No. _____

In The
Supreme Court of the United States

SAMANTHA LEE-ANN SEALEY,

Petitioner,

v.

ARTURO MANCIAS; CITY OF SAN ANTONIO,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

I. To avoid dismissal of a § 1983 excessive-force suit, must a plaintiff plead, as an element of her claim, that the officer had a "superior alternative" that would have avoided the harm?

II. To avoid dismissal under the "clearly established" prong of qualified immunity, must the plaintiff identify an identical fact pattern, as the Fifth Circuit continues to hold, or can prior precedent clearly establish a constitutional violation despite some factual variation?

PARTIES TO THE PROCEEDINGS

Samantha Lee-Ann Sealey, Petitioner on review, was the appellant below.

Arturo Mancias and the City of San Antonio, Respondents on review, were the appellees below.

RELATED PROCEEDINGS

- *Sealey v. Mancias et al.*, No. 5:24-cv-00399-XR, U.S. District Court for the Western District of Texas. Judgment entered Nov. 15, 2024.
- *Sealey v. Mancias*, No. 24-50998, U.S. Court of Appeals for the Fifth Circuit. Judgment entered Aug. 19, 2025.
- *Sealey v. Mancias*, No. 24-50998, U.S. Court of Appeals for the Fifth Circuit. Order entered Sept. 18, 2025.

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The Fifth Circuit's order denying panel rehearing is reported at *Sealey v. Mancias*, No. 24-50998, 2025 U.S. App. LEXIS 24245, *1 (5th Cir. Sept. 18, 2025). Pet. App. 35a.

The Western District of Texas's order dismissing Petitioner's claims is not reported but is reprinted in the Petition Appendix. Pet. App. 8a-33a.

JURISDICTION

The Fifth Circuit entered judgment on August 19, 2025. Petitioner filed a timely motion for panel rehearing, which was denied on September 18, 2025. Pursuant to this Court's order on January 12, 2026, the deadline to petition for a writ of certiorari was extended to February 15, 2026. This Court's jurisdiction rests on 28 U.S.C. § 1254(1).

STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

The Fourth Amendment, U.S. Const. amend. IV, provides:

> 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.

The Fourteenth Amendment, U.S. Const. amend. XIV, provides in relevant part:

> No State shall * * * deprive any person of life, liberty, or property, without due process of law.

42 U.S.C. § 1983 provides in relevant part:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State 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.

INTRODUCTION

This case arises from the use of deadly force by a law enforcement officer against an unarmed, rear-handcuffed woman, causing catastrophic injuries. The Fifth Circuit below affirmed a Rule 12(b)(6) motion to dismiss based on two grievous errors.

First, the Fifth Circuit held that Petitioner failed to state a claim because she did not plead a reasonable "superior alternative" course of action that the officer should have taken. The Fifth Circuit also held—now

for the third time—that a "superior alternative" is an *element* of a Fourth Amendment excessive-force claim under § 1983. No other circuit has such a rule and this Court's precedent has already foreclosed such a rule.

Second, the Fifth Circuit held that Petitioner could not overcome the Respondent officer's qualified immunity defense because Petitioner did not cite a factually identical prior opinion. This Court has repeatedly rejected the Fifth Circuit's hyper-granular approach to the "clearly established" prong of qualified immunity. Yet the Fifth Circuit still clings to its obsolete approach, depriving meritorious plaintiffs of any chance for recovery. Another reminder is sorely needed.

STATEMENT

A. Factual Background

On the evening of October 2, 2022, San Antonio Police Officer Mancias, the Respondent officer, arrested Samantha Lee-Ann Sealey, Petitioner, on a drug-related warrant. Ms. Sealey was fully compliant during the arrest and was placed in handcuffs with her hands behind her back. After several minutes in custody, Ms. Sealey, while still handcuffed, attempted to flee across a well-lit parking lot. The Respondent officer gave chase and, within seconds, caught up to her.

Eyewitness and video evidence show that the Respondent officer pushed Ms. Sealey with significant force to her upper back. Because she was restrained in rear-handcuffs, Ms. Sealey was unable to brace for her fall. She fell forward and landed face-first on the concrete. The impact was so severe that she immediately lost consciousness and began bleeding from her head. Emergency medical services were called to the scene.

As a result of her injuries caused by the Respondent officer's push, Ms. Sealey sustained a traumatic brain injury and suffered the loss of her unborn child. She was also placed in a medically induced coma for approximately one month. Medical records confirm the extent and permanency of her injuries, which are undisputed.

B. Procedural History

Ms. Sealey sued Respondents in federal district court under 42 U.S.C. § 1983. Her claim against the Respondent officer was for excessive-force and her municipal claim against the Respondent city alleged, *inter alia*, a failure to adequately train its officers on the appropriate use of force.

Respondents filed motions to dismiss for failure to state a claim under Federal Rules of Civil Procedure 12(b)(6) and 12(d). Respondents did not dispute Ms. Sealey's injuries but instead argued: (1) her injuries were not caused by the Respondent officer's use of force; and (2) in the alternative, the force he used was reasonable under the circumstances. Throughout the pre-discovery motion-to-dismiss stage, Ms. Sealey's counsel repeatedly attempted to obtain the body-cam of another officer at the scene but was never able to acquire this corroborating evidence from the city.

The district court granted the Respondents' motions to dismiss. In its order, the district court held that, under Fifth Circuit law, Ms. Sealey's complaint failed to state a claim against the Respondent officer because it did not identify an identical prior opinion—thus, the officer's actions were not "clearly established" misconduct and the officer was not on proper notice. Pet. App. 18a (explaining that the Fifth Circuit

requires a plaintiff to "point to a case almost squarely on point" to avoid dismissal on qualified immunity grounds) (quoting *Harmon v. City of Arlington*, 16 F.4th 1159, 1167 (5th Cir. 2021)). The court then granted the Respondent city's motion to dismiss because, according to the court, Ms. Sealey's complaint did not meet the high standard of *Monell v. Department of Social Services*, 436 U.S. 658 (1978). As a result, no discovery was ever permitted or conducted.

Ms. Sealey appealed to the Fifth Circuit, which affirmed the district court's dismissal. The court's opinion focused on the claim against the Respondent officer, reaching both prongs of the qualified immunity analysis.[1] As to the first prong, the Fifth Circuit held that the Respondent officer's 12(b)(6) motion was meritorious because Ms. Sealey had not pleaded a reasonable "superior alternative" that the Respondent officer should have taken. Because, according to the Fifth Circuit, a "superior alternative" is an *element* of a Fourth Amendment excessive-force claim, it must have been pleaded to avoid dismissal. The Fifth Circuit is the only jurisdiction to adhere to this requirement.

As to the second prong, the Fifth Circuit held that Ms. Sealey could not show that the Respondent officer's actions were a "clearly established" violation of the Fourth Amendment. The Fifth Circuit's analysis makes clear that the Fifth Circuit continues to require plaintiffs to identify an identical factual precedent to

[1] The Fifth Circuit declined to consider Ms. Sealey's municipal claim on the basis that it was not addressed in the Initial Brief.

survive dismissal. That's true despite this Court's recent reminders otherwise in *Taylor v. Riojas* and *McCoy v. Alamu*. And even though Ms. Sealey *did* identify a near-identical prior opinion, highlighted prominently in her brief, the Fifth Circuit ignored it entirely.

Ms. Sealey then moved for panel rehearing, which the Fifth Circuit denied without a written opinion. *Sealey v. Mancias*, No. 24-50998, 2025 U.S. App. LEXIS 24245, *1 (5th Cir. Sept. 18, 2025).

This Petition follows.

REASONS FOR GRANTING THE PETITION

I. The Fifth Circuit's heightened pleading standard for § 1983 excessive-force claims is unique among the circuits and conflicts with this Court's precedent.

Five years ago, the Fifth Circuit created a heightened pleading standard for § 1983 excessive-force claims that remains unique among the circuits. Under this standard, the Fifth Circuit requires a plaintiff to plead—as an element—a "superior alternative" course of action that the police officer should have taken. If the plaintiff fails to plead a superior alternative, then, under binding Fifth Circuit law, the plaintiff's suit must be dismissed under Rule 12(b)(6) for failure to state a claim. Moreover, even if the plaintiff *does* plead an alternative, the Fifth Circuit allows judges to assess whether they believe alternative is reasonable. If the judge finds the alternative unreasonable (*i.e.* not superior), then the plaintiff's suit must also be dismissed under Rule 12(b)(6). All of this occurs at the

motion-to-dismiss stage, before the plaintiff has access to the tools of discovery.

No other circuit has a rule that remotely resembles the Fifth Circuit's heightened pleading standard in excessive-force cases. To the extent that other circuits allow judges to consider a police officer's hypothetical alternatives, they do so at the summary-judgment stage or at trial. But always after discovery. Nor has any other circuit held that a police officer's "superior alternative" is an element of a claim under the Fourth Amendment. The reason for this is simple: this Court has already foreclosed such a rule.

This is the third case in the Fifth Circuit where a meritorious plaintiff, who pleaded a plausible case for excessive force, saw her claims dismissed for failure to plead a "superior alternative." The problem will only continue in these most-tragic of cases. This Court's intervention is not only warranted but necessary.

A. The decision below fully crystallized and entrenched the Fifth Circuit's unique, heightened pleading standard for § 1983 excessive-force claims.

In its published panel decision in *Ramirez v. Guadarrama*, the Fifth Circuit created a new "superior alternative" element for § 1983 excessive-force claims along with a heightened pleading standard to avoid pre-discovery dismissal. *See* 3 F.4th 129, 136 (5th Cir. 2021) ("Although the employment of tasers led to a tragic outcome, we cannot suggest exactly what alternative course the defendant officers should have fol-

lowed that would have led to an outcome free of potential tragedy."). While the court's opinion was perhaps ambiguous as to how central the "alternative" pleading requirement was to the panel's decision, Judge Oldham (who sat on the panel) clarified the centrality of the new rule in his published concurrence to the court's denial of rehearing *en banc*. *Ramirez v. Guadarrama*, 2 F.4th 506, 513-14 (5th Cir. 2021) (Oldham, J., concurring, Jolly, Jones, Ho, Engelhardt, J., joining) ("By all accounts, the plaintiffs in our case are missing an element of their claim. Alleging the officers behaved unreasonably without any facts to support a superior alternative is materially identical to alleging an antitrust conspiracy without any facts to support a conspiracy. Both fail Rule 12(b)(6)."). This Court then denied *certiorari* over the dissent of Justices Sotomayor, Breyer, and Kagan. *Ramirez v. Guadarrama*, 142 S. Ct. 2571, 2571-73 (2022).

Shortly after deciding *Ramirez*, the Fifth Circuit crowned its heightened pleading standard as binding circuit precedent in its published decision in *Jackson v. Gautreaux*, 3 F.4th 182, 187 (5th Cir. 2021). The court explained in *Jackson*:

> *Ramirez* held that an officer's conduct cannot be held "unreasonable" under the Fourth Amendment in the absence of allegations or evidence regarding an "alternative course the defendant officers should have followed that would have led to an outcome free of potential tragedy." We rejected the plaintiffs' Fourth Amendment claim because it was "not apparent what might have been done differently to

> achieve a better outcome under these circumstances."

Jackson v. Gautreaux, 3 F.4th 182, 187 (5th Cir. 2021) (internal citations to *Ramirez* omitted).

Now this case. Here, for the third time, the Fifth Circuit has used its heightened pleading standard to affirm the pre-discovery dismissal of a meritorious claim for excessive force. *Sealey v. Mancias*, No. 24-50998, 2025 WL 2401002, 2025 U.S. App. LEXIS 21223, at *3 (5th Cir. Aug. 19, 2025) (unpub.) ("Sealey does not specify what superior alternative [the Respondent officer] had. By failing to do so, she has failed to plausibly allege a Fourth Amendment violation."). While it may have been disputable, in 2021, whether the Fifth Circuit had created and applied a heightened pleading standard in § 1983 excessive-force claims, there is no doubt of it today.

B. No other circuit requires a plaintiff to plead a "superior alternative" to avoid pre-discovery dismissal.

No other circuit has adopted the Fifth Circuit's "superior alternative" pleading requirement. Nor does any other circuit consider a "superior alternative" an element of an excessive-force claim under the Fourth Amendment. It is absent from, and contrary to, other circuits' treatment of § 1983 excessive-force claims.

1. The Fifth Circuit created its heightened pleading standard without reference to any authority.

The Fifth Circuit created its heightened pleading standard from whole cloth. Each application of the standard traces back to *Ramirez*, the original, foundationless case. A legal doctrine conjured *ex nihilo* has now become the law of the circuit.

Tracing the creation and application of the Fifth Circuit's heightened pleading standard demonstrates its departure from settled law. When the Fifth Circuit created its heightened pleading requirement in *Ramirez* in 2021, the critical passage—"we cannot suggest exactly what alternative course the defendant officers should have followed that would have led to an outcome free of potential tragedy"—did not cite any case or statute. *Ramirez*, 3 F.4th at 136. In fact, three judges on the Fifth Circuit specifically observed that the *Ramirez* panel fashioned its heightened pleading requirement "without authority." *Ramirez v. Guadarrama*, 2 F.4th 506, 520 (5th Cir. 2021) (Willett, J., joined by Graves and Higginson, JJ., dissenting from denial of rehearing *en banc*).

Subsequent heightened-pleading cases from the Fifth Circuit all trace back to *Ramirez*. That was true in *Jackson*, which dismissed the case of a man whom police shot seven times in his vehicle. *Jackson v. Gautreaux*, 3 F.4th 182, 188 (5th Cir. 2021) (citing only *Ramirez* for the heightened-pleading standard). And it is also true here. *Sealey*, 2025 U.S. App. LEXIS 21223, at *3 & n.8 (citing only *Jackson* for the heightened-

pleading standard). This gives the illusion of a robust body of law where none actually exists.

2. Even circuits that permit a judge or jury to consider an officer's alternatives only do so after discovery—at summary judgment or at trial.

Most circuits say nothing about the relevance of an officer's less-intrusive or superior alternatives in an excessive-force claim. They certainly do not require it, as an element, at the pleading stage. That said, some circuits have given credence to an alternatives-analysis. But still, it is only within the context of post-discovery summary judgment or at trial—never at the pleading stage. The reasoning of these circuits, which stand the closest to the Fifth Circuit, is illuminating because it shows just how far the Fifth Circuit has planted its flag from even its closest neighbors.

The circuit that appears most open to an alternatives-analysis is the Ninth Circuit, which includes in its model jury charge an instruction for the jury to "consider all of the circumstances known to the officer on the scene, including … the availability of alternative methods[.]" Manual of Model Civil Jury Instructions 9.25 (9th Cir. 2021). But even there, alternatives play *no* role at the pre-discovery dismissal stage and only a *rare* role in post-discovery summary judgment. *See Scott v. Henrich*, 39 F.3d 912, 915 (9th Cir. 1994) ("[A]s the text of the Fourth Amendment indicates, the appropriate inquiry is whether the officers acted reasonably, not whether they had less intrusive alternatives available to them."); *see also Smith v. City of Hemet*, 394 F.3d 689, 701 (9th Cir. 2005) ("Because

[the excessive force inquiry] nearly always requires a jury to sift through disputed factual contentions, and to draw inferences therefrom, we have held on many occasions that summary judgment or judgment as a matter of law in excessive force cases should be granted sparingly.").

The Fourth Circuit has also considered an officer's alternatives, but never as an element of the claim. Instead, the Fourth Circuit understands that an officer's alternatives—and whether they were reasonable—is an inquiry left to the discovery process. *Brockington v. Boykins*, 637 F.3d 503, 507 (4th Cir. 2011) (explaining that a police shooting case could have a variety of hypothetical reasonable alternatives "depending on the facts that emerge through discovery").

The Tenth Circuit has gone in the extreme opposite direction of the Fifth Circuit. There, an officer's less-intrusive alternatives are treated as wholly irrelevant and evidence of such alternatives is inadmissible even at trial. *Medina v. Cram*, 252 F.3d 1124, 1133 (10th Cir. 2001) (explaining that an alternatives analysis is not part of the reasonableness inquiry because it considers the officer's actions in hindsight); *Jonas v. Bd. of Comm'rs*, 699 F. Supp. 2d 1284, 1296 (D.N.M. 2010) ("In *Medina v. Cram*, the Tenth Circuit rejected the consideration of a less intrusive alternative to end a threat … This District has also rejected the consideration of a less intrusive alternative to end a threat."); *see also Taylor v. Hudson*, No. CIV 02-0775 JB/RHS, 2003 U.S. Dist. LEXIS 26736, *18 (D.N.M. Nov. 21, 2003) ("[T]he Court will exclude any SOP evidence related to less intrusive alternatives to the amount of

force used against Taylor. Such evidence is irrelevant to the Fourth Amendment inquiry.").

C. The Fifth Circuit's heightened pleading standard is wrong.

The Fifth Circuit's "superior alternative" element is squarely at odds with what this Court has held the Fourth Amendment analysis permits.

Section 1983 is malleable, taking on the constitutional doctrines of the Amendment the particular claim implicates. *Baker v. McCollan*, 443 U.S. 137, 144 n.3 (1979). Section 1983 excessive-force claims invoke Fourth Amendment "reasonableness" analyses. *Graham v. Connor*, 490 U.S. 386, 394-397 (1989). This Court has made clear that "[t]he reasonableness of any particular governmental activity does not necessarily or invariably turn on the existence of alternative 'less intrusive' means." *Illinois v. Lafayette*, 462 U.S. 640, 647 (1983); *accord United States v. Martinez-Fuerte*, 428 U.S. 543, 556-57 n.12 (1976). By contrast, the Fifth Circuit's approach is unequivocally the opposite: reasonableness *necessarily and invariably* turns on the existence of alternative 'less intrusive' means. *Sealey v. Mancias*, No. 24-50998, 2025 WL 2401002, 2025 U.S. App. LEXIS 21223, at *3 (5th Cir. Aug. 19, 2025) (unpub.) ("Sealey does not specify what superior alternative [the officer] had. By failing to do so, she has failed to plausibly allege a Fourth Amendment violation.").

To be clear, Petitioner is not taking the position that a police officer's less-intrusive alternatives play no role in a § 1983 excessive-force case. Certainly they

are part of the fact-intensive reasonableness inquiry. But that inquiry is one for the jury or, at times, the judge at the summary judgment stage, *after* a plaintiff (and defendant) has had a full opportunity to uncover facts through discovery. *Glenn v. Washington County*, 673 F.3d 864, 876 (9th Cir. 2011) (considering "less intrusive alternatives" at summary judgment); Manual of Model Civil Jury Instructions 9.25 (U.S. Court of Appeals for the Ninth Circuit 2021) (considering alternatives at trial). But a "superior alternative" is not an element of excessive-force and need not be pleaded to avoid dismissal under Rule 12(b)(6). *See Illinois v. Lafayette*, 462 U.S. 640, 647 (1983).

D. It is critically important that this Court resolve the split by rejecting the Fifth Circuit's heightened § 1983 pleading requirement.

The Fifth Circuit's heightened pleading requirement for § 1983 excessive-force plaintiffs not only contradicts this Court's guidance and diverges from other circuits, it also upends the core axioms of pleading and appellate review of Rule 12 dismissals. Specifically, it undercuts four fundamental principles that courts across the country apply everyday:

1. Courts must accept the facts in a complaint as true. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (describing "the assumption that all the allegations in the complaint are true (even if doubtful in fact)").
2. "When there are well-pleaded factual allegations, a court should assume their veracity

and then determine whether they plausibly give rise to an entitlement to relief." *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

3. Dismissal is appropriate only when a plaintiff has not alleged "enough facts to state a claim to relief that is plausible on its face" and has failed to "raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555, 570.
4. Courts must allow discovery if those facts permit a "reasonable expectation that discovery will reveal evidence of illegal[ity]." *Id*. at 556.

The Fifth Circuit's idiosyncratic rule undercuts these principles, to the detriment of plaintiffs, in some of the most high-stakes cases before the federal judiciary. These cases are often tragic, with gut-wrenching facts of bodily harm and death. But just as all defendants in such cases are entitled to a fair defense, plaintiffs must also be entitled to a fair opportunity to gather facts, assess the credibility of the participants, and present fact questions to a jury. Instead, the Fifth Circuit has erected a procedural technicality, absent from every other circuit, that bars plaintiffs from pursuing even the most meritorious of cases. Discovery is not just "fishing," it is a necessary tool in litigation.

There is no better illustration of the problem created by the Fifth Circuit's heightened-pleading requirement than this case. Here, there were two videos of the incident, but only one was turned over to the plaintiff at the motion-to-dismiss stage. (*See* Initial Br. at 14). Without discovery, the plaintiff was unable to: (1) acquire the second video; or (2) get answers as

to why it was not produced earlier or destroyed. It is easy to see how this rule can incentivize withholding critical evidence or even spoliation of evidence.

II. The Fifth Circuit's hyper-granular application of the "clearly established" prong of qualified immunity persists despite this Court's repeated guidance.

Despite this Court's repeated reminders to the Fifth Circuit that the "clearly established" prong of qualified immunity does not require the plaintiff to identify an identical case, the Fifth Circuit continues to march to that old drum.

In recent years, this Court twice considered it necessary to remind the Fifth Circuit that the clearly-established inquiry does not require an identical prior case—the "obvious violation" doctrine is a component of the analysis that courts cannot simply choose to disregard.

First, in *Taylor v. Riojas*, this Court summarily reversed the Fifth Circuit for its unduly narrow view of the clearly-established inquiry in a prison conditions case. 592 U.S. 7, 7-10 (2020). There, prison officials had confined the plaintiff in a cell covered with feces for four days, followed by two days without clothing in a frigid cell that had a clogged drain overflowing with human waste, forcing the plaintiff to sleep naked on the floor in raw sewage. *Taylor v. Stevens*, 946 F.3d 211, 218-19 (5th Cir. 2019). But, because the Fifth Circuit had not previously held that prisoners could not be "housed in cells teeming with human waste" for

"only six days," it concluded that the law was not clearly established. *Id*. at 222.

This Court, however, was untroubled by the absence of a prior case establishing that the specific duration of time plaintiff was held in the conditions at issue in *Taylor* was unconstitutional. *Taylor*, 592 U.S. at 8-9. Instead, the "obviousness of [the plaintiff's] right" to be free from "such deplorably unsanitary conditions for such an extended period of time" was apparent from the "general constitutional rule" barring deliberate indifference under the Eighth Amendment. *Id*. & *id*. at n.2 (quoting *Hope v. Pelzer*, 536 U.S 730,.741 (2002)).

Several months later, this Court granted *certiorari*, vacated, and remanded in *McCoy v. Alamu*, another qualified immunity case. 141 S. Ct. 1364 (2021). There, the Fifth Circuit had rejected the plaintiff's argument that being pepper sprayed by a prison guard "for no reason" was an "obvious" violation of the general rule that prison officials cannot act "maliciously and sadistically to cause harm." *See McCoy v. Alamu*, 950 F.3d 226, 229, 234 (5th Cir. 2020). Notwithstanding Fifth Circuit precedent clearly establishing that punching an inmate in the face for no reason, *Cowart v. Erwin*, 837 F.3d 444, 449, 454-55 (5th Cir. 2016), or tasing an inmate without provocation, *Newman v. Guedry*, 703 F.3d 757, 763-64 (5th Cir. 2012), violates the Constitution, the majority granted the guard qualified immunity because it had never held that a guard could not *pepper spray* an inmate for no reason. *McCoy*, 950 F.3d at 232-33. The dissent had centered on obviousness, vigorously contending that the fact that the "weapon of choice was pepper spray" instead

of a fist or a taser did not matter, and that the majority erred in declining to apply the "obviousness exception." *Id*. at 235, 236 (Costa, J., dissenting). This Court, in apparent agreement, instructed the Fifth Circuit to reconsider in light of *Taylor*. 141 S. Ct. at 1364.

Old habits die hard. Here, the Fifth Circuit held below that a police officer could not be liable for pushing a fleeing, rear-handcuffed woman onto her face in a parking lot so forcefully that it put her into a coma for a month and caused a miscarriage. *Sealey v. Mancias*, 2025 U.S. App. LEXIS 21223, *4 (5th Cir. Aug. 19, 2025). The reason, according to the court, was that Petitioner did not identify a judicial opinion with "even remotely similar facts to those presented here[.]" *Id*. at *5. Nor could Petitioner satisfy the "sky high standard of obviousness," which remains virtually nonexistent in the Fifth Circuit. *Id*.

Among the opinions that the court considered not "even remotely similar" was *Pena v. City of Rio Grande City*, where the Fifth Circuit held in favor of a woman who was tased by police while fleeing, causing her to hit her head on pavement. 816 F. App'x 966, 968 (5th Cir. 2020). The purpose and effect of the *push* here and the *tasing* in *Pena* were exactly the same, yet the Fifth Circuit entirely ignored *Pena* despite Petitioner describing *Pena* as an "opinion that is particularly worth noting" in her brief below. (Initial Br. at 20).

Nor did the Fifth Circuit see *any* merit to Petitioner's reliance on *Tennessee v. Garner*, where this Court held that an officer's use of deadly force on an unarmed fleeing suspect is "constitutionally unreasonable." *Tennessee v. Garner*, 471 U.S. 1, 11 (1985). The

Fifth Circuit instead concluded that "*Garner* is of no help" to Petitioner because "[a]t most, *Garner* prohibits using deadly force against an unarmed burglary suspect fleeing on foot who poses no immediate threat." *Sealey*, 2025 U.S. App. LEXIS 21223, at *4. In doing so, the Fifth Circuit failed to note that the suspect in *Garner* was *more* of an immediate threat than Ms. Sealey because he was unrestrained whereas she was in handcuffs. *See id*. And the crime of which he was suspected—burglary—was much more serious than Ms. Sealey's infraction: standing in a parking lot with an active warrant. *See id*. at *1. Such a myopic reading of *Garner* is simply inconsistent with the opinion's reasoning and the subsequent message this Court sent in *Taylor*. *Taylor v. Riojas*, 592 U.S. 7, 9 (2020) (reiterating that "a general constitutional rule already identified in the decisional law may apply with obvious clarity to the specific conduct in question").

In short, the Fifth Circuit analysis below—which ignored *Pena* (a near-identical case), rejected a raft of other circuit cases, and brushed aside *Garner*—demands a single conclusion: the court continues to adhere to an identical-facts-required approach to the "clearly established" prong of qualified immunity. *See Sealey*, 2025 U.S. App. LEXIS 21223, at *3-5. In doing so, the Fifth Circuit has yet again refused to apply the obviousness exception to qualified immunity. But as Justice Gorsuch has astutely observed, it is the obvious cases that are the hardest to justify because "the most obviously unlawful things happen so rarely that a case on point is itself an unusual thing." *Browder v. City of Albuquerque*, 787 F.3d 1076, 1082-83 (10th Cir. 2015). Without the obviousness doctrine, the more

"flagrantly unlawful" the action, the more likely an official is to escape liability. *See id*; *see also Bellotte v. Edwards*, 629 F.3d 415, 424 (4th Cir. 2011) (Wilkinson, J.) ("The absence of 'a prior case directly on all fours' here speaks not to the unsettledness of the law, but to the brashness of the conduct."). That is precisely what happened here.

CONCLUSION

This Court should grant this Petition and reverse the Fifth Circuit's heightened pleading requirement and persistently wrong approach to the "clearly established" prong of qualified immunity. It should also remand Ms. Sealey's full case, including her municipal claim and claim under the Fourteenth Amendment's substantive due process clause, in order that she may ultimately proceed to discovery before the district court.

Respectfully submitted,

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APPENDIX

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APPENDIX A — OPINION OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, FILED AUGUST 19, 2025

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 24-50998

SAMANTHA LEE-ANN SEALEY,

Plaintiff-Appellant,

versus

ARTURO MANCIAS; CITY OF SAN ANTONIO,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:24-CV-399

Before DAVIS, GRAVES, and WILSON, *Circuit Judges.*

PER CURIAM:*

Samantha Lee-Ann Sealey paid a late-night visit to a 7-Eleven in San Antonio, Texas. A police officer with a warrant for Sealey's arrest met her in the parking lot with handcuffs. When the officer turned his back, she made a break for it. In a foot chase, the officer drew close

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

and Sealey fell face-first onto the pavement, her hands still cuffed behind her back. Sealey says that she was shoved and brought claims under 42 U.S.C. § 1983 for violations of her Fourth Amendment rights. The district court concluded that the officer was entitled to qualified immunity and dismissed Sealey's complaint for failure to state a claim. Sealey appeals. We AFFIRM.

I.

Sealey brought this action against Officer Arturo Mancias and the City of San Antonio.[1] Her complaint pressed two Fourth Amendment claims: one for excessive force against the officer and another for failure to train or supervise against the City. Officer Mancias and the City filed motions to dismiss under Rule 12(b)(6). Officer Mancias invoked qualified immunity, while the City argued that the *Monell*[2] claim had not been sufficiently pled. The district court granted those motions, and this appeal followed.

II.

In her opening brief, Sealey challenged the district court's dismissal of her excessive-force claim on qualified-

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1. Sealey's original complaint also named the San Antonio Police Department as a defendant. She later amended her complaint, dropping the Department as a party defendant.

2. *See generally Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978) (establishing the criteria for municipal liability under § 1983).

immunity grounds. "Qualified immunity shields federal and state officials from money damages unless a plaintiff pleads facts showing (1) that the official violated a statutory or constitutional right, and (2) that the right was 'clearly established' at the time of the challenged conduct."[3] Federal "courts have discretion to decide which of the two prongs of qualified-immunity analysis to tackle first."[4] Exercising that discretion, the district court resolved Sealey's claim against Officer Mancias on the second prong, holding that no clearly established Fourth Amendment violation occurred. On de novo review,[5] we elect to begin with the first.

A.

"An officer violates the Fourth Amendment when an arrestee suffers an injury that results directly and only from a clearly excessive and objectively unreasonable use of force."[6] Because "police officers are often forced to make split-second judgments," we must not critique their

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3. *Ashcroft v. al-Kidd*, 563 U.S. 731, 735, 131 S. Ct. 2074, 179 L. Ed. 2d 1149 (2011) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982)).

4. *Id.* (citing *Pearson v. Callahan*, 555 U.S. 223, 236, 129 S. Ct. 808, 172 L. Ed. 2d 565 (2009)).

5. *See, e.g., Anderson v. Estrada*, 140 F.4th 634, 641 (5th Cir. 2025).

6. *Wilson v. City of Bastrop*, 26 F.4th 709, 713 (5th Cir. 2022) (quoting *Cloud v. Stone*, 993 F.3d 379, 384 (5th Cir. 2021)).

actions "with the 20/20 vision of hindsight."[7] Instead, the test is objective reasonableness. To that end, a plaintiff must allege what a reasonable officer would have done under the circumstances.[8] Sealey did not.

Sealey's complaint states that Officer Mancias violated her Fourth Amendment rights when he "unnecessarily pushed [her], rather than using the appropriate level of force, de-escalating the situation and apprehending [her] without inflicting serious physical injuries." But "reasonableness . . . does not necessarily or invariably turn on the existence of alternative 'less intrusive' means."[9] Accepting Sealey's allegations as true, Officer Mancias's split-second decision to use force was reasonable to apprehend a suspect in active flight. Sealey does not specify what superior alternative he had. By failing to do so, she has failed to plausibly allege a Fourth Amendment violation.

B.

Even if Sealey alleged a constitutional violation, it would not be clearly established. "The clearly established inquiry is especially demanding for excessive force

7. *Graham v. Connor*, 490 U.S. 386, 396-97, 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989).

8. *See Jackson v. Gautreaux*, 3 F.4th 182, 188 (5th Cir. 2021).

9. *Illinois v. Lafayette*, 462 U.S. 640, 647, 103 S. Ct. 2605, 77 L. Ed. 2d 65 (1983).

claims."[10] "The right may not be defined at a 'high level of generality' because the question is 'whether the violative nature of particular conduct is clearly established.'"[11] "Rights are 'clearly established' when 'existing precedent squarely governs the specific facts at issue,' *not* when a rule is merely 'suggested by then-existing precedent.'"[12]

Sealey asserts a right that prohibits an officer from "viciously" pushing her "to the concrete ground" while evading arrest. But she identifies no "controlling authority or . . . robust consensus . . . of persuasive authority" suggesting that this right is of a constitutional dimension.[13] Instead, each case she cites recognizes a different right.

Sealey chiefly relies on *Tennessee v. Garner*, 471 U.S. 1, 105 S. Ct. 1694, 85 L. Ed. 2d 1 (1985). "At most, *Garner* prohibits using deadly force against an unarmed burglary suspect fleeing on foot who poses no immediate threat."[14]

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10. *Santander v. Salazar*, 133 F.4th 471, 480 (5th Cir. 2025) (citation modified).

11. *Id.* (quoting *al-Kidd*, 563 U.S. at 742).

12. *Henderson v. Harris County*, 51 F.4th 125, 132 (5th Cir. 2022) (first quoting *Kisela v. Hughes*, 584 U.S. 100, 104, 138 S. Ct. 1148, 200 L. Ed. 2d 449 (2018) (per curiam); and then quoting *City of Tahlequah v. Bond*, 595 U.S. 9, 13, 142 S. Ct. 9, 211 L. Ed. 2d 170 (2021) (per curiam)).

13. *District of Columbia v. Wesby*, 583 U.S. 48, 63, 138 S. Ct. 577, 199 L. Ed. 2d 453 (2018) (quoting *al-Kidd*, 563 U.S. at 741-42).

14. *Harmon v. City of Arlington*, 16 F.4th 1159, 1167 (5th Cir. 2021).

And *Garner* did not address whether a "vicious" shove amounted to deadly force. So, *Garner* is of no help.

Sealey's circuit cases fare no better. *See Singleton v. Casanova*, No. 22-50327, 2024 U.S. App. LEXIS 14073, 2024 WL 2891900, at *8 (5th Cir. June 10, 2024); *Aguirre v. City of San Antonio*, 995 F.3d 395, 414 (5th Cir. 2021); *Mason v. Lafayette City-Par. Consol. Gov't*, 806 F.3d 268, 276-77 (5th Cir. 2015); *Gaillard v. Commins*, 562 F. App'x 870, 876-77 (11th Cir. 2014). She cites those authorities for the proposition that Officer Mancias's conduct constituted an "obvious" constitutional violation under *Garner*. Sealey has identified no judicial opinion—and we have found none—involving even remotely similar facts to those presented here which would've placed Officer Mancias on notice that his conduct violated a constitutional right. Nor does the rule of *Garner*, discussed above, and that case's progeny impel the conclusion that an officer may not shove a fleeing suspect to the ground. Therefore, accepting Sealey's account of the facts, this case falls short of the "sky high" standard of obviousness.[15] Because Sealey's proffered right was not clearly established, the district court properly concluded that Officer Mancias was shielded by qualified immunity and dismissed the § 1983 claim against him.

III.

Sealey also raised a late challenge to the district court's dismissal of her *Monell* claim against the City in

15. *Joseph ex rel. Est. of Joseph v. Bartlett*, 981 F.3d 319, 337 (5th Cir. 2020).

her reply brief. But because her opening brief made no mention of that issue, she forfeited her opportunity to argue against the dismissal of that claim.[16]

IV.

The judgment of the district court is AFFIRMED.

16. *See, e.g., Guillot ex rel. T.A.G. v. Russell*, 59 F.4th 743, 751 (5th Cir. 2023).

APPENDIX B — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, SAN ANTONIO DIVISION, FILED NOVEMBER 15, 2024

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SA-24-CV-00399-XR

SAMANTHA LEE-ANN SEALEY,

Plaintiff,

-vs-

ARTURO MANCIAS, SAN ANTONIO POLICE DEPARTMENT, CITY OF SAN ANTONIO,

Defendants.

ORDER ON MOTIONS TO DISMISS

Plaintiff has filed an amended complaint against the City of San Antonio, the San Antonio Police Department, and one of its officers, alleging violations of 42 U.S.C. § 1983. ECF No. 11. Defendants Arturo Mancias and the City of San Antonio filed separate motions to dismiss Plaintiff's First Amended Complaint. ECF Nos. 12, 13. Plaintiff filed responses to the motions, and both Defendants filed replies. ECF Nos. 15, 16, 17, 18. The Court has carefully reviewed the arguments, record, and applicable authorities, and hereby **GRANTS** the Defendants' motions to dismiss (ECF Nos. 12, 13).

Appendix B

BACKGROUND

In reviewing a motion to dismiss, the Court must accept the complaint's factual allegations as true and draw all reasonable inferences in the plaintiff's favor. *See Sewell v. Monroe City Sch. Bd.*, 974 F.3d 577, 581-82 (5th Cir. 2020). Here, the Court additionally considers video evidence of the incident giving rise to Plaintiff's claim (*see* ECF No. 9) because Plaintiff incorporated the video into her amended complaint (*see* ECF No. 11 at 3 n.2), the video is central to her claim, and both parties extensively discuss the video in their briefing. *See Terrell v. Town of Woodworth*, No. 23-30510, 2024 U.S. App. LEXIS 3803, 2024 WL 667690, at *5 (5th Cir. Feb. 19, 2024) (citing *Dorsey v. Portfolio Equities, Inc.*, 540 F.3d 333, 338 (5th Cir. 2008)) (finding that the district court properly considered video evidence of incident underlying § 1983 claim where Plaintiff incorporated the video into his complaint, consistently referenced the video, and the video evidence was central to his claims); *see also Mullins v. Medina Cnty.*, No. 5-21-CV-01292-FB-RBF, 2023 U.S. Dist. LEXIS 149253, 2023 WL 5435628, at *1 (W.D. Tex. July 14, 2023) (considering video evidence of incident giving rise to § 1983 claim at motion to dismiss stage), *report and recommendation adopted*, No. SA-21-CA-1292-FB, 2023 U.S. Dist. LEXIS 147898, 2023 WL 5436349 (W.D. Tex. Aug. 23, 2023). "The Court will only reject [Plaintiff's] version of events when it is obviously contradicted by the video evidence." *Id.* (cleaned up, citations omitted). Here, the video evidence is footage from Defendant Officer Arturo Mancias' body-worn camera ("BWC") on the night of the incident.

Appendix B

On October 2, 2022, at 10:17 p.m., Plaintiff Samantha Lee-Ann Sealey had just exited a 7-Eleven on 2618 South Zarzamora St., San Antonio, Texas, when San Antonio Police Department Officer Arturo Mancias approached and arrested her on an outstanding warrant for drug possession. *See* ECF No. 11 at 2; BWC at 22:17:39-22:18:28. At the time of her arrest, Plaintiff was accompanied by her friend, a gentleman named Santos. ECF No. 11 at 3.

Shortly after Officer Mancias arrested and handcuffed Plaintiff, another police officer arrived on the scene in a patrol car.[1] *See* BWC at 22:18:56-22:19:10. Officer Mancias escorted Plaintiff to the front of the patrol car and asked her if she had any weapons. *See* BWC at 22:19:10-22:19:15. Plaintiff responded that she had a syringe in her brassiere but was not otherwise carrying a weapon. *See* BWC at 22:19:15-22:19:23. Officer Mancias asked if Plaintiff was involved in "anything else other than possession," and she shook her head no. *See* BWC at 22:19:37-22:19:42.

Officer Mancias then turned to Plaintiff's friend Santos to tell him that he was going to take Plaintiff in on the warrant. *See* BWC at 22:19:53-58. It was at this point that Plaintiff suddenly began to run away through the parking lot behind the 7-Eleven, with her hands still handcuffed behind her back. *See* BWC at 22:19:59-

1. Plaintiff asserts multiple times that two officers other than Officer Mancias were present on scene. ECF Nos. 11 at 2; 15 at 4. However, the video contradicts this claim; only one other officer arrived on scene. *See* BWC at 22:18:56-22:19:10. The Court credits the video over Plaintiff's claim. *See Mullins*, 2023 U.S. Dist. LEXIS 149253, 2023 WL 5435628, at *1.

22:20:01. Officer Mancias gave chase and quickly caught up to Plaintiff before she reached the edge of the parking lot. ECF No. 11 at 3. Plaintiff asserts that Officer Mancias then pushed her to the ground. ECF No. 11 at 4. Although Plaintiff acknowledges "it is impossible to determine with certainty" where Officer Mancias' arms were while he chased her, she argues that it is clear from the shadows of Plaintiff and Officer Mancias that he drew extremely close to her, with outstretched arms. ECF No. 11 at 4. Plaintiff then fell forward. ECF No. 11 at 4 (citing BWC at 22:20:02-22:20:03). As she fell, Plaintiff's upper torso "lurch[ed] forward," which she argues was "consistent with a push being applied somewhere on [her] upper back." ECF No. 11 at 4. Her friend Santos also claims to have seen Officer Mancias chase and push Plaintiff. ECF No. 11 at 5.

Plaintiff's head hit the hard concrete of the parking lot and she remained on the ground, bloody and barely conscious. ECF No. 11 at 4-5; *see also* BWC at 22:20:02-22:20:19. Officer Mancias immediately radioed dispatch and informed them that Plaintiff fell; he did not report any use of force. ECF No. 11 at 5. Plaintiff alleges that, because of the fall, she "sustained severe damage to her head" and "fell into a coma for over a month." ECF No. 11 at 5. At the time, Plaintiff avers she was three months pregnant, and endured a miscarriage due to this incident. ECF No. 11 at 5. She has not alleged that Officer Mancias was aware that she was pregnant.

On April 17, 2024, Plaintiff filed a complaint in this Court, alleging under 42 U.S.C. § 1983 that Defendants

Arturo Mancias, the San Antonio Police Department, and the City of San Antonio violated her constitutional rights. *See* ECF No. 1 at 1-5. Defendants filed separate motions to dismiss the complaint, which included an exhibit of Officer Mancias' body worn camera footage. *See* ECF Nos. 7, 8, 9. Defendant Mancias invoked a qualified immunity defense. ECF No. 7 at 1. However, these motions were subsequently mooted when Plaintiff filed an amended complaint on May 31, 2024, which incorporated the video footage by reference. *See* ECF No. 11 at 3 n.3; *see also* ECF Ents. June 3, 2024 (mooting the former motions to dismiss).

Plaintiff's amended complaint no longer identifies the San Antonio Police Department as a defendant. *See* ECF No. 11 at 1. Plaintiff acknowledges that she "erroneously named the San Antonio Police Department as a Defendant" in her original complaint. *See* ECF No. 11 at 1 n.1. As Defendant San Antonio Police Department pointed out in its motion to dismiss, this Court has previously found that the Department is a non-jural entity that cannot sue or be sued. *See* ECF No. 8 at 1 n.1; *see also Lone Star Chapter Paralyzed Veterans of Am. v. City of San Antonio*, No. SA-10-CV-316-XR, 2010 U.S. Dist. LEXIS 79492, 2010 WL 3155243, at *1-2 (W.D. Tex. Aug. 5, 2010) (Rodriguez, J.). Therefore, the San Antonio Police Department is hereby **DISMISSED** from this action.

Defendants subsequently renewed their motions to dismiss as to Plaintiff's amended complaint. ECF Nos. 12, 13. Defendant Mancias again invoked qualified immunity. ECF No. 12 at 1. Plaintiff timely responded,

and Defendant Mancias timely replied. ECF Nos. 15, 16, 17. Defendant City of San Antonio filed an untimely reply, tardy by one business day. ECF No. 18; *see* L.R. CV-7(e)(2) (setting a seven-day limit for replies). While the City's reply was one day late, the Court will nevertheless consider it, although the Court cautions the City to pay closer attention to deadlines going forward in this case. *See Calderon v. Bank of N.Y. Mellon*, No. 5:17-CV-933-DAE, 2018 U.S. Dist. LEXIS 232752, 2018 WL 8546113, at *1 n.2 (W.D. Tex. May 15, 2018) (considering reply brief that was filed one day late). Accordingly, this matter is ripe for the Court's decision.

DISCUSSION

I. Legal Standard

Federal Rule of Civil Procedure 12(b)(6) allows a party to move for the dismissal of a complaint for "failure to state a claim upon which relief can be granted." To survive a motion to dismiss, "a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570, 127 S. Ct. 1955, 167 L. Ed. 2d 929 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* at 678. A claim for relief must contain: (1) "a short and plain statement of the grounds for the court's jurisdiction"; (2) "a short and plain statement of the claim showing that

the pleader is entitled to the relief"; and (3) "a demand for the relief sought." Fed R. Civ. P. 8(a). A plaintiff "must provide enough factual allegations to draw the reasonable inference that the elements exist." *Innova Hosp. San Antonio, L.P. v. Blue Cross & Blue Shield of Ga., Inc.*, 995 F. Supp. 2d 587, 603 (N.D. Tex. Feb. 3, 2014) (citing *Patrick v. Wal-Mart, Inc.-Store No. 155*, 681 F.3d 614, 617 (5th Cir. 2012)); *see also Torch Liquidating Tr. ex rel. Bridge Assocs. L.L.C. v. Stockstill*, 561 F.3d 377, 384 (5th Cir. 2009) ("[T]he complaint must contain either direct allegations or permit properly drawn inferences to support every material point necessary to sustain a recovery." (internal quotation marks and citations omitted)).

In considering a motion to dismiss under Rule 12(b)(6), all factual allegations from the complaint should be taken as true, and the facts are to be construed in the light most favorable to the nonmoving party. *Fernandez-Montes v. Allied Pilots Ass'n*, 987 F.2d 278, 284 (5th Cir. 1993) (citing *Doe v. U.S. Dep't of Just.*, 753 F.2d 1092, 1102, 243 U.S. App. D.C. 354 (D.C. Cir. 1985)). Still, a complaint must contain "more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Twombly*, 550 U.S. at 555. "'[N]aked assertions' devoid of 'further factual enhancement,'" and "threadbare recitals of the elements of a cause of action, supported by mere conclusory statements," are not entitled to the presumption of truth. *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 557); *see also R2 Invs. LDC v. Phillips*, 401 F.3d 638, 642 (5th Cir. 2005) (stating that the Court should neither "strain to find inferences favorable to the plaintiffs" nor accept "conclusory allegations, unwarranted deductions,

or legal conclusions" (citation omitted)). Further, when a defendant has invoked a qualified immunity defense, "[i]t is the plaintiff's burden to demonstrate that qualified immunity is inappropriate." *Guerra v. Castillo*, 82 F.4th 278, 285 (5th Cir. 2023) (alteration in original) (quoting *Terwilliger v. Reyna*, 4 F.4th 270, 280 (5th Cir. 2021)).

II. Analysis

A. Defendant Mancias' Qualified Immunity Defense

Qualified immunity protects public officials from suit and liability for damages under § 1983 unless their conduct violates a clearly established constitutional right. *Mace v. City of Palestine*, 333 F.3d 621, 623 (5th Cir. 2003) (citing *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982)). In addressing whether qualified immunity applies, courts engage in a two-step inquiry: determining (1) whether a federal statutory or constitutional right was violated on the facts alleged; and (2) whether the defendant's actions violated clearly established rights of which a reasonable person would have known. *Id.* at 623-24 (citing *Price v. Roark*, 256 F.3d 364, 369 (5th Cir. 2001)). The two steps of the qualified immunity inquiry may be performed in any order. *Pearson v. Callahan*, 555 U.S. 223, 236, 129 S. Ct. 808, 172 L. Ed. 2d 565 (2009).

Here, the Court begins with the second step of the qualified immunity analysis: whether Plaintiff's narrative of the facts in the complaint "constitutes a violation of

clearly established law." *Goodale v. Bundy*, No. SA-22-CV-00031-XR, 2024 U.S. Dist. LEXIS 128821, 2024 WL 4034187, at *4 (W.D. Tex. July 22, 2024). Pursuant to that inquiry, "[a] Government official's conduct violates clearly established law when, at the time of the challenged conduct, the contours of a right are sufficiently clear that every reasonable official would have understood that what he is doing violates that right." *Ashcroft v. al-Kidd*, 563 U.S. 731, 741, 131 S. Ct. 2074, 179 L. Ed. 2d 1149 (2011) (cleaned up, citations omitted). The Court does not need "a case directly on point, but existing precedent must have placed the statutory or constitutional question beyond debate." *Id.* (citing *Anderson v. Creighton*, 483 U.S. 635, 640, 107 S. Ct. 3034, 97 L. Ed. 2d 523 (1987)). Clearly established law is not determined "at a high level of generality." *Id.* at 742 (citations omitted). Instead, "[t]he dispositive question is 'whether the violative nature of *particular* conduct is clearly established.'" *Mullenix v. Luna*, 577 U.S. 7, 12, 136 S. Ct. 305, 193 L. Ed. 2d 255 (2015) (citation omitted). The Court must look at the specific context of the case, given the difficulties officers may encounter in the field trying to determine how relevant legal doctrine applies to the various situations they confront. *Id* (citing *Saucier v. Katz*, 533 U.S. 194, 205, 121 S. Ct. 2151, 150 L. Ed. 2d 272 (2001), *overruled in part on other grounds by Pearson*, 555 U.S. 223).

According to Plaintiff's version of the facts, after she fled, Officer Mancias chased her and "pushed her on the upper part of her back with one or both hands with viciously excessive force, intentionally and deliberately thrusting Plaintiff up and off her feet and to the concrete

ground." ECF No. 11 at 4. Setting aside the legal conclusion that Officer Mancias used "viciously excessive force," the Court finds that the video evidence does not otherwise refute Plaintiff's version of the facts. Nor does it affirm them: at the critical moment before Plaintiff falls in the video, Officer Mancias' hands are not visible, and no direct contact between Officer Mancias and Plaintiff is discernible. *See* BWC at 22:20:00-22:20:03.

The parties debate whether the shadows that Officer Mancias and Plaintiff cast on the ground during the chase show that they made contact or not, and what manner of contact they may have made. *See* ECF Nos. 15 at 3-4; 17 at 3-4. However, at the motion to dismiss stage, a court should not be in the business of decoding the meaning of shadows. The simple fact is that the video does not clearly display whether and how Officer Mancias made contact with Plaintiff. He comes very near to Plaintiff before she falls but the video does not conclusively show whether Plaintiff may have fallen on her own, whether she may have fallen after Officer Mancias tried to pull her back, or whether she fell due to Officer Mancias pushing her, as she alleges. ECF No. 11 at 4; *see also* BWC at 22:20:00-22:20:03. Among these possible interpretations of the video, the Court must adopt the latter version, as that is the version of the facts Plaintiff alleges to be true. Further compelling the conclusion—at this stage—that Officer Mancias pushed Plaintiff is her allegation that her friend Santos witnessed him do so. ECF No. 11 at 5. Therefore, for purposes of this order, the Court assumes that Officer Mancias pushed Plaintiff to the ground to stop her flight.

Thus, it is Plaintiff's burden to advance clearly established precedent that would have made a reasonable officer consider it "beyond debate" that pushing her to the ground to prevent her escape was unreasonable and excessive. *See Mullenix*, 577 U.S. at 13-14 ("The relevant inquiry is whether existing precedent placed the conclusion that [the officer] acted unreasonably in these circumstances 'beyond debate.'" (quoting *al-Kidd*, 563 U.S. at 741)). Binding law sets a high bar in this area: "Because the plaintiff must point to a case almost squarely on point, qualified immunity will protect 'all but the plainly incompetent or those who knowingly violate the law.'" *Harmon v. City of Arlington*, 16 F.4th 1159, 1167 (5th Cir. 2021) (quoting *Malley v. Briggs*, 475 U.S. 335, 341, 106 S. Ct. 1092, 89 L. Ed. 2d 271 (1986)). Plaintiff's problem is that she has advanced no such case. Indeed, her complaint cites no legal precedent whatsoever in her claim against Officer Mancias. *See* ECF No. 11 at 5-6.

In her response to Defendant Mancias' motion to dismiss, Plaintiff argues that *Tennessee v. Garner*, 471 U.S. 1, 105 S. Ct. 1694, 85 L. Ed. 2d 1 (1985), clearly established her right to be free from Officer Mancias' use of force in this case. ECF No. 15 at 6. Plaintiff proposes that *Garner* clearly established that: "(1) apprehension by use of deadly force is a seizure subject to the Fourth Amendment's reasonableness requirement; and (2) deadly force may not be used unless it is necessary to prevent the escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others." ECF No. 15 at 6.

But the Supreme Court and the Fifth Circuit have both rejected similar attempts to employ *Garner* at "a high level of generality." *See Brosseau v. Haugen*, 543 U.S. 194, 199, 125 S. Ct. 596, 160 L. Ed. 2d 583 (2004); *see also Goldston v. Anderson*, 775 F. App'x 772, 773 (5th Cir. 2019) (plaintiffs must go beyond "*Garner*'s general standard" and demonstrate that the use of force "was clearly unreasonable under the Fourth Amendment in the specific situation the officer confronted"). It is error for a court to conduct the qualified immunity inquiry based upon generalities rather than "the specific context of the case." *See Mullenix*, 577 U.S. at 16 (quoting *Brosseau*, 543 U.S. at 198). Where an officer's actions fall into the "hazy border between excessive and acceptable force," the officer remains protected by the shield of qualified immunity. *See id.* at 18 (quoting *Brosseau*, 543 U.S. at 201).

Therefore, rather than relying upon general propositions, the Court must assess whether *Garner*'s specific factual context would have put Officer Mancias on notice that he could not push Plaintiff to prevent her fleeing the scene. In *Garner*, a police officer shot a fleeing, unarmed teenager in the back of the head as he attempted to climb over a fence in the backyard of a house he had burglarized. *See Garner*, 471 U.S. at 3-4.

Plaintiff's case is readily distinguishable from *Garner*. Most obviously, Officer Mancias did not shoot Plaintiff, unlike the fleeing suspect in *Garner*. Further, while the *Garner* suspect was fleeing the scene of a burglary, Plaintiff was not fleeing the scene of an active crime, but instead had been arrested on an outstanding warrant.

These factual differences are enough to rule out the argument that *Garner* clearly established the alleged constitutional violation in this case. *See Harmon*, 16 F.4th at 1167 ("At most, *Garner* prohibits using deadly force against an unarmed burglary suspect fleeing on foot who poses no immediate threat.").

Plaintiff also avers that the situation in this case "is analogous to one where a police officer TASERS a running suspect, causing them to fall uncontrollably, which has also been deemed to be excessive force." ECF No. 15 at 7 n.1. Plaintiff failed to cite a case for this argument, although Defendant Mancias shoulders some of Plaintiff's burden and suggests that Plaintiff may have been referring to *Peña v. City of Rio Grande (Peña II)*, 816 F. App'x 966 (5th Cir. 2020) (per curiam). ECF No. 17 at 8. However, as Defendant correctly observes, any reliance upon *Peña* would be in vain, because it is an unpublished decision which cannot clearly establish law. *Woods v. Harris Cnty.*, No. 22-20482, 2024 U.S. App. LEXIS 6684, 2024 WL 1174185, at *3 (5th Cir. Mar. 19, 2024) ("This court's unpublished opinions do not clearly establish a constitutional right." (citations omitted)). Further, as Defendant points out, unlike Plaintiff Sealey, the *Peña* plaintiff "was not committing a crime at the time force was used, was not under arrest, and—under the facts most favorable to her—the officers lacked probable cause to arrest her." ECF No. 17 at 8 (citing *Peña II*, 816 F. App'x at 972-73). Added to these distinctions is the fact that no taser was used in this case, unlike in *Peña*. Thus, even if it could clearly establish law, *Peña* would come nowhere near doing so for the facts of this case.

Plaintiff has not proffered any other cases which would clearly establish a constitutional violation here. Therefore, Plaintiff has failed to carry her burden to rebut Officer Mancias' qualified immunity defense. *See Guerra*, 82 F.4th at 285. "Because Plaintiff fails to overcome qualified immunity on the 'clearly established' prong, the Court need not address the first prong of qualified immunity concerning whether Defendant [Mancias'] conduct was objectively unreasonable." *Goodale*, 2024 U.S. Dist. LEXIS 128821, 2024 WL 4034187, at *6 (citing *Henderson v. City of Dallas*, NO. 3:16-CV-3317-S, 2018 U.S. Dist. LEXIS 154145, 2018 WL 4326936, at *3 (N.D. Tex. Sept. 10, 2018)). Consequently, the Court **GRANTS** Officer Mancias' motion to dismiss Plaintiff's amended complaint (ECF No. 11).

B. *Monell* Liability

The Supreme Court made clear long ago that a local governmental entity can only be held liable under § 1983 for constitutional harms that are directly attributable to the governmental entity itself. *Monell v. Dep't of Soc. Servs. of New York*, 436 U.S. 658, 691, 98 S. Ct. 2018, 56 L. Ed. 2d 611 (1978) ("Congress did not intend municipalities to be held liable unless action pursuant to official municipal policy of some nature caused a constitutional tort."). Accordingly, a plaintiff suing a municipality under § 1983 must show that "the municipality has a policy or custom that caused plaintiff's injury." *Crull v. City of New Braunfels*, 267 F. App'x 338, 342 (5th Cir. 2008) (first citing *Monell*, 436 U.S. at 689; and then citing *Bennett v. City of Slidell*, 735 F.2d 861, 862 (5th Cir. 1984) (per

curiam)). "The plaintiff must identify the specific policy or custom, and show that the final policy maker, through its 'deliberate conduct,' was the 'moving force' behind the violation." *Id.* at 342 (citing *Bd. of Cnty. Comm'rs v. Brown*, 520 U.S. 397, 405, 117 S. Ct. 1382, 137 L. Ed. 2d 626 (1997)). "The description of a policy or custom and its relationship to the underlying constitutional violation . . . cannot be conclusory; it must contain specific facts." *Spiller v. City of Texas City*, 130 F.3d 162, 167 (5th Cir. 1997) (citing *Fraire v. City of Arlington*, 957 F.2d 1268, 1278 (5th Cir. 1992)).

Acts of individual municipal employees do not create liability under § 1983 unless a policymaker has adopted a policy or custom that resulted in a constitutional violation. *See Pineda v. City of Houston*, 291 F.3d 325, 328 (5th Cir. 2002). A plaintiff can show a policy arising from written policy statements, ordinances, or regulations. *Piotrowski v. City of Houston*, 237 F.3d 567, 579 (5th Cir. 2001). Because it is very unlikely that a plaintiff will document proof of unconstitutional policy or disposition, however, the policy or custom may be inferred circumstantially from conduct. *Grandstaff v. City of Borger*, 767 F.2d 161, 171 (5th Cir. 1985). Thus, a plaintiff can show a policy by a custom; that is, "a persistent, widespread practice of City officials or employees, which, although not authorized by officially adopted and promulgated policy, is so common and well-settled as to constitute a custom that fairly represents municipal policy." *Piotrowski*, 237 F.3d at 579 (quoting *Webster v. City of Houston*, 735 F.2d 838, 841 (5th Cir. 1984)). Finally, "a single decision may constitute municipal policy in 'rare circumstances' when the official

or entity possessing 'final policymaking authority' for an action 'performs the specific act that forms the basis of the § 1983 claim.'" *Webb v. Town of Saint Joseph*, 925 F.3d 209, 215 (5th Cir. 2019) (citing *Davidson v. City of Stafford*, 848 F.3d 384, 395 (5th Cir. 2017)).

Here, although Plaintiff apparently concedes that the City of San Antonio does not have an officially adopted policy "of overlooking constitutional torts," she alleges that the City has a practice to that effect which is "so common and well-settled that it fairly represents official policy." ECF No. 11 at 7. However, her allegations consist almost entirely of legal conclusions. The only fact she alleges in her complaint related to her municipal liability claim is that the City "deliberately allowed Defendant Mancias to remain on the force despite clear indication that he was incompetent and unfit to be a police officer." ECF No. 11 at 7. Nevertheless, on this threadbare scaffolding, she mounts the following claims of the City's alleged violations:

(A) Using excessive force to carry out otherwise routine arrests or stops;

(B) Using excessive force when such force is not necessary or permitted by law;

(C) Ignoring the serious need for adequate training and supervision of its officers in regards to the use of force;

(D) Failing to adequately supervise and/or observe its officers; and,

(E) Failing to adequately train officers regarding the availability of alternative means of detaining persons other than the use of force or deadly force; and

(F) Deliberately acting indifferent to the safety and the constitutional rights of the public in adopting these training and supervision policies and customs.

ECF No. 11 at 7-8.

In her response to the City's motion to dismiss, Plaintiff distills these various complaints into two discernible legal claims: (1) a claim that the City ratified Officer Mancias' alleged unconstitutional conduct; and (2) a claim that the City unconstitutionally failed to train and supervise its officers. *See* ECF No. 16 at 2-7. The Court addresses each claim in turn.

(1) Ratification

"A municipality may be held liable for ratifying officers' unconstitutional conduct only in 'extreme factual situations.'" *Estevis v. City of Laredo*, No. 5:22-CV-22, 2024 U.S. Dist. LEXIS 54701, 2024 WL 1313900, at *16 (S.D. Tex. Mar. 27, 2024) (citing *Davidson*, 848 at 395). "Importantly, a policymaker is not necessarily liable for defending conduct later found to be unlawful." *Id.* (citing *Peterson v. City of Fort Worth*, 588 F.3d 838, 848 (5th Cir. 2009)).

Appendix B

In her complaint, Plaintiff's sole factual allegation against the City is that it allowed Officer Mancias to remain on the police force after the disputed incident. ECF No. 11 at 7. In her response to the motion to dismiss, Plaintiff asserts that "other officers" on the scene failed to intervene or to report the alleged use of excessive force, and the City failed to discipline them or Officer Mancias in any way.[2] ECF No. 16 at 2, 4. Citing *Grandstaff*, Plaintiff argues that "[a]n incident involving the actions and inactions as alleged against [the City's] officers in Plaintiff's First Amended Complaint is indicative of the sort of reckless and unconstitutional behavior that should give policymakers . . . reason to intercede after learning of such bad acts and actors." ECF No. 16 at 4 (citing 767 F.2d at 171). Plaintiff notes that, when considering a ratification claim, "[t]he court may also consider how many officers and actors were involved." ECF No. 16 at 3 (citing *Fuentes v. Nueces County*, 689 F. App'x 775, 779-80 (5th Cir. 2017)).

However, this case does not involve the sort of "extreme factual situation" that existed in *Grandstaff*. In *Grandstaff*, the entire night shift of the City of Borger's police force converged on the ranch of an innocent third party while in pursuit of a fleeing suspect. *See* 767 F.2d at 165, 171. The foreman in charge of the northern section of the ranch awoke to the sound of the chase and a police bullet that struck the ranch house. *Id.* at 165. As he drove his pickup truck across the property to assist the

2. As discussed, *supra*, the video evidence only shows one other officer on scene and the Court does not credit Plaintiff's assertion that two other officers were present. ECF Nos. 11 at 2; 15 at 4.

officers, the officers opened fire on him from two sides, which the Fifth Circuit described as a "wild barrage"; he died before he could be transported to a hospital. *Id.* at 165, 171. The Fifth Circuit noted that the City took no disciplinary action after "this incompetent and catastrophic performance," and "concerned [itself] only with unworthy, if not despicable, means to avoid legal liability." *Id.* at 166, 171. Thus, the court reasoned, "the jury was entitled to conclude that it was accepted as the way things are done and have been done in the City of Borger." *Id.* at 171.

"The *Grandstaff* panel emphasized the extraordinary facts of the case, and its analysis can be applied only to equally extreme factual situations." *Coon v. Ledbetter*, 780 F.2d 1158, 1161 (5th Cir. 1986). The facts of the instant case are not sufficiently extreme to find ratification. That much is clear from the Fifth Circuit's holding in *Snyder v. Trepagnier*, 142 F.3d 791 (5th Cir. 1998). In *Snyder*, the court found no ratification liability where a police officer shot the fleeing plaintiff in the back following a high-speed chase. *Id.* at 794, 798. Officer Mancias pushing Plaintiff in the back would represent a less extreme scenario than the facts of *Snyder*; therefore, Plaintiff's ratification theory never finds its footing.

Moreover, Plaintiff failed to allege that the City of San Antonio *approved* of Officer Mancias' conduct, as required for ratification liability to attach. *See Allen v. Hays*, 65 F.4th 736, 749 n.10 (5th Cir. 2023) (citing *City of St. Louis v. Praprotnik*, 485 U.S. 112, 127, 108 S. Ct. 915, 99 L. Ed. 2d 107 (1988) (plurality op.)) (ratification

liability requires a showing that authorized policymakers approved a subordinate's decision and the basis for it). Plaintiff alleged that the City "overlook[ed] constitutional torts" and "deliberately allowed Defendant Mancias to remain on the force despite clear indication that he was incompetent and unfit to be a police officer." ECF No. 11 at 7. "But ratification requires the approval of a policy maker, not their mere acquiescence, and [Plaintiff] has failed to allege any facts even suggesting that any authorized policymaker approved of [the officer's] actions." *Benfer v. City of Baytown*, No. 23-20543, 120 F.4th 1272, 2024 U.S. App. LEXIS 27907, 2024 WL 4645878, at *9 (5th Cir. Nov. 1, 2024) (rejecting ratification claim premised only upon a failure to discipline or retrain an officer after alleged misconduct).

Further, Plaintiff's argument that the Court may consider "how many officers and actors were involved" is puzzling here, where only one officer was involved in the alleged use of excessive force, and only one other officer was present on scene. *See* ECF No. 16 at 3 (citing *Fuentes*, 689 F. App'x at 779-80). *Fuentes* itself distinguished *Grandstaff* on the basis that, "[u]nlike *Grandstaff*, this case does not involve the collective conduct of many individuals and multiple bad acts but rather the failure of one individual . . . ." *Id.* at 779. The same reasoning applies here. Plaintiff's references to several other cases are equally bewildering, as the cited cases did not find ratification liability. ECF No. 16 at 3 (first citing *Milam v. City of San Antonio*, 113 F. App'x 622 (5th Cir. 2004); then citing *Barkley v. Dillard Dep't Stores, Inc.*, 277 F. App'x 406, 413 (5th Cir. 2008); and then citing *Davis v.*

Montgomery Cnty., No. H:07-505, 2009 U.S. Dist. LEXIS 36616, 2009 WL 1226904 (S.D. Tex. 2009)).

Grandstaff "has not enjoyed wide application" in the Fifth Circuit. *Barkley*, 277 F. App'x at 413. *Grandstaff*'s ratification theory cannot be extended to the facts here and Plaintiff's claim to the contrary must be rejected.

(2) Failure to Train and Supervise

A municipality's decision not to train or supervise its employees about their legal duty to avoid violating citizens' rights may rise to the level of an official policy for purposes of § 1983. *City of Canton v. Harri*s, 489 U.S. 378, 387, 109 S. Ct. 1197, 103 L. Ed. 2d 412 (1989). To succeed on a claim that a municipality failed to train or supervise its officers, a plaintiff must demonstrate: "(1) the city failed to train or supervise the officers involved; (2) there is a causal connection between the alleged failure to supervise or train and the alleged violation of the plaintiff's rights; and (3) the failure to train or supervise constituted deliberate indifference to the plaintiff's constitutional rights." *Benfer*, 2024 U.S. App. LEXIS 27907, 2024 WL 4645878, at *8 (quoting *Edwards v. City of Balch Springs*, 70 F.4th 302, 312 (5th Cir. 2023)). "In order for liability to attach based on an inadequate training claim, a plaintiff must allege with specificity how a particular training program is defective." *Zarnow v. City of Wichita Falls*, 614 F.3d 161, 170 (5th Cir. 2010) (internal quotation marks and citation omitted). "Deliberate indifference is a high standard that requires a complete disregard of the risk that a violation of a particular constitutional right would

follow the decision." *Edwards*, 70 F.4th at 312 (internal quotation marks omitted) (citing *Liggins v. Duncanville*, 52 F.4th 953, 955 (5th Cir. 2022)).

"Deliberate indifference is more than mere negligence." *See Sanders-Burns v. City of Plano*, 594 F.3d 366, 381 (5th Cir. 2010) (quoting *Conner v. Travis County*, 209 F.3d 794, 796 (5th Cir. 2000)). It is "a stringent standard of fault, requiring proof that a municipal actor disregarded a known or obvious consequence of his action." *Connick v. Thompson*, 563 U.S. 51, 61, 131 S. Ct. 1350, 179 L. Ed. 2d 417 (2011) (quoting *Bd. of Cnty. Comm'rs*, 520 U.S. at 410). When a municipality's policymakers are on actual or constructive notice that a particular omission in their training program causes municipal employees to violate citizens' constitutional rights, the municipality may be deemed deliberately indifferent if the policymakers choose to retain that program. *Id.* (citing *Bd. of Cnty. Comm'rs*, 520 U.S. at 407).

Deliberate indifference may be proved either by (i) demonstrating a pattern of constitutional violations that would make it plainly obvious to a policymaker that further training was necessary, or (ii) through a single incident "if a plaintiff can prove that the highly predictable consequence of a failure to train would result in the specific injury suffered." *Cantu v. Austin Police Dep't*, No. 1:21-CV-00084-LY-SH, 2021 U.S. Dist. LEXIS 228536, 2021 WL 5599648, at *5 (W.D. Tex. Nov. 30, 2021) (first citing *Littell v. Hous. Indep. Sch. Dist.*, 894 F.3d 616, 624 (5th Cir. 2018); and then citing *Sanders-Burns*, 594 F.3d at 381), *report and recommendation adopted*, No.

1:21-CV-84-LY, 2022 U.S. Dist. LEXIS 32206, 2022 WL 501719 (W.D. Tex. Jan. 24, 2022). "Because the standard for municipal fault is a stringent one, a pattern of similar constitutional violations by untrained employees is ordinarily required to show deliberate indifference." *Peña v. City of Rio Grande (Peña I)*, 879 F.3d 613, 623 (5th Cir. 2018) (cleaned up) (citing *Connick*, 563 U.S. at 62).

Plaintiff's claim falls short because she does not allege any facts "about what training [the City] provided or failed to provide." *Speck v. Wiginton*, 606 F. App'x 733, 736 (5th Cir. 2015). Contrary to Plaintiff's grievance that the City is inappropriately asking for "more" than can be expected at the motion to dismiss stage, "[t]o survive a motion to dismiss, Plaintiff[ ] must plead facts showing that the City . . . was deliberately indifferent in adopting inadequate training procedures and allege with specificity how a particular training program is deficient." *Cantu*, 2021 U.S. Dist. LEXIS 228536, 2021 WL 5599648, at *6 (citing *Zarnow*, 614 F.3d at 170); *see also Soto v. Monge*, No. EP-23-CV-256-KC, 2024 U.S. Dist. LEXIS 97333, 2024 WL 2794062, at *10 (W.D. Tex. May 31, 2024) (quoting *Reyes v. Greer*, 686 F. Supp. 3d 524, 544 (W.D. Tex. 2023)) ("[A] failure-to-train claim requires allegations of specific problems 'in a particular training program.'").

But Plaintiff's complaint goes no further than making conclusory allegations that the City inadequately trained its officers regarding the use of force. *See* ECF No. 11 at 7-8. There are no specific factual allegations regarding deficiencies of the City's training program. It is thus clear that Plaintiff "has merely styled [her] complaint about the

specific injury suffered as a failure to train claim." *Benfer*, 2024 U.S. App. LEXIS 27907, 2024 WL 4645878, at *9 (cleaned up) (citing *Roberts v. City of Shreveport*, 397 F.3d 287, 293 (5th Cir. 2005)). That will not suffice. *See Soto*, 2024 U.S. Dist. LEXIS 97333, 2024 WL 2794062, at *10 (citation omitted) (dismissing failure to train claim where Plaintiff failed to plead "specific issues with the existing training programs and a pattern of similar violations").

Additionally, because Plaintiff has not alleged any other incidents that could have formed a pattern putting the City on notice of the inadequacy of its training program, Plaintiff apparently rests her failure to train and supervise claim upon a single incident theory of liability. *See* ECF No. 16 at 6 (addressing single incident theory). The single incident exception is "narrow" and an "exacting test." *Peña I*, 879 F.3d at 624; *see also Liggins*, 52 F.4th at 955 ("The single decision exception is extremely narrow and only applies in rare circumstances." (cleaned up, citation omitted)). "That a particular officer may be unsatisfactorily trained will not alone suffice to fasten liability on the city, for the officer's shortcomings may have resulted from factors other than a faulty training program." *City of Canton*, 489 U.S. at 390-91 (citations omitted).

Again, Plaintiff's allegations are too conclusory to state a single incident claim. *See Reyes*, 686 F. Supp. 3d at 544 (cleaned up) ("A plaintiff cannot state a failure-to-train claim by making a conclusory allegation that it is apparent from the facts of the case that excessive force training was insufficient." (citing *Speck*, 606 F. App'x at 736)). The

Fifth Circuit has generally reserved the single incident exception "for those cases in which the government actor was provided no training whatsoever." *Peña I*, 879 F.3d at 624. Plaintiff has not alleged that the City provided no training at all to Officer Mancias, and thus her single incident claim fails. *See Hutcheson v. Dallas County*, 994 F.3d 477, 483 (5th Cir. 2021) ("The plaintiffs do not allege that the county provided no training, so they cannot show that the county was deliberately indifferent. The district court properly dismissed the failure-to-train claim.").

Plaintiff has failed to state a claim for relief against the City of San Antonio. Accordingly, the Court **GRANTS** Defendant City's motion to dismiss her claims against it (ECF No. 13).

C. Leave to Amend

In her response to Defendants' motions to dismiss, Plaintiff requested leave to amend her complaint if the motions were granted. *See* ECF Nos. 15 at 8; 16 at 7. "The district court properly exercises its discretion . . . when it denies leave to amend for a substantial reason, such as undue delay, repeated failures to cure deficiencies, undue prejudice, or futility." *United States ex rel. Spicer v. Westbrook*, 751 F.3d 354, 367 (5th Cir. 2014) (citation omitted). Further, a "bare bones request to amend pleadings remains futile when it fails to apprise the district court of the facts that the plaintiff would plead in an amended complaint." *Porretto v. Galveston Park Bd. of Trs.*, 113 F.4th 469, 491 (5th Cir. 2024) (cleaned up, citation omitted). Plaintiff's request for leave to amend is

threadbare and does not detail the nature of her proposed amendment. Therefore, granting Plaintiff leave to amend would be futile, and the Court declines to do so. *See San Miguel v. Jack*, No. A-23-CV-697-RP, 2023 U.S. Dist. LEXIS 232283, 2023 WL 9062913, at *1 (W.D. Tex. Nov. 16, 2023) (denying leave to amend where plaintiff failed "to set forth with any particularity the grounds for his amended complaint"), *appeal docketed* , No. 23-50929, 2023 WL 9062913 (5th Cir. Dec. 23, 2023); *see also United States ex rel. Doe v. Dow Chem. Co.*, 343 F.3d 325, 331 (5th Cir. 2003) ("[A] bare request in an opposition to a motion to dismiss—without any indication of the particular grounds on which the amendment is sought. . . does not constitute a motion within the contemplation of Rule 15(a)." (internal quotation marks and citation omitted)).

CONCLUSION

For the foregoing reasons, the Court hereby **GRANTS** Defendant Arturo Mancias' motion to dismiss (ECF No. 12) and Defendant City of San Antonio's motion to dismiss (ECF No. 13). Additionally, Defendant San Antonio Police Department is **DISMISSED** from this action.

IT IS THEREFORE ORDERED that Plaintiff Samantha Lee-Ann Sealey's claims against Defendants Arturo Mancias and the City of San Antonio are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that Plaintiff shall take nothing in this case against Defendants. A final judgment pursuant to Rule 58 will follow.

It is so **ORDERED**.

SIGNED this 15th day of November, 2024.

/s/ Xavier Rodriguez
XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE

APPENDIX C — DENIAL OF REHEARING OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, FILED SEPTEMBER 18, 2025

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 24-50998

SAMANTHA LEE-ANN SEALEY,

Plaintiff-Appellant,

versus

ARTURO MANCIAS; CITY OF SAN ANTONIO,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:24-CV-399

ON PETITION FOR REHEARING

Before DAVIS, GRAVES, and WILSON, *Circuit Judges*.

PER CURIAM:

IT IS ORDERED that the petition for rehearing is DENIED.