was not clearly established); *Safford Unified Sch. Dist. v. Redding*, 557 U.S. 364, 378 (2009) (same); *Procunier v. Navarette*, 434 U.S. 555, 561-565 (1978) (same).

The persistent problem of lower courts improperly rejecting police officers' qualified immunity defenses due to a lack, or misperception, of clearly established law is not, however, unique to the Ninth Circuit. *See, e.g., Zorn v. Linton*, 146 S. Ct. 926 (2026) (reversing Second Circuit's denial of qualified immunity that was based on a single, distinguishable lower court case); *White v. Pauly*, 580 U.S. 73, 78-81 (2017) (reversing Tenth Circuit's denial of qualified immunity); *Carroll v. Carman*, 574 U.S. 13, 16-20 (2014) (per curiam) (reversing Third Circuit's denial of qualified immunity to police officer that was based on single lower court case); *Plumhoff v. Rickard*, 572 U.S. 765, 774-781 (2014) (reversing Sixth Circuit's denial of qualified immunity because this Court's precedent demonstrated that there was no Fourth Amendment violation); *Pearson v. Callahan*, 555 U.S. 223 (2009) (reversing Tenth Circuit's denial of qualified immunity); *Anderson v. Creighton*, 483 U.S. 635, 638-641 (1987) (reversing Eighth Circuit's denial of qualified immunity).

This petition presents an ideal vehicle for clarifying that the "hot pursuit" exception to the Fourth Amendment's warrant requirement can apply to situations

when the trail of a suspect is temporarily lost, but through immediate and continuous law enforcement efforts, is recovered, thereby permitting officers to continue a warrantless search based on exigent circumstances.

This petition also provides the opportunity for the Court to clarify that “clearly established law,” for qualified immunity purposes, must be a decision by this Court, and not a lower court. Permitting lower courts to deny qualified immunity based on infinitely factually variant opinions has led to an extraordinary amount of unnecessary qualified immunity litigation (which the doctrine was designed to largely prevent in the first place), including countless cases of denied immunity that have required reversal by this Court. This clarification will provide much needed guidance to lower courts, as well as governmental entities and their employees, as to the contours of qualified immunity.

I. Police Officers Are Entitled to Qualified Immunity Unless They Violate Clearly Established Law.

For decades the Court has steadfastly recognized that “[t]he doctrine of qualified immunity protects government officials ‘from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Pearson v. Callahan*, 555 U.S. 223, 231 (2009) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). “Qualified immunity balances two important interests—the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they

perform their duties reasonably.” *Pearson*, 555 U.S. at 231 (simplified). As the Court has explained, “permitting damages suits against government officials can entail substantial social costs, including the risk that fear of personal monetary liability and harassing litigation will unduly inhibit officials in the discharge of their duties.” *Anderson*, 483 U.S. at 638 (citing *Harlow*, 457 U.S. at 814).

Police officers, who are frequently sued, despite their dangerous and pressurized work environment, “are entitled to qualified immunity under § 1983 unless (1) they violated a federal statutory or constitutional right, and (2) the unlawfulness of their conduct was clearly established at the time.” *Wesby*, 583 U.S. at 62-63 (simplified and emphasis added). In other words, even if an officer arguably violates a statutory or constitutional right (which is a highly factual, and often genuinely unique, inquiry), the officer is immune from civil suit if the unlawfulness of the conduct was not “clearly established.” *Brosseau*, 543 U.S. at 198 (per curiam). “Because the focus is on whether the officer had fair notice that her conduct was unlawful, reasonableness is judged against the backdrop of the law at the time of the conduct.” *Id.* In the absence of “fair and clear warning” as to what the Constitution requires, qualified immunity must apply. *See City and County of San Francisco*, 575 U.S. at 617.

“A clearly established right is one that is sufficiently clear that every reasonable official would have understood that what he is doing violates that right.” *Mullenix v. Luna*, 577 U.S. 7, 11 (2015) (quoting *Reichle v. Howards*, 566 U.S. 658, 664 (2012)). The denial of qualified immunity does “not require a case directly on point, but existing precedent must have placed the

statutory or constitutional question beyond debate.” *Id.* at 12 (quoting *Ashcroft*, 563 U.S. at 741). “Put simply, qualified immunity protects ‘all but the plainly incompetent or those who knowingly violate the law.’” *Id.* (quoting *Malley v. Briggs*, 475 U.S. 335, 341 (1986)).

“To find that a right is clearly established, courts generally ‘need to identify a case where an officer acting under similar circumstances . . . was held to have violated’ the Constitution.” *Zorn*, 146 S. Ct. at 930 (quoting *Escondido v. Emmons*, 586 U.S. 38, 43 (2019) (per curiam)). “The relevant precedent must define the right with a high degree of specificity, so that every reasonable official would interpret it to establish the particular rule the plaintiff seeks to apply.” *Id.* (quoting *Wesby*, 583 U.S. at 63).

The Court has repeatedly told courts “not to define clearly established law at a high level of generality.” *City and County of San Francisco*, 575 U.S. at 613; *Reichle*, 566 U.S. at 664 (the “clearly established” standard cannot be met by citing to highly generalized legal principles). Rather, the “clearly established” bar must be shown through relevant case law that puts every reasonable officer on notice that his conduct would violate the constitution. *Reichle*, 566 U.S. at 664.

The Court has further explained that there ought to be “a controlling case or a robust consensus of cases” to show clearly established law. *Plumhoff*, 572 U.S. at 780. However, the Court has not yet decided what precedents other than its own qualify as controlling authority for purposes of qualified immunity. See *Wesby*, 583 U.S. at 66 n.8; *Reichle*, 566 U.S. at 665-66 (reserving the question whether court of appeals decisions can be “a dispositive source of clearly established

law”); *Rivas-Villegas*, 595 U.S. at 5 (same). The instant situation provides a prime example of why “clearly established law” ought to mean a decision by this Court, and this Court only.

II. The City Officers Did Not Violate Any Federal Right Because, During All Relevant Times, They Were in “Hot Pursuit” of a Violent Suspect.

The first question in the qualified immunity analysis is whether Lieutenant Salkoff and Officer Rose violated a federal statutory or constitutional right.

“When a law enforcement officer physically intrudes on the curtilage” of a home (such as a backyard), “a search within the meaning of the Fourth Amendment has occurred.” *Collins v. Virginia*, 584 U.S. 586, 593 (2018). Such searches are “presumptively unreasonable absent a warrant.” *Collins*, 584 U.S. at 593. “Nevertheless, because the ultimate touchstone of the Fourth Amendment is ‘reasonableness,’ the warrant requirement is subject to certain exceptions.” *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006). These exceptions are generally based on various forms of exigent circumstances. *Id.* (citations omitted).

One such exigent circumstance exception provides police officers with authority to search without a warrant when they are in “hot pursuit” of a suspect. *See United States v. Santana*, 427 U.S. 38, 43 (1976). A “‘hot pursuit’ means some sort of a chase, but it need not be an extended hue and cry ‘in and about [the] public streets’.” *Id.*; *see also Lange*, 594 U.S. at 329 (to qualify as hot pursuit, a chase “need not be reminiscent of the opening scene of a James Bond film.”) (Roberts,

C.J., concurring). Rather, the hot pursuit exception applies when officers are in “immediate or continuous pursuit” of a suspect from the scene of the crime.” *Welsh v. Wisconsin*, 466 U.S. 740, 753 (1984).

As the Court has recognized, the hot pursuit exception to the warrant requirement serves critical law enforcement purposes. “[E]very hot pursuit implicates the government interest in ensuring compliance with law enforcement.” *Lange*, 594 U.S. at 324 (Roberts, C.J., concurring) (citing *California v. Hodari D.*, 499 U. S. 621, 627 (1991)). “Flight is a direct attempt to evade arrest and thereby frustrate our society’s interest in having its laws obeyed.” *Id.* (citing *Terry v. Ohio*, 392 U.S. 1, 26)). “As the many state courts to approve of warrantless entry in hot pursuit have reminded us, ‘[l]aw enforcement is not a child’s game of prisoners base, or a contest, with apprehension and conviction depending upon whether the officer or defendant is the fleetest of foot.’” *Id.* (citations omitted).

“Flight also always involves the ‘paramount’ government interest in public safety.” *Lange*, 594 U.S. at 324 (Roberts, C.J., concurring) (citing *Scott v. Harris*, 550 U.S. 372, 383 (2007)). “A fleeing suspect ‘intentionally place[s] himself and the public in danger.’” *Id.* (quoting *Scott*, 550 U.S. at 384). “Affording suspects the opportunity to evade arrest by winning the race rewards flight and encourages dangerous behavior.” *Id.* “And the problems do not end there because hot pursuit often gives rise to multiple other exigencies, such as destruction of evidence, violence, and escape.” *Id.* at 325.

Lower courts, federal and state, have recognized the “hot pursuit” exception can apply, even when officers briefly lose track of a suspect, but, through quick and continuous efforts, promptly regain the trail. *See United*

States v. Fuller, 572 Fed. Appx. 819, 819-21 (11th Cir. 2014) (hot pursuit remained, despite loss of suspect for twelve minutes, because officers were engaged in a single, continuous pursuit); *United States v. Red Bird*, 2020 WL 7209760 at *1, 6-7 (D.S.D. Aug. 20, 2020) (hot pursuit regained after short period of lost contact based on footprints in snow); *United States v. White*, 185 F. Supp. 3d 1295, 1304-10 (D. Utah 2016) (applying hot pursuit exception when suspect's trail was regained based on information developed during pursuit); *Prado v. Police Dep't of East Palo Alto*, 2018 WL 4103175 at *1, *4 (Cal. App. Aug. 29, 2018) (applying hot pursuit exception when officer lost sight of suspect disappearing into private property, other officers created perimeter and officers, making use of developed information, made warrantless entries into yards and ultimately shot the plaintiff's pitbull). In each of these cases, officers lost track of a suspect, but the hot pursuit exception still applied based on the circumstances under which officers regained the trail of the suspects.

Indeed, even the Ninth Circuit (since 2001) has recognized that a "hot pursuit" exception applies after the officer lost the suspect for approximately nine minutes when the individual fled into a backyard, but the search for the suspect nevertheless remained continuous and targeted. *See Newman v. Underhill*, 134 F.4th 1025, 1030-33 (9th Cir. 2025).

Here, the pursuit for the suspect, Shapiro, in Respondent's backyard by Lieutenant Salkoff, assisted by Officer Rose and K-9 Storm, did not violate Respondents' Fourth Amendment rights. There is no dispute that the officers had probable cause to investigate the underlying domestic violence complaint called in by the alleged victim's sister. (App.20a). Upon arrival at

the alleged victim's residence, Officer Minelli recalled that he had previously responded to the same residence for a domestic-related incident. (*Id.*) A records check on Shapiro revealed that he had an active domestic battery misdemeanor warrant, as well as a history of prior arrests for violent offenses, including for domestic battery with strangulation, robbery, assault with a deadly weapon, battery with substantial bodily harm, and carrying a concealed weapon. (App.22a).

Shortly after the officers rang the doorbell at the victim's residence, Shapiro fled the scene, jumping over the wall in the backyard. (App.3a-4a, 21a). In the meantime, the officers observed that the alleged victim had severe facial injuries, including eye injuries and a long, stitched cut across her chin. (App.4a, 21a).

Officer Rose quickly ran back to his patrol car and drove two streets to the south in an attempt to locate the fleeing suspect. (App.21a). In other words, Officer Rose acted "immediately, making a 'split-second decision'" to pursue the suspect in the most practical way possible to ensure that a potentially violent person was not running through the yards of innocent neighbors in the vicinity. (App.9a [quoting *Stanton*, 571 U.S. at 10]). Officer Rose promptly requested assistance, and several nearby units responded and very quickly established a multi-block line-of-sight perimeter in an attempt to contain Shapiro. (App.4a, 21a).

Lieutenant Salkoff, who was called to the area to aid the search, arrived with K-9 Storm at 4:05 p.m., approximately 18 minutes after Officer Rose first saw Shapiro flee the victim's residence. (App.4a). Now aware of the significant injuries to the alleged victim, the fleeing suspect, the quick establishment of the perimeter, and the suspect's history of arrests for violent

offenses, Lieutenant Salkoff deployed K-9 Storm to assist in the pursuit of Shapiro. (*Id.*) The officers were concerned for the safety of both the victim and the neighborhood residents because a “dangerous offender” was on the loose. (App.21a).

While searching a backyard located one house south and four houses east of the victim’s residence, K-9 Storm exhibited a change in behavior and alerted to an odor coming from the direction of Respondents’ walled-in backyard. (App.5a, 56a). The panel assumed (correctly) that K-9 Storm’s alert gave the officers probable cause to believe that Shapiro was in Respondents’ yard. (App.12a).

Lieutenant Salkoff jumped up on the wall so that he could see into the backyard of Respondents’ Residence. (App.5a). He observed trash cans, where he believed the suspect might be hiding, but he did not see or hear any dogs, despite their attempts to alert any potential animals to their presence. (*Id.*) He then jumped the wall into Respondent’s backyard with K-9 Storm to search for Shapiro. (App.23a). Respondents’ pitbulls then emerged and attacked K-9 Storm. (App.23a, 57a-58a). When non-fatal options failed to deter the pitbulls, Lieutenant Salkoff shot and killed two of the attacking dogs. (App.23a).

Under the “hot pursuit” standards established by the Court, the search conducted by the NLVPD officers was entirely lawful. At all times following Shapiro’s flight from the victim’s residence, the officers engaged in immediate and continuous chase. *See United States v. Santana*, 427 U.S. at 43 (a “hot pursuit” means some sort of a chase); *Welsh*, 466 U.S. at 753 (the hot pursuit exception applies when officers are in “immediate or continuous pursuit” of a suspect from the scene of the

crime). Lower courts, including the Ninth Circuit, recognize that “hot pursuit” is not lost by the mere loss of sight of the suspect for a short period of time, as long as police are engaged in a single, continuous chase. See *Newman*, 134 F.4th at 1030-33; *United States v. Fuller*, 572 Fed. Appx. at 819-21; *United States v. Red Bird*, 2020 WL 7209760 at *1, 6-7; *United States v. White*, 185 F. Supp. 3d at 1304-10; *Prado*, 2018 WL 4103175 at *1, *4.

A. The Ninth Circuit Panel Concluded that There Was No “Hot Pursuit” Based on a Single Lower Court Case.

The Ninth Circuit panel concluded that the exigent circumstance exceptions to the warrant requirement, including the “the hot pursuit of a fleeing suspect” and “the need to prevent the escape of a suspect,” did not apply. (App.8a-13a). This conclusion was based on a single Ninth Circuit case, *United States v. Johnson*, 256 F.3d 895 (9th Cir. 2001) (per curiam). According to the panel, *Johnson* established that “there is no hot pursuit where ‘the continuity of the chase [has been] terminated’ definitively.” (App.9a [partially quoting *Johnson*, 256 F.3d at 908]).

In *Johnson*, a fleeing suspect ran into sparsely populated woods where he was free to roam over a vast expanse of land, rather than into a confined area where the police could monitor his movements. 256 F.3d at 899, 906. Each property in the wooded area spanned multiple acres. *Id.* at 906. While waiting for assistance from other officers, the pursuing officer left the trail completely and returned to the scene of the initial confrontation with the suspect. *Id.* at 899. After waiting over thirty minutes since the officer last saw the suspect disappear into the woods, the officer broke

into a yard based on a “gut feeling” that the suspect would be there. *Id.* at 905-906 (emphasis added). There were “no objective facts in the record to support [the officer’s] ‘gut feeling’.” *Id.* at 906. While searching the property, the officers detected a smell of marijuana. They did not find the original suspect, but instead found a trove of marijuana plants in the plaintiff’s yard. *Id.* at 900. Under these circumstances, the court in *Johnson* determined that “the continuity of the chase was terminated permanently.” *Id.* at 908 (emphasis added). The suspect had disappeared in the woods where he was free to roam for over a half hour, and “the officers no longer had any idea where [the suspect] was.” *Id.* (emphasis added).

Johnson is patently inapposite, and distinguishable. As the panel dissent below explained, *Johnson* “did not even address, much less resolve, whether a trail that is temporarily lost can promptly be recovered.” (App.19a). Unlike in *Johnson*, the pursuit by the City’s officers here was not, in the words of the *Johnson* court, “terminated permanently.” 256 F.3d at 908. Rather, the officers’ immediate and continuing efforts led them to develop probable cause that Shapiro was in Respondents’ yard. The probable cause then provided grounds for the warrantless search of Respondents’ yard. In stark contrast, once the suspect in *Johnson* was lost in the vast expanse of the woods, the officer “no longer had any idea where [the suspect] was.” *Id.* Moreover, the officer’s efforts in *Johnson* were not “continuous,” as the officer did nothing for over thirty minutes. Finally, in contrast to K-9 Storm’s alert, the officer’s “gut feeling” in *Johnson* was obviously not probable cause to search the plaintiff’s property.

B. The Ninth Circuit Panel Relied on the Misdemeanor-Felony Distinction that This Court Has Effectively Rejected.

The panel here further reasoned that Shapiro’s alleged commission of only a misdemeanor “weighs heavily against” a finding of exigent circumstances.” (App.11a n.2 [citing *Lange*, 594 U.S. at 308 and quoting *Johnson*, 256 F.3d at 908]). This reasoning is simply incorrect after *Lange*, in which the Court emphasized the importance of dangerousness to the hot pursuit inquiry, as opposed to the statutory crime classification. The Court in *Lange* aptly noted that “a felon is not always more dangerous than a misdemeanor,” and that “misdemeanors run the gamut of seriousness . . . some involve violence.” 594 U.S. at 305 (simplified); *see also Stanton*, 571 U.S. 3 (2013) (reversing Ninth Circuit’s denial of qualified immunity, in part because of the court’s overbroad emphasis on the distinction between misdemeanor and felony offenses). In fact, “many perpetrators of domestic violence are charged with misdemeanors, despite the harmfulness of their conduct.” *Id.*⁴ The Court accordingly concluded that the Fourth Amendment analysis in misdemeanants’ flight cases turns on “case by case exigencies.” *Id.* at 308.

The panel further surmised that, because Shapiro was only alleged to have committed a misdemeanor

⁴ While battery domestic violence (“BDV”) in Nevada is often a misdemeanor crime, there are circumstances where the BDV may rise to the level of a felony, such as aggravated BDV, or if the suspect has had multiple BDV convictions. Officers may not immediately know that the crime rises to the level of a felony without further investigation. *See* NRS 171.137 (requiring investigation to determine primary aggressor in a BDV incident).

domestic battery, the danger posed was to co-habitants only (who remained protected by an officer at the residence), and there was a lack of risk of imminent harm to others. (App.11a n.2). This was optimistic speculation. Police officers do not have this luxury when an even potentially dangerous suspect is on the run. Again, Shapiro was accused of battery domestic violence and had a history of violent crimes, including battery domestic violence with strangulation, assault with a deadly weapon, and robbery. As the dissent below explained, “the panel is therefore quite wrong to suggest that this violent suspect did not present any danger to the neighbors whose yards he was suspected of jumping into.” (App.34a-35a n.3).

III. The Ninth Circuit’s Reversal Was Not Based on Clearly Established Law.

“Qualified immunity gives government officials breathing room to make reasonable but mistaken judgments,’ and ‘protects all but the plainly incompetent or those who knowingly violate the law.’” *Stanton*, 571 U.S. at 6 (2013) (per curiam) (quoting *Ashcroft*, 563 U.S. at 743). “The protection of qualified immunity applies regardless of whether the government official’s error is a mistake of law, a mistake of fact, or a mistake based on mixed questions of law and fact.” *Pearson*, 555 U.S. at 231 (2009) (simplified).

Accordingly, the second part of the qualified immunity analysis here is, even if the “hot pursuit” exception to the warrant requirement somehow did not apply to the subject search, whether the unlawfulness of the City officers’ conduct was “clearly established.” *See, e.g., Wesby*, 583 U.S. at 62-63; *Brosseau*, 543 U.S. at 198 (per curiam) (“Qualified immunity shields an

officer from suit when she makes a decision that, even if constitutionally deficient, reasonably misapprehends the law governing the circumstances she confronted.”). “Because the focus is on whether the officer had fair notice that her conduct was unlawful, reasonableness is judged against the backdrop of the law at the time of the conduct.” *Id.* In the absence of “fair and clear warning” as to what the Constitution requires, qualified immunity must apply. *City and County of San Francisco*, 575 U.S. at 617.

The Court has articulated the applicable standards in various ways. “A right is clearly established when it is sufficiently clear that every reasonable official would have understood that what he is doing violates that right.” *Rivas-Villegas*, 595 U.S. at 5 (simplified). “Clearly established” in this context means that the statutory or constitutional question was “beyond debate,” such that every reasonable official would understand that what he is doing is unlawful.” *Wesby*, 583 U.S. at 62.

Additionally, the Court has emphasized that “this inquiry ‘must be undertaken in light of the specific context of the case, not as a broad general proposition.’” *Brosseau*, 543 U.S. at 198 (quoting *Saucier v. Katz*, 533 U.S. 194, 201 (2001)). “[T]he right the official is alleged to have violated must have been ‘clearly established’ in a more particularized, and hence more relevant, sense: The contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right.” *Id.* at 198-199 (quoting *Saucier*, 533 U.S. at 201-202) (emphasis added). In other words, “[t]he relevant, dispositive inquiry in determining whether a right is clearly established is whether it would be

clear to a reasonable officer that his conduct was unlawful in the situation he confronted.” *Id.* at 199 (emphasis added). The inquiry “is one in which the result depends very much on the facts of each case.” *Id.* at 201; *see also Rivas-Villegas*, 595 U.S. at 6 (recognizing the difficulty an officer faces in determining how the relevant legal doctrine will apply to a limitless array of factual situations).

Accordingly, “judges should be cautious about second-guessing a police officer’s assessment, made on the scene, of the danger presented by a particular situation.” *Ryburn*, 565 U.S. at 477. The Court has “instructed that reasonableness [of a police officer’s conduct] must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight and that [t]he calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments-in circumstances that are tense, uncertain, and rapidly evolving.” *Id.* (simplified) (quoting *Graham v. Connor*, 490 U.S. 386, 396-397 (1989)).

Under these exacting standards, immunity is the rule, and civil liability is the rare exception. These standards make sense, of course, as police officers cannot be “expected to predict the future course of constitutional law.” *Wilson v. Layne*, 526 U.S. 603, 617 (1999) (quoting *Procunier*, 434 U.S. at 562). “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.” *Id.* at 618; *see also Anderson*, 483 U.S. at 646 (qualified immunity “would be utterly defeated if officials were unable to determine whether they were protected by the rule without entangling themselves in the vagaries of the English

and American common law.”). “In short, officers receive qualified immunity unless they could have read the relevant precedent beforehand and known that it proscribed their specific conduct.” *Zorn*, 146 S. Ct. at 930 (simplified) (quoting *City and County of San Francisco*, 575 U.S. at 616).

Finally, “[t]he entitlement [of qualified immunity] is an immunity from suit rather than a mere defense to liability; and like an absolute immunity, it is effectively lost if a case is erroneously permitted to go to trial.” *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985); *Pearson*, 555 U.S. at 231; *Brosseau*, 543 U.S. at 198 (recognizing that qualified immunity protects officers from “burdens of litigation”).

With respect to the qualified immunity issue here, the panel relied entirely on the 2001 *Johnson* case to conclude that the purported unlawfulness of the officers’ conduct was “clearly established.” According to the panel’s original Opinion, *Johnson* “made it abundantly clear to officers in 2019 that they may not sweep through an area and search the properties within it simply because they believe a suspect is somewhere therein.” (App.47a [citing *Johnson*, 246 F.3d at 907-08]). As detailed above, the facts of *Johnson* are readily distinguishable. Most notably, the officers in *Johnson* never developed any subsequent information to establish probable cause that they had recovered a temporarily lost suspect trail. Here, in contrast, it is undisputed that K-9 Storm provided probable cause for the continuing pursuit of Shapiro on Respondents’ backyard. It is therefore not clear at all, let alone “abundantly clear,” how Lieutenant Salkoff and Officer Rose could have known that their pursuit was precluded by a highly

fact specific situation that occurred nearly twenty years earlier.

Perhaps recognizing this quandary, in its Amended Opinion, the panel attempted to recast the language in *Johnson* to better fit the “clearly established” premise. The panel’s original opinion accurately quoted *Johnson*’s holding that “there is no hot pursuit where ‘the continuity of the chase was terminated permanently.’” (App.44a [quoting *Johnson*, 256 F.3d at 908] [emphasis added]). The instant case, however, does not fit that alleged clearly established rule because the continuity of the chase here was not “terminated permanently.” As the dissent explained, from the time the suspect fled, officers worked to set the perimeter around the area the suspect fled, and while the suspect’s specific trail was temporarily lost, it was promptly recovered through continuous police activity. (App.24a-32a).

Rather than acknowledge this critical point of distinction, the panel instead, in its Amended Opinion, altered its quotation from *Johnson* to reframe that decision’s holding in a broader way to better justify its conclusion. Specifically, the panel changed the quote to read “there is no hot pursuit where ‘the continuity of the chase [has been] terminated’ definitively.” (App.9a [partially quoting *Johnson*, 256 F.3d at 908]). The panel later notes in the amended opinion that “the continuity of the chase was terminated,” again omitting the word “permanently” (App.12a), as if the *Johnson* court’s use of the word “permanently” (256 F.3d at 908) was optional.

By employing this significant alteration, the panel attempted to “recast *Johnson*’s holding so that it would extend, not merely to a pursuit whose continuity was terminated “permanently” (and therefore never

recovered), but also to one that was in some sense “terminated definitively” (such that it would not count that the trail was promptly recovered).” (App.32a [emphasis in original]). This judicial sophistry is improper in this context. “[Q]ualified immunity turns on what the relevant precedents actually say and not how they might be misquoted by future panels.” (*Id.* [citing *Estate of Hernandez v. City of Los Angeles*, 139 F.4th 790, 827 (9th Cir. 2025) (en banc) (Collins, J., concurring in part and dissenting in part)]). “Under a proper understanding of qualified immunity doctrine, officers must be able to ‘rely on what our opinions actually say’ and should not have to ‘consider that future panels may take considerable liberties with selectively quoting the opinion’s language.’” *Ibid.*

Accordingly, “*Johnson* does not ‘squarely govern’ this case and does not place its outcome ‘beyond debate.’” (App.32a [quoting *Kisela*, 584 U.S. at 104 (simplified)]). The panel attempted to create clearly established law by reading *Johnson* in an artificially overbroad manner, in disregard of the Court’s repeated admonition that courts must not “define clearly established law at a high level of generality.” *Id.* (simplified).⁵

The reality is that *Johnson* is so factually distinct that it could not possibly have put the officers here on

⁵ In similar vein, the panel’s Amended Opinion provides that *Johnson* “made it clear to officers in 2019 that they may not sweep through an area and search the properties within it simply because they believe a suspect is somewhere therein.” (App.12a). The original opinion, however, provided that *Johnson* made this alleged rule “abundantly clear.” (App.47a [emphasis added]). The glaring omission of the word “abundantly” in the Amended Opinion suggests an implicit acknowledgement by the panel that perhaps *Johnson* is not quite so “clear.”

notice that “clearly established law” existed in Nevada precluding K-9 deployment to chase a suspect that jumped over a wall in a suburban neighborhood. This is so, even if Lieutenant Salkoff and Officer Rose were regular readers of the Ninth Circuit advance opinion reports in 2001.

IV. “Clearly Established Law” Should Mean Law Based Only on This Court’s Decisions, Not Lower Court Opinions That Are Infinitely Fact-Specific and Subject to Widely Varying Judicial Interpretation.

The contours of the “hot pursuit” exception and qualified immunity are well-established by the Court. Yet, an inordinate amount of qualified immunity cases flood the federal courts. This has happened, in part, because lower federal courts have been deputized to determine what “clearly established law” is in any given case. The instant case demonstrates the extent to which this reliance on lower courts creates uncertain, malleable standards and unnecessary litigation. This litigation hinders police officers’ abilities to carry out their essential functions, and it forces taxpayers to shoulder the burden of litigating cases in which, in many instances, there has been little or no compensable harm.

The Court has explained that there ought to be “a controlling case or a robust consensus of cases” to show clearly established law. *Plumhoff*, 572 U.S. at 780. However, the Court has not yet decided what precedents other than its own qualify as controlling authority for purposes of qualified immunity. See *Wesby*, 583 U.S. at 66 n.8; *Reichle*, 566 U.S. at 665-66 (reserving the question whether court of appeals decisions can be

“a dispositive source of clearly established law”); *Rivas-Villegas*, 595 U.S. at 5 (same).

This petition presents an opportunity for the Court to establish a new qualified immunity framework, under which “clearly established law” means a decision by this Court, and this Court only. If this framework had been in place in the underlying case, the Ninth Circuit could not have contorted its 2001 *Johnson* opinion to fit the facts of this case. In the absence of any clearly established law that Petitioners did anything wrong, the lawsuit could have been brought to a prompt and efficient close. Qualified immunity lawsuits across the country could similarly be avoided or limited if the world of “clearly established law” was carefully circumscribed by this Court.

V. Summary Reversal Is Also Warranted.

As an alternative to full briefing and argument, this case is appropriate for summary reversal pursuant to Rule 16(1). *See Taylor v. Riojas*, 592 U.S. 7, 11 (2020) (per curiam) (“We have sometimes granted review and summarily reversed in cases where it appeared that the lower court had conspicuously disregarded governing Supreme Court precedent . . .”) (Alito, J., concurring); *Marmet Health Care Ctr. v. Brown*, 565 U.S. 530, 532 (2012) (per curiam) (summarily reversing decision that was “both incorrect and inconsistent with clear instruction in the precedents of this Court”); *Maryland v. Dyson*, 527 U.S. 465, 467 (1999) (summarily reversing lower court judgment that is “squarely contrary to [the Court’s] holdings.”).

As discussed above, the Ninth Circuit panel’s decision is contrary to the Court’s well-established qualified immunity jurisprudence.



CONCLUSION

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

Respectfully submitted,

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