

No. 25A\_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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MIAMI TOWNSHIP BOARD OF TRUSTEES,  
*Applicant,*

v.

ROGER DEAN GILLISPIE AND MATTHEW SCOTT MOORE,  
*Respondents.*

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**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH  
TO FILE PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT**

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*Miami Township Board of Trustees*

September 9, 2025

## **PARTIES TO THE PROCEEDINGS**

Applicant Miami Township Board of Trustees was the intervenor in the district court proceedings and the intervenor-appellant in the court of appeals proceedings. The Amended Complaint (Dist. Ct. Dkt. #18 (Jan. 27, 2014)) had listed the City of Miami Township as a defendant; those claims subsequently were dismissed by the district court (Dist. Ct. Dkt. #298 (Sept. 21, 2020)). Two years later, following intervening developments that implicated the interests of the Township, the Township filed a motion to intervene, which the district court granted (Dist. Ct. Dkt. #392 (Oct. 11, 2022)).

Respondent Roger Dean Gillispie was the plaintiff in the district court proceedings and an appellee / cross-appellant in the court of appeals proceedings.

Respondent Matthew Scott Moore was a defendant in the district court proceedings and an appellee / cross-appellant in the court of appeals proceedings.

Robert Miller was a defendant in the district court proceedings and is listed as an appellee on the Sixth Circuit dockets for Nos. 23-3999 and 23-4001 (although not for No. 23-4000), but he did not participate in the court of appeals proceedings. The magistrate judge had recommended that plaintiff's claims against Robert Miller be dismissed (Dist. Ct. Dkt. #191 (May 1, 2019)), and the district court judge adopted that recommendation (Dist. Ct. Dkt. #217 (July 1, 2019)).

Plaintiff's Amended Complaint listed several other individuals and entities as defendants – Tim Wilson, Thomas Angel, Marvin Scothorn, John DiPietro, Stephen Gray, and other unidentified members of the Miami Township Police

Department; Montgomery County, Ohio; Kenneth M. Betz, Denise Rankin, Ralph Nickoson, and other unidentified employees of the Miami Valley Regional Crime Lab; Motors Liquidation Company f/k/a General Motors Corporation; General Motors, LLC f/k/a General Motors Company and NGMCO, Inc.; and Rick Wolfe, Keith Stapleton, David Burke, Robert Burke, and other unidentified persons – but the claims against these defendants were dismissed at various stages of the district court proceedings, leaving Matthew Scott Moore as the only remaining defendant.

## RELATED CASES

### Decisions Under Review

*Gillispie v. Miami Township, Ohio, et al.* (6th Cir. June 23, 2025) (Nos. 23-3999, 23-4000, 23-4001) (denying rehearing)

*Gillispie v. Miami Township, Ohio, et al.*, 2025 WL 1276900 (6th Cir. May 2, 2025) (Nos. 23-3999, 23-4000, 23-4001) (affirming district court)

*Gillispie v. City of Miami Township, et al.*, 2024 WL 1895434 (S.D. Ohio Apr. 30, 2024) (No. 3:13-cv-416) (denying motion to enforce and granting motion for stay)

*Gillispie v. City of Miami Township, et al.*, 2024 WL 897592 (S.D. Ohio Mar. 1, 2024) (No. 3:13-cv-416) (denying motion to enforce and granting motion for stay)

*Gillispie v. City of Miami Township, et al.*, 2023 WL 11922094 (S.D. Ohio Nov. 8, 2023) (No. 3:13-cv-416) (order regarding declaratory judgment)

*Gillispie v. City of Miami Township, et al.*, 2023 WL 4868486 (S.D. Ohio July 31, 2023) (No. 3:13-cv-416) (denying motions for judgment as a matter of law, for a new trial, and to alter or amend judgment)

### Other, Related Decisions

*Gillispie v. Miami Township, et al.*, 2019 WL 1929727 (S.D. Ohio May 1, 2019) (No. 3:13-cv-416) (report and recommendation regarding disclosure of grand jury testimony)

*Gillispie v. Miami Township, et al.*, 2019 WL 2603571 (S.D. Ohio June 25, 2019) (No. 3:13-cv-416) (adopting report and recommendation regarding disclosure of grand jury testimony)

*Gillispie v. City of Miami Township, et al.*, 2020 WL 5629677 (S.D. Ohio Sept. 21, 2020) (No. 3:13-cv-416) (order in connection with motions for summary judgment)

*Gillispie v. Miami Township, Ohio, et al.* 18 F.4th 909 (6th Cir. Nov. 30, 2021) (No. 20-4119) (dismissing appeal of summary judgment order)

*Gillispie v. City of Miami Township, et al.*, 2022 WL 1307019 (S.D. Ohio May 2, 2022) (No. 3:13-cv-416) (order granting limited discovery and denying motion to reconsider order denying motion for summary judgment)

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To the Honorable Brett M. Kavanaugh, Associate Justice of the United States Supreme Court and Circuit Justice for the Sixth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30.3 of the Rules of this Court, applicant Miami Township Board of Trustees respectfully requests a 60-day extension of time, up to and including November 20, 2025, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Sixth Circuit.

The court of appeals entered its judgment and issued an opinion on May 2, 2025, and denied rehearing on June 23, 2025. The court of appeals' opinion is not reported but is available at 2025 WL 1276900 and attached hereto as Exhibit A; the order denying rehearing is attached hereto as Exhibit B. Relevant orders of the district court are not reported but are available at 2023 WL 11922094 and 2023 WL 4868486 and attached hereto as Exhibits C and D, respectively. The petition would be due on September 21, 2025 (a Sunday), and this application is made at least 10 days before that date. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

1. This case presents important questions regarding the interaction of 42 U.S.C. § 1983 and state indemnification laws. Procedurally, this case presents the unsettled question of when and how a local government entity (e.g., a township or municipality) may raise a constitutional challenge in federal court to a state law

requiring the local entity to indemnify a § 1983 judgment against a government employee. After the jury found for the plaintiff and awarded \$45 million in compensatory damages, the Township moved to challenge application of Ohio Revised Code § 2744.07(B) on federal constitutional grounds. The Township provided proper notice of its constitutional challenge – not previously ripe – to the Ohio Attorney General under Federal Rule of Civil Procedure 5.1(a), and the defendant responded to the challenge during briefing. Nonetheless, both the district court and the Sixth Circuit concluded (incorrectly) that the challenge had come too late, while also noting that the proper procedure for raising such a challenge “has not been fully fleshed out by this Circuit or our sister circuits” and that Rule 5.1 allows for constitutional challenges in “‘a pleading, written motion, or other paper.’” *Gillispie v. Miami Twp., Ohio*, 2025 WL 1276900, at \*17 (6th Cir. May 2, 2025) (quoting Fed. R. Civ. P. 5.1(a)). This unsettled procedural question is of utmost importance for small local governments with limited budgets such as Miami Township.

Substantively, this case presents the question whether § 2744.07(B) – which requires Miami Township to indemnify the detective – violates the Supremacy Clause of the United States Constitution because it creates de facto *respondeat superior* liability forbidden by § 1983. See *Monell v. Department of Soc. Servs.*, 436 U.S. 658, 691 (1978) (“[A] municipality cannot be held liable under § 1983 on a *respondeat superior* theory.”); *Crosby v. National Foreign Trade Council*, 530 U.S. 363, 372 & n.6 (2000) (“[S]tate law is naturally preempted to the extent of any conflict with a federal statute.”). Indeed, lower federal courts have recognized that

§ 1983 does not incorporate state-law rights to indemnification for this very reason. *See Hoa v. Riley*, 78 F. Supp. 3d 1138, 1153 (N.D. Cal. 2015) (listing cases). Such indemnification has no basis in the text of § 1983 and “conflict[s] with Section 1983’s goal of deterrence.” *Id.* at 1154. That the same is true for state indemnification statutes like Ohio’s § 2744.07(B) finds support in this Court’s decisions. *See Moor v. County of Alameda*, 411 U.S. 693, 700, 709-10 (1973) (§ 1983 does not incorporate California law of vicarious liability for municipalities). The Sixth Circuit’s decision below conflicts with these federal decisions in a manner only this Court can resolve.

2. The 60-day extension to file a certiorari petition is necessary because undersigned counsel only recently has been retained in this case and needs the additional time to review the record and prepare the petition and appendix in light of other, previously engaged matters in this and other courts, including: (1) a reply brief in this Court in *Batson v. Florida Department of Corrections*, No. 24-7200 (due Sept. 17, 2025); (2) an opening merits brief in the Third Circuit in *In re: Samsung Electronics America Inc.*, No. 25-1895 (due Oct. 8, 2025); (3) a reply brief in this Court in *Orta v. United States*, No. 25-81 (due Oct. 8, 2025); (4) a reply brief in this Court in *Gesture Technology Partners, LLC v. Apple Inc., et al.*, No. 24-1280 (due Oct. 15, 2025); (5) a reply brief in this Court in *Gesture Technology Partners, LLC v. Unified Patents, LLC, et al.*, No. 24-1281 (due Oct. 15, 2025); (6) a certiorari petition in this Court in *Shelby County, et al. v. Couser, et al.* (due Oct. 26, 2025); and (7) a merits reply brief in this Court in *Rutherford v. United States*, No. 24-820 (due Oct. 27, 2025).

For all these reasons, there is good cause for a 60-day extension of time, up to and including November 20, 2025, within which to file a certiorari petition in this case to review the judgment of the United States Court of Appeals for the Sixth Circuit.

Respectfully submitted,



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