

No. 25-640

---

---

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

---

RANDALL WILLIAMS, ETC., ET AL.,  
Petitioners,

*v.*

CHARLESTON COUNTY SHERIFF'S OFFICE,  
Respondent.

---

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

---

**BRIEF IN OPPOSITION**

---

Deborah Harrison Sheffield, *Of Counsel*  
HOOD LAW FIRM, LLC  
172 Meeting St  
PO Box 1508  
Charleston, SC 29402  
(803) 238-2267  
deborah.sheffield@hoodlaw.com

*Attorney for Respondent*  
*Charleston County Sheriff's Office*

Second day of January, MMXXVI

---

United States Commercial Printing Company • [www.uscpc.us](http://www.uscpc.us) • (202) 866-8558

**TABLE OF CONTENTS**

Table of Authorities.....	ii
Statement of the Case .....	ii
Reasons for Denying the Petition .....	2
I. There are no compelling reasons to warrant granting a petition for writ of certiorari to review the unpublished panel decision of the Fourth Circuit that correctly followed the controlling circuit precedent in <i>Cromer v.</i> <i>Brown</i> , which holds that a South Carolina county sheriff is an arm of the state protected from suit by the Eleventh Amendment .....	2
II. The Fourth Circuit’s analysis of the Eleventh Amendment arm-of-the-state issue presented in this case fully comports with this Court’s decision in <i>Hess v. Port Auth.</i> <i>Trans-Hudson Corp</i> .....	3
III. The Fourth Circuit’s decision does not conflict with the decisions of another United States court of appeals on the question presented in the petition.....	12
Conclusion .....	13

**TABLE OF AUTHORITIES****Cases**

<i>Brown v. Middleton</i> , 362 F. App'x 340 (CA4 2010) .....	7
<i>Cash v. Granville Cnty. Bd. of Educ.</i> , 242 F.3d 219 (CA4 2001) .....	2, 4, 12
<i>Childress v. Charleston Cnty. Sheriff's Off.</i> , 2013 WL 3270642 (D.S.C. June 26, 2013), <i>aff'd</i> , 540 F. App'x 191 (CA4 2013) .....	8
<i>Chisolm v. Cannon</i> , 2006 WL 361375 (D.S.C. Feb. 15, 2006) .....	9
<i>Coffy v. Graziana</i> , 2023 WL 4998602 (D.S.C. Apr. 25, 2023), <i>report and recommendation adopted</i> , 2023 WL 4677071 (D.S.C. July 20, 2023) .....	8
<i>Cone v. Nettles</i> , 308 S.C. 109 (1992) .....	7
<i>Cromer v. Brown</i> , 88 F.3d 1315 (CA4 1996) .....	2, 5, 7, 11, 12
<i>Doe 202a v. Cannon</i> , 2018 WL 317818 (D.S.C. Jan. 8, 2018) .....	7, 9
<i>Dukes v. Smalls</i> , 2022 WL 5237082 (D.S.C. Mar. 16, 2022), <i>report and recommendation adopted</i> , 2022 WL 4129344 (D.S.C. Sep. 12, 2022) .....	8

<i>Edelman v. Jordan,</i> 415 U.S. 651 (1974).....	3
<i>Edwards v. Lexington Cnty. Sheriff's Dep't,</i> 386 S.C. 285 (2010).....	6
<i>El v. Fornandes,</i> 2019 WL 7900140 (D.S.C. Nov. 22, 2019), <i>report and recommendation adopted sub nom.</i> <i>Brayint El v. Fornandes,</i> 2019 WL 6712057 (D.S.C. Dec. 10, 2019); .....	9
<i>Gray v. Laws,</i> 51 F.3d 426 (CA4 1995) .....	2, 4, 12
<i>Gulledge v. Smart,</i> 691 F. Supp. 947 (D.S.C. 1988), <i>aff'd, 878 F.2d 379 (1989).....</i>	6
<i>Harter v. Vernon,</i> 101 F.3d 334 (CA4 1996), <i>cert. denied, 521 U.S. 1120 (1997).....</i>	11
<i>Heath v. Aiken County,</i> 368 S.E.2d 904 (1988).....	7
<i>Henry v. Horry Cnty.,</i> 514 S.E.2d 122 (1999).....	6
<i>Hess v. Port Auth. Trans-Hudson Corp.,</i> 513 U.S. 30 (1994).....	2-5, 9-12
<i>Lawson v. Union County Clerk of Court,</i> 828 F.3d 239 (CA4 2016) .....	11

<i>Lockwood v. Charleston Cnty. Det. Ctr.</i> , 2019 WL 3531341 (D.S.C. Aug. 2, 2019).....	9
<i>Monell v. Dep't of Soc. Servs.</i> , 436 U.S. 658 (1978).....	1
<i>Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle</i> , 429 U.S. 274 (1977).....	3
<i>Reeves v. Charleston Cnty. Sheriff's Off.</i> , 2011 WL 1526908 (D.S.C. Mar. 21, 2011), <i>report and recommendation adopted</i> , 2011 WL 1526864 (D.S.C. Apr. 20, 2011) .....	9
<i>Regents of the Univ. of California v. Doe</i> , 519 U.S. 425 (1997).....	4
<i>Simmons v. Charleston Cnty. Sheriff's Off.</i> , 2019 WL 7195601 (D.S.C. Sept. 26, 2019), <i>report and recommendation adopted in part</i> , 2019 WL 5387911 (D.S.C. Oct. 22, 2019).....	9
<i>Smith v. Carter</i> , 2019 WL 6532957 (D.S.C. Nov. 5, 2019), <i>report and recommendation adopted</i> , 2019 WL 6524676 (D.S.C. Dec. 4, 2019) .....	9
<i>Staley v. Graziano</i> , 2023 WL 3855374 (D.S.C. May 8, 2023), <i>report and recommendation adopted</i> , 2023 WL 3735244 (D.S.C. May 31, 2023) .....	8
<i>Wall v. Sloan</i> , 135 F.3d 771 (CA4 1998) .....	7

**Constitutional Provisions**

U.S. Const., Amdt. XI.....	3
S.C. Const. art. V § 24.....	7

**Statutes**

S.C. Code § 1–3–240.....	7
S.C. Code §§ 23–11–10, <i>et seq.</i> .....	7
S.C. Code § 23–11–40.....	7
S.C. Code § 23–13–10.....	7
S.C. Code § 4–9–30.....	7

**Rules**

S. Ct. R. 10.....	2, 12
Fed. R. Civ. P. 54.....	1

(This page is intentionally left blank.)

## STATEMENT OF THE CASE

This civil matter arises out of an automobile accident involving the deceased Plaintiffs and a Charleston County [South Carolina] Sheriff's deputy. The Plaintiffs named the Charleston County Sheriff's Office as a defendant, asserting §1983 *Monell*<sup>1</sup> claims against the Sheriff's Office.<sup>2</sup> The Sheriff's Office filed a motion to dismiss the *Monell* claims, invoking Eleventh Amendment immunity from suit on the ground that the Sheriff (and by extension, his office and deputies) is an arm of the State of South Carolina. The District of South Carolina granted the motion and dismissed the § 1983 claims against the Sheriff's Office. D.S.C. ECF No. 47; *Williams v. Pelletier*, 2023 WL 8627812 (D.S.C. Dec. 13, 2023). Thereafter, the District of South Carolina granted a motion for entry of judgment pursuant to Fed. R. Civ. P. 54(b) which allowed the Plaintiffs to take an immediate appeal. D.S.C. ECF No. 53. On appeal, the Court of Appeals for the Fourth Circuit affirmed in an unpublished opinion. *Williams v. Charleston County Sheriff's Office*, 2025 WL 602754 (CA4 Feb. 25, 2025). The Plaintiffs/Appellants filed a Petition for Rehearing En Banc, which was denied by order filed September 2, 2025. CA4 ECF No. 52.

---

<sup>1</sup> *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978).

<sup>2</sup> The Plaintiffs also named two of the Sheriff's deputies and Charleston County as defendants, but they are not parties to the appeal. Similarly, the other state law claims are not in issue.

## REASONS FOR DENYING THE PETITION

- I. There are no compelling reasons to warrant granting a petition for writ of certiorari to review the unpublished panel decision of the Fourth Circuit that correctly followed the controlling circuit precedent in *Cromer v. Brown*, which holds that a South Carolina county sheriff is an arm of the state protected from suit by the Eleventh Amendment**

“Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons.” S. Ct. R. 10. The Fourth Circuit’s decision below followed the controlling circuit precedent in *Cromer v. Brown*, 88 F.3d 1315 (CA4 1996), which holds that a South Carolina county sheriff is an arm of the state protected from suit by the Eleventh Amendment. There are no compelling reasons to grant the petition for writ of certiorari to review this decision because it does not conflict with any decision of this Court on the issue presented. To the contrary, the *Cromer* Court had properly applied the correct Eleventh Amendment principles articulated in *Hess v. Port Auth. Trans-Hudson Corp.*, 513 U.S. 30 (1994), and examined by the Fourth Circuit in *Gray v. Laws*, 51 F.3d 426 (CA4 1995), and *Cash v. Granville Cnty. Bd. of Educ.*, 242 F.3d 219 (CA4 2001).

Further, the Fourth Circuit’s decision does not conflict with the decision of any other courts of appeals on the question presented in the petition because no other courts of appeals have considered

the question of whether a South Carolina sheriff is an arm of the state. To the extent that other circuits have rendered decisions which supposedly misapply the *Hess* holdings in resolving other types of Eleventh Amendment immunity issues, that does not present a compelling reason for reviewing the decision in this case, which follows controlling circuit precedent and fully comports with this Court's Eleventh Amendment analysis

**II. The Fourth Circuit's analysis of the Eleventh Amendment arm-of-the-state issue presented in this case fully comports with this Court's decision in *Hess v. Port Auth. Trans-Hudson Corp***

“The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.” U.S. Const., Amdt. XI.

The Eleventh Amendment provides immunity to an “unconsenting State” from being sued in federal courts for money damages. *Edelman v. Jordan*, 415 U.S. 651, 663 (1974). “The Eleventh Amendment largely shields States from suit in federal court without their consent, leaving parties with claims against a State to present them, if the State permits, in the State's own tribunals.” *Hess v. Port Auth. Trans-Hudson Corp.*, 513 U.S. 30, 39 (1994). Eleventh Amendment immunity extends to arms of the State. *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 280 (1977).

On the question of whether an entity is an arm of the State, the *Hess* Court noted that historically, the Amendment was prompted to assuage the States' fears of being forced to pay their Revolutionary War debts, but further expounded that: "More pervasively, current Eleventh Amendment jurisprudence emphasizes the integrity retained by each State in our federal system." 513 U.S. at 39. The Court stated that when the arm-of-the-state question arises, the proper analysis, referred to as the "prime guide," implicates "twin" reasons that undergird the Eleventh Amendment immunity. *Id.* at 47. As identified by the Court, these two foundational principles are "(1) to prevent federal court judgments from depleting a state's treasury<sup>3</sup>, and (2) to preserve the integrity and dignity of the states." *Id.* at 39.

Subsequently, the Fourth Circuit considered this Court's decision in *Hess* and articulated a paradigm for analysis of arm-of-the-state Eleventh Amendment questions in various cases, including most prominently: *Gray*, 51 F.3d 426, and *Cash*, 242 F.3d 219. "Indeed, these twin reasons must 'dominate' any analysis of whether a governmental entity is to be accorded Eleventh Amendment immunity." *Cash*, 242 F.3d at 223 (citing *Gray*, 51 F.3d at 434).

In *Gray*, the Fourth Circuit discussed the factor of protecting a state's treasury, noting that payment of judgments from the state treasury is generally "the most important consideration" and that Eleventh

---

<sup>3</sup> On the issue of whether the state treasury is at risk, this Court has stated that: "The Eleventh Amendment protects the State from the risk of adverse judgments even though the State may be indemnified by a third party." *Regents of the Univ. of California v. Doe*, 519 U.S. 425, 431 (1997).

Amendment Immunity applied where a judgment would be paid from the state treasury. *Gray*, 51 F.3d at 434. However, the Court also concluded that *Hess* necessitates that one of the primary considerations must be the concern for state sovereignty. *Id.* As construed by the Fourth Circuit, “most important” means that payment of a judgment from the state treasury can be dispositive: “[I]f the state treasury will pay the judgment, the entity is immune from suit, and the other … factors need not be considered.” *Id.*

On the other hand, a determination that a judgment will not be paid from state funds does not automatically disqualify the entity’s entitlement to Eleventh Amendment Immunity. Rather, if a judgment will not be paid from state funds, the other relevant factors must be considered and weighed: “If, on the other hand, the state’s treasury will not be affected by a judgment in the action, then the availability of immunity for single state entities … must be determined by resort to the other relevant considerations referenced by the Court.” *Id.* Those “other relevant considerations” are identified as the integrity/dignity of the state and the extent of state control: “chief among which are whether the suit will jeopardize “the integrity retained by [the] State in our federal system,” and whether the state possesses such control over the entity claiming Eleventh Amendment immunity that it can legitimately be considered an “arm of the state.” *Id.* (quoting *Hess*).

The Fourth Circuit appropriately considered these factors in *Cromer*, holding that “in his official capacity, Sheriff Brown is an arm of the state [of South Carolina].” 88 F.3d at 1332. The *Cromer* Court

considered the “largely, if not wholly, dispositive” state treasury factor, and other factors, including the State’s integrity and control over the entity claiming immunity. *Id.* In addressing the question of whether the Greenville County Sheriff was an arm of the State of South Carolina, the Fourth Circuit implicitly accepted – without definitive proof – the argument that any judgment would not be paid from the State Treasury,<sup>4</sup> and turned to the consider the concern for the State’s dignity. The Fourth Circuit “considered the remaining factors relevant to the immunity analysis and conclude[d] that, in his official capacity, Sheriff Brown is an arm of the state.” 88 F.3d at 1332. Those factors were considered by citation to and incorporation of the reasoning in an earlier decision — *Gulledge v. Smart*, 691 F. Supp. 947 (D.S.C. 1988), *aff’d*, 878 F.2d 379 (1989) (Table) — wherein the Fourth Circuit had held that: “In South Carolina a sheriff, and his deputies, are state actors. A suit against them in federal court in their official capacities is therefore barred by the eleventh amendment.”

The relevant facts, as discussed in *Gulledge*, are that the office of sheriff and the associated term of office are established by the State Constitution.<sup>5</sup> S.C.

---

<sup>4</sup> “Judgments against the Greenville County Sheriff are paid by the South Carolina State Insurance Reserve Fund. However, we are unable to discern from the record in this case whether the state pays any premiums on behalf of Greenville County.... Thus, it is unclear whether the state treasury would be partially liable for a judgment in this case.” 88 F.3d at 1332.

<sup>5</sup> Regardless of designation of “county” sheriff, a sheriff is a state constitutional officer. *Henry v. Horry Cnty.*, 514 S.E.2d 122, 123 (1999) (“Since the 1800s, the Sheriff has been a constitutional officer in South Carolina.”); *Edwards v. Lexington Cnty. Sheriff’s Dep’t*, 386 S.C. 285 n.1 (2010) (“under

Const. art. V § 24. In addition, the General Assembly – not the county – sets the sheriff's (and his deputies') duties and compensation<sup>6</sup>, and the Governor is the public official empowered to remove the sheriff from office for misconduct and to fill a vacancy in that office.<sup>7</sup>

Since rendering the holding in *Cromer*, the Fourth Circuit has considered the same question several times and it has held consistently that a South Carolina sheriff, in his/her official capacity [as well as his/her office and his/her deputies] is a state actor immune under the Eleventh Amendment from claims for money damages:

- “[A] South Carolina sheriff such as Sloan [Richland County] is a state official and therefore is not subject to suit for monetary damages in his official capacity.” *Wall v. Sloan*, 135 F.3d 771 (CA4 1998) (Table).
- “[T]he District Court also correctly concluded that Sheriff Cannon [Charleston County] cannot be held liable under Section 1983 in his official capacity.” *Brown v. Middleton*, 362 F. App'x 340, 346 n.8 (CA4 2010) (UP).

---

South Carolina law, the sheriff and sheriff's deputies are State, not county, employees”); *Cone v. Nettles*, 308 S.C. 109 (1992) (sheriff is a state official because the state, not the counties, has power of control over the sheriff); *Heath v. Aiken County*, 368 S.E.2d 904, 905 (1988) (a deputy serves at the pleasure of the sheriff and is not a county employee).

<sup>6</sup> See S.C. Code §§ 23–11–10, *et seq.*; § 23–13–10; § 4–9–30.

<sup>7</sup> S.C. Code §§ 1–3–240 and 23–11–40.

- “Sheriff’s Departments in South Carolina are state agencies, not municipal departments.” *Childress v. Charleston Cnty. Sheriff’s Off.*, 2013 WL 3270642, at \*4 (D.S.C. June 26, 2013), *aff’d*, 540 F. App’x 191 (CA4 2013) (UP).

In addition, the District of South Carolina has uniformly held that in the State of South Carolina, sheriffs and their deputies are state officials immune from liability for monetary damages under §1983. Likewise, the district courts have ruled, on point, that the Charleston County Sheriff and his/her Office are considered state officials and immune from §1983 claims in their official capacities under the Eleventh Amendment, including but not limited to the following cases:

- *Staley v. Graziano*, 2023 WL 3855374, at \*4 (D.S.C. May 8, 2023), *report and recommendation adopted*, 2023 WL 3735244 (D.S.C. May 31, 2023);
- *Coffy v. Graziana*, 2023 WL 4998602, at \*10 n.14 (D.S.C. Apr. 25, 2023), *report and recommendation adopted*, 2023 WL 4677071 (D.S.C. July 20, 2023);
- *Dukes v. Smalls*, 2022 WL 5237082, at \*3 (D.S.C. Mar. 16, 2022), *report and recommendation adopted*, 2022 WL 4129344 (D.S.C. Sep. 12, 2022);
- *El v. Fornandes*, 2019 WL 7900140, at \*4 (D.S.C. Nov. 22, 2019), *report and*

*recommendation adopted sub nom. Brayint El v. Fornandes*, 2019 WL 6712057 (D.S.C. Dec. 10, 2019);

- *Smith v. Carter*, 2019 WL 6532957, at \*2 (D.S.C. Nov. 5, 2019), *report and recommendation adopted*, 2019 WL 6524676 (D.S.C. Dec. 4, 2019);
- *Simmons v. Charleston Cnty. Sheriff's Off.*, 2019 WL 7195601, at \*2 (D.S.C. Sept. 26, 2019), *report and recommendation adopted in part*, 2019 WL 5387911 (D.S.C. Oct. 22, 2019);
- *Lockwood v. Charleston Cnty. Det. Ctr.*, 2019 WL 3531341, at \*2 (D.S.C. Aug. 2, 2019);
- *Doe 202a v. Cannon*, 2018 WL 317818, at \*4 (D.S.C. Jan. 8, 2018);
- *Reeves v. Charleston Cnty. Sheriff's Off.*, 2011 WL 1526908, at \*1 (D.S.C. Mar. 21, 2011), *report and recommendation adopted*, 2011 WL 1526864 (D.S.C. Apr. 20, 2011); and
- *Chisolm v. Cannon*, 2006 WL 361375, at \*5–6 (D.S.C. Feb. 15, 2006).

Petitioner argues that the Fourth Circuit's Eleventh Amendment analysis failed to give sufficient consideration of the reference in the *Hess* opinion that "the vulnerability of the State's purse is the most salient factor" in Eleventh Amendment arm-of-the-state immunity analysis. However, the Petition-

er's argument fails to consider the full context of the Court's discussion and ultimate conclusions in *Hess*. The references to the importance of the treasury factor are found in the consideration and discussion of Eleventh Amendment analyses being applied by different circuits, noting:

- “Courts of Appeals have recognized the vulnerability of the State’s purse as the most salient factor in Eleventh Amendment determinations.” 513 U.S. at 48.
- “[A]s New York and New Jersey concede, the “vast majority of Circuits … have concluded that the state treasury factor is the most important factor to be considered … and, in practice, have generally accorded this factor dispositive weight.” *Id.* at 49.
- “[I]n accord with the prevailing view, [circuits] identify “the ‘state treasury’ criterion—whether any judgment must be satisfied out of the state treasury—as the most important consideration” in resolving an Eleventh Amendment immunity issue.” *Id.* at 51.

However, even while referencing the impact on the state treasury as “the most salient” or “most important” factor, or the “core concern,” it is clear that the Court did not consider that “no” was the final, dispositive answer to the immunity issue. Rather, the Court instructed that: “When indicators of immunity point in different directions, the Eleventh Amendment’s twin reasons for being remain our prime guide,” and identified those twin concerns that underpin the Eleventh Amendment as “the States’ sol-

vency and dignity.” *Id.* at 47. The Fourth Circuit properly considered the factors related to the State’s dignity in reaching its conclusion that the Sheriff – and by extension his office and his deputies – are arms of the State of South Carolina and are protected from suit in federal court by the Eleventh Amendment.

Petitioner also argues that the Court should grant certiorari because the decision in this case is inconsistent with the Fourth Circuit’s decisions in *Harter v. Vernon*, 101 F.3d 334 (CA4 1996), *cert. denied*, 521 U.S. 1120 (1997), wherein the Fourth Circuit held that a North Carolina sheriff is not an arm of the state, and *Lawson v. Union County Clerk of Court*, 828 F.3d 239 (CA4 2016), wherein the Court held that a South Carolina clerk of court is not an arm of the state. However, the Fourth Circuit addressed the difference between South Carolina sheriffs and North Carolina sheriffs in the *Harter* opinion. *Harter*, 101 F.3d at 341 n. 2. The decision in *Harter* is grounded in North Carolina law concerning North Carolina sheriffs and it does not conflict with the holding in *Cromer*, that under South Carolina law, the South Carolina sheriffs, in their official capacity, are arms of the State of South Carolina and immune from suit under section 1983 for money damages. As to the decision in *Lawson*, it is apparent that the Eleventh Amendment immunity issue turned on a failure of proof. Nothing in either of these decisions provides any compelling reason to review the holding in this case that a South Carolina sheriff is an arm of the state entitled to the protections of the Eleventh Amendment.

**III. The Fourth Circuit’s decision does not conflict with the decisions of another United States court of appeals on the question presented in the petition**

Pursuant to S. Ct. R. 10, this Court may consider as compelling: “a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter.” Petitioners contend that this Court should grant a writ of certiorari in this case because the Circuits are split on the proper test to determine whether an entity is an arm of the state and how much weight should be given to the fact that liability would not be paid from a state treasury. Petitioners also contend that review should be granted because the Circuits have issued inconsistent decisions as to the immunity of similar governmental entities.

However, no other courts of appeals has ruled upon the question at issue – whether a South Carolina sheriff is an arm of the State. Moreover, any supposed deviation of any other courts of appeals from this Court’s decision in *Hess* does not present a compelling reason to review the Fourth Circuit’s decision in this case, which properly applied the analysis discerned from *Hess* by the Fourth Circuit in *Gray* and *Cash*, and applied in *Cromer*. Similarly, any differentiation in the treatment of port authorities, loan agencies, and school districts by other courts of appeals, as cited by Petitioners, simply does not present any compelling reasoning for granting review of the decision in this case.

## **CONCLUSION**

This Court should deny certiorari.

Deborah Harrison Sheffield, *Of Counsel*  
HOOD LAW FIRM, LLC  
172 Meeting St  
PO Box 1508  
Charleston, SC 29402  
(803) 238-2267  
[deborah.sheffield@hoodlaw.com](mailto:deborah.sheffield@hoodlaw.com)

*Attorney for Respondent  
Charleston County Sheriff's Office*

January, 2026