

APP No. 25A696

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

SAMANTHA LEE-ANN SEALEY,
Applicant,

v.

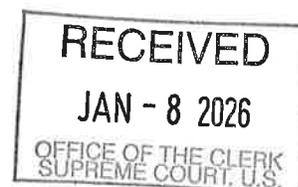
ARTURO MANCIAS; CITY OF SAN ANTONIO,
Respondents.

**On Second Application for an Extension of Time to File Petition for a Writ
of Certiorari to the United States Court of Appeals for the Fifth Circuit**

Alfonso Bafidis
Counsel of Record
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Counsel for Applicant

January 6, 2026



To the Honorable Samuel Alito, as Circuit Justice for the United States Court of Appeals for the Fifth Circuit:

1. Applicant, Samantha Lee-Ann Sealey, pursuant to Rule 13.5, 22, 30.3 of the Rules of the Supreme Court of the United States, respectfully seeks an additional thirty (30) day extension of time within which to file her petition for a writ of certiorari. Jurisdiction is invoked under 28 U.S.C. § 1254(1). This application is submitted more than ten (10) days prior to the current certiorari deadline. The pertinent dates are as follows:

Background

2. This case presents an important question on the application of the qualified immunity doctrine: Whether an official who exceeds the scope of authority granted under state law at the time of the alleged constitutional violation can assert qualified immunity.

- a. **On November 15, 2024:** The United States District Court for the Western District of Texas entered Final Judgment dismissing Petitioner's claims.¹

¹ Exhibit A- United States District Court for the Western District of Texas- Final Judgment

- b. **August 19, 2025:** The United States Court of Appeals for the Fifth Circuit issued its opinion affirming the district court’s dismissal in *Sealey v. Mancias*, No. 24-50998.²
- c. **September 18, 2025:** The Fifth Circuit denied Petitioner’s timely petition for rehearing. Under Supreme Court Rule 13.3 this denial begins with the 90-day certiorari clock.³
- d. **December 17, 2025:** Was the original Deadline for filing a petition for writ of certiorari.
- e. **December 15, 2025:** Applicant filed their original Application for Extension of Time to File Petition for Writ of Certiorari Pursuant to Rule 13.5.
- f. **December 16, 2025:** Applicant’s Application was granted was granted by Justice Alito extending time to file until January 16, 2026.

Reasons For Granting an Extension of Time

- 3. On January 6, 2026, Applicant retained counsel to assist in filing a petition for certiorari:

Brandon Beck
brandon@gearybeck.com
Elizabeth Geary
elizabeth@gearybeck.com
GEARYBECK, LLP

² Exhibit B- United States Court of Appeals for the Fifth Circuit – Unpublished Opinion

³ Exhibit C- Order Denying Appellants Petition for Rehearing

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This new counsel was not previously involved in litigating this case, and they require additional time to familiarize themselves with trial and appellate records and to prepare the petition.

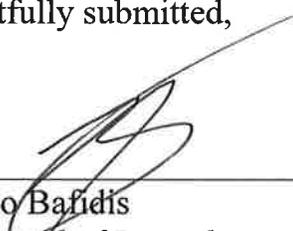
4. There are also the press of business on numerous other matters. Applicant's attorney is a solo practitioner.

Conclusion

5. Applicant request that the time to file a writ of certiorari in the above captioned matter be extended 30 days to and including February 15, 2026.

Dated this 6th day of January, 2026.

Respectfully submitted,



Alfonso Bafidis

Counsel of Record

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EXHIBIT B

**United States Court of Appeals
for the Fifth Circuit**

No. 24-50998
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 19, 2025

Lyle W. Cayce
Clerk

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 and Sealey fell face-first onto the pavement, her hands still cuffed behind her back. Sealey says that

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

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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-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

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 (1978) (establishing the criteria for municipal liability under § 1983).

³ *Ashcroft v. al-Kidd*, 563 U.S. 731, 735 (2011) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)).

⁴ *Id.* (citing *Pearson v. Callahan*, 555 U.S. 223, 236 (2009)).

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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 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

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)).

⁷ *Graham v. Connor*, 490 U.S. 386, 396–97 (1989).

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

⁹ *Illinois v. Lafayette*, 462 U.S. 640, 647 (1983).

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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 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 (1985). “At most, *Garner* prohibits using deadly force against an unarmed burglary suspect fleeing on foot who poses no immediate threat.”¹⁴ And *Garner* did

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 (2018) (per curiam); and then quoting *City of Tahlequah v. Bond*, 595 U.S. 9, 13 (2021) (per curiam)).

¹³ *District of Columbia v. Wesby*, 583 U.S. 48, 63 (2018) (quoting *al-Kidd*, 563 U.S. at 741–42).

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

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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 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 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

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

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

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IV.

The judgment of the district court is **AFFIRMED**.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

August 19, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW

Regarding: Fifth Circuit Statement on Petitions for Rehearing
or Rehearing En Banc

No. 24-50998 Sealey v. Mancias
USDC No. 5:24-CV-399

Enclosed is a copy of the court's decision. The court has entered judgment under Fed. R. App. P. 36. (However, the opinion may yet contain typographical or printing errors which are subject to correction.)

Fed. R. App. P. 39 through 41, and Fed. R. App. P. 39, 40, and 41 govern costs, rehearings, and mandates. **Fed. R. App. P. 40 require you to attach to your petition for panel rehearing or rehearing en banc an unmarked copy of the court's opinion or order.** Please read carefully the Internal Operating Procedures (IOP's) following Fed. R. App. P. 40 for a discussion of when a rehearing may be appropriate, the legal standards applied and sanctions which may be imposed if you make a nonmeritorious petition for rehearing en banc.

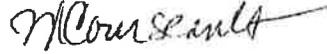
Direct Criminal Appeals. Fed. R. App. P. 41 provides that a motion for a stay of mandate under Fed. R. App. P. 41 will not be granted simply upon request. The petition must set forth good cause for a stay or clearly demonstrate that a substantial question will be presented to the Supreme Court. Otherwise, this court may deny the motion and issue the mandate immediately.

Pro Se Cases. If you were unsuccessful in the district court and/or on appeal, and are considering filing a petition for certiorari in the United States Supreme Court, you do not need to file a motion for stay of mandate under Fed. R. App. P. 41. The issuance of the mandate does not affect the time, or your right, to file with the Supreme Court.

Court Appointed Counsel. Court appointed counsel is responsible for filing petition(s) for rehearing(s) (panel and/or en banc) and writ(s) of certiorari to the U.S. Supreme Court, unless relieved of your obligation by court order. If it is your intention to file a motion to withdraw as counsel, you should notify your client promptly, **and advise them of the time limits for filing for rehearing and certiorari.** Additionally, you **MUST** confirm that this information was given to your client, within the body of your motion to withdraw as counsel.

Sincerely,

LYLE W. CAYCE, Clerk



By:

Melissa B. Courseault, Deputy Clerk

Enclosure(s)

Mr. Alfonso Bafidis
Mr. Shawn Kevin Fitzpatrick
Ms. Deborah Lynne Klein
Ms. Erica Paige Matlock
Mr. Robert L. Ranco

EXHIBIT C

**United States Court of Appeals
for the Fifth Circuit**

No. 24-50998

United States Court of Appeals
Fifth Circuit

FILED

September 18, 2025

Lyle W. Cayce
Clerk

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.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

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600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

September 18, 2025

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 24-50998 Sealey v. Mancias
USDC No. 5:24-CV-399

Enclosed is an order entered in this case.

See FRAP and Local Rules 41 for stay of the mandate.

Sincerely,

LYLE W. CAYCE, Clerk

Lisa E. Ferrara

By: _____
Lisa E. Ferrara, Deputy Clerk
504-310-7675

Mr. Alfonso Bafidis
Mr. Shawn Kevin Fitzpatrick
Ms. Deborah Lynne Klein
Ms. Erica Paige Matlock
Mr. Robert L. Ranco