

No. _____

SUPREME COURT OF THE UNITED STATES

Chasity Congious, by and through her Guardian,
Kimberly Hammond, on behalf of Herself and as
Mother and Next Friend of Z.C.H., Deceased,
Petitioner,

v.

Aaron Ivy Shaw, DO,
Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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Question Presented for Review

This Court has held that potential violations of a pretrial detainee's Due Process Clause rights are to be judged by an objective standard. *E.g., Bell v. Wolfish*, 441 U.S. 520, 560-61, 99 S.Ct. 1861, 60 L.Ed.2d 447 (1979) (stating that the constitutionality of restrictions placed on pretrial detainees "depends on whether they are rationally related to a legitimate nonpunitive purpose and whether they appear excessive in relation to that purpose."); *Kingsley v. Hendrickson*, 576 U.S. 389, 397-402, 135 S.Ct. 2466, 192 L.Ed.2d 416 (2015) (holding that a pretrial detainee's excessive force claim should be judged by an objective standard). In the wake of *Kingsley*, a Circuit split has emerged on whether to apply an objective standard to a pretrial detainee's Due Process Clause denial of medical care claim.

The Fifth Circuit in this case applied a subjective standard to reject a pretrial detainee's Due Process Clause denial of medical care claim. Accordingly, the question presented by this petition is: Whether a pretrial detainee's Due Process Clause denial of medical care claim is governed by a subjective standard, as held by the Fifth, Eighth, Tenth, and Eleventh Circuits, or by an objective standard, as held by the Second, Fourth, Sixth, Seventh, and Ninth Circuits.

List of All Parties

1. Chasity Congious, by and through her Guardian, Kimberly Hammond, on behalf of herself and as Mother and Next Friend of Z.C.H., Deceased, identified as Plaintiff-Appellant below (“Chasity”)
2. Aaron Ivy Shaw, DO, identified as Defendant-Appellee below (“Dr. Shaw”)

Related Proceedings

1. *Chasity Congious, by and through her Guardian, Kimberly Hammond, on behalf of Herself and as Mother and Next Friend of Z.C.H., Deceased v. Aaron Ivy Shaw*, United States District Court for the Northern District of Texas Case Number 4:22-cv-00092-O, Final Judgment entered on July 1, 2025
2. *Chasity Congious, by and through her Guardian, Kimberly Hammond, on behalf of Herself and as Mother and Next Friend of Z.C.H., Deceased v. Aaron Ivy Shaw, DO*, United States Court of Appeals for the Fifth Circuit Case Number 25-10886, Judgment entered on March 27, 2026

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Petition for a Writ of Certiorari

Chasity respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fifth Circuit in this case.

Opinions Below

The opinion of the court of appeals is reported at 170 F.4th 960 (5th Cir. 2026). The opinion of the district court is unpublished but is available at 2025 WL 1811764 (N.D. Tex. July 1, 2025).

Jurisdiction

The opinion and judgment of the court of appeals were entered on March 27, 2026. Title 28 of United States Code, Section 1254(1) confers jurisdiction on this Court to review the opinion and judgment on a writ of certiorari.

Constitutional Provision and Statute Involved

Chasity brings her Fourteenth Amendment Due Process Clause claim for denial of medical care against Dr. Shaw pursuant to Title 42 of the United States Code, Section 1983. Section 1 of the Fourteenth Amendment provides in pertinent part:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United

States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S. Const. amend. XIV, § 1. Title 42 of the United States Code, Section 1983 states that:

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, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

Notably, there is no state of mind requirement in the text of Section 1983.

Statement of the Case

Statement of Facts

This case arises from the horrific death of an innocent baby in a jail cell. Between May 13-17, 2020, Chasity was a pretrial detainee at the Tarrant County Jail (“the jail”). (ROA.1358-1362). Dr. Shaw was the medical director at the jail and was responsible for Chasity’s medical care. (ROA.1269-1270; ROA.1305).

On May 13, 2020, Melanie Carter, M.D. (“Dr. Carter”) examined Chasity. (ROA.1363-1392). At the time of Dr. Carter’s examination, Chasity was 37 weeks pregnant and could deliver her baby at any time – as Dr. Shaw has acknowledged. (ROA.1286; ROA.1367). Dr. Carter noted Chasity’s history of appearing “intellectually delayed,” being “limited in her responses,” and not having “a good understanding of her medical history.” (ROA.1365). Dr. Carter assessed Chasity with intellectual disability. (ROA.1367).

Following the May 13, 2020 examination, Dr. Carter recommended that Chasity have an induced labor because she was “**unable to express her symptoms and may not recognize when she goes into labor.**” (ROA.1368) (emphasis in original). Dr. Shaw reviewed the notes and findings from Dr. Carter’s examination of Chasity on May 15, 2020. (ROA.1364-1365; ROA.1307-1308).

So prior to Chasity going to labor on May 17, 2020, Dr. Shaw knew that Chasity: (1) was a poor communicator at the end of her pregnancy; (2) would be unable to communicate if she was having a contraction; and (3) was not able to express her symptoms and may not recognize when she was in labor. (ROA.1294; ROA.1285; ROA.1307-1308). Despite this knowledge, Dr. Shaw did not inform anyone at the jail that Chasity would not be able to understand or tell anyone when she was in labor. (ROA.1292-1295).

On May 17, 2020 at 7:29:19 AM, Dr. Shaw received an email from the jail stating that Chasity had refused breakfast and was complaining of abdominal pain. (ROA.1393; ROA.1395). Dr. Shaw admits that he received the email but claims not to know when he opened it. (ROA.1314). In response to the email Dr. Shaw did nothing, even though he was the only jail official who knew that Chasity might not recognize that she was in labor. (ROA.1414-1415).

Because Dr. Shaw took no action and no other jail official knew that Chasity's complaint of abdominal pain was in fact labor pain, Chasity delivered her baby Z.C.H. alone in a jail cell on May 17, 2020. (ROA.2168-2170). Z.C.H. was stuck in Chasity's pants until she was discovered at 9:05 AM. (ROA.1414-1415). Z.C.H. was baptized and died ten days later due to the lack of oxygen after being born and not receiving immediate medical attention. (ROA.1415; ROA.1053-1058).

Relevant Procedural History

Chasity commenced this action against Dr. Shaw with an amended complaint filed on May 11, 2022. (ROA.379-415). In Count IV, Chasity alleged a Due Process Clause denial of medical care claim against Dr. Shaw. (ROA.410-411). The United States District Court for the Northern District of Texas had federal jurisdiction over Chasity's claim against Dr. Shaw pursuant to 28 U.S.C. §§ 1331 and 1343.

After the close of discovery, Chasity moved for partial summary judgment on the Due Process Clause denial of medical care claim against Dr. Shaw. (ROA.1243-1429). Dr. Shaw also moved for summary judgment. (ROA.1497-1664). On July 1, 2025, the district court denied Chasity's motion for partial summary judgment, granted summary judgment to Dr. Shaw, and entered final judgment in favor of Dr. Shaw. (ROA.2159-2172).

Chasity timely filed a notice of appeal on July 29, 2025. (ROA.2173). The United States Court of Appeals for the Fifth Circuit had jurisdiction over Chasity's appeal pursuant to 28 U.S.C. § 1291. On March 27, 2026, the court of appeals issued a published opinion and judgment affirming the summary judgment granted to Dr. Shaw. This petition follows.

Reasons for Granting the Writ

There are four reasons why this Court should grant Chasity's petition for a writ of certiorari. First, the Fifth Circuit's application of the subjective standard for a pretrial detainee Due Process Clause

denial of medical care claim is an example of the Circuit split on whether to employ a subjective or objective standard for such claims. Second, the Fifth Circuit's use of the subjective standard conflicts with this Court's decision in *Kingsley*, where this Court held that an objective standard applies to a pretrial detainee Due Process Clause excessive force claim. Third, this case is important because it involves Due Process Clause protection for fundamental rights. Fourth, Chasity could prevail on her Due Process Clause denial of medical care claim against Dr. Shaw under the proper objective standard. This Court therefore should grant Chasity's petition and allow the writ of certiorari.

I. The Fifth Circuit Decision Is Part of a True Circuit Split.

To affirm the district court's grant of summary judgment to Dr. Shaw, the Fifth Circuit applied a subjective standard for Chasity's pretrial detainee denial of medical care claim. The Fifth Circuit decided that Dr. Shaw did not have subjective knowledge of a substantial risk of serious harm because: (a) Dr. Shaw had no reason to believe that Chasity was at serious risk of delivering her baby and (b) Dr. Shaw claimed not to see the email notifying him of Chasity's abdominal pain until after Z.C.H. was born.

Chasity strongly disagrees with the Fifth Circuit's decision because the risk to Chasity and her baby was obvious. Nevertheless, this petition does not seek review of the Fifth Circuit's decision under a subjective standard for Due Process Clause denial of medical care claims. Instead, this petition asks this

Court to resolve the Circuit split and harmonize federal law so that an objective standard applies to all pretrial detainee Due Process Clause claims – including Chasity’s denial of medical care claim against Dr. Shaw.

Short v. Hartman, 87 F.4th 593 (4th Cir. 2023) provides an excellent example of the sound reasoning supporting an objective standard for Due Process Clause claims. In *Short*, the husband of a deceased pretrial detainee brought a Due Process Clause claim against jail officials for deliberate indifference to his wife’s risk of suicide. 87 F.4th at 599. The Middle District of Tennessee granted the jail officials’ motion for judgment on the pleadings, deciding that there were insufficient allegations for a constitutional rights violation. *Id.* at 602. On appeal, the Fourth Circuit requested briefing on whether the objective standard announced in *Kingsley* applied to a Due Process Clause deliberate indifference claim. *Id.*

Before deciding the merits of the specific claim at issue, the Fourth Circuit presented a detailed history of the jurisprudence regarding pretrial detainee Due Process Clause deliberate indifference claims. *Short*, 87 F.4th at 603-11. In addition, the Fourth Circuit discussed this Court’s decision in *Kingsley* and recognized the Circuit split that has ensued regarding deliberate indifference claims. *Id.* The Fourth Circuit then concluded that *Kingsley* precluded a subjective requirement for a pretrial detainee deliberate indifference claim and that such claims should be decided on a “purely objective basis.” *Id.* at 611.

The Fourth Circuit provided a four-part objective test for pretrial detainee Due Process

Clause denial of medical care claims that this Court should adopt:

To state a claim for deliberate indifference to a medical need, the specific type of deliberate indifference claim at issue in this case, a pretrial detainee must plead that (1) they had a medical condition or injury that posed a substantial risk of serious harm; (2) the defendant intentionally, knowingly, or recklessly acted or failed to act to appropriately address the risk that the condition posed; (3) the defendant knew or should have known (a) that the detainee had that condition and (b) that the defendant's action or inaction posed an unjustifiably high risk of harm; and (4) as a result, the detainee was harmed.

Short, 87 F.4th at 611.

In announcing its objective standard, the Fourth Circuit explained the crucial difference from the subjective standard. Specifically, the Fifth Circuit stated:

The objective test we adopt today differs from our prior subjective test in one respect only. The plaintiff no longer has to show that the defendant had actual knowledge of the detainee's serious medical condition and consciously disregarded the risk that their action or failure to act would result in harm. That showing remains sufficient, but it is no longer necessary. Now, it is sufficient that the plaintiff show that the defendant's action or inaction was,

in *Kingsley*'s words, “objectively unreasonable,” 576 U.S. at 397, 135 S.Ct. 2466: that is, the plaintiff must show that the defendant should have known of that condition and that risk, and acted accordingly.

Short, 87 F.4th at 611.

Likewise, the Second Circuit has determined that a subjective standard for Due Process Clause claims is no longer workable after *Kingsley*. Because a prison official can violate a pretrial detainee’s constitutional rights without administering any punishment, the prison official can violate the Due Process Clause “when an official does not have subjective awareness that the official’s acts (or omissions) have subjected the pretrial detainee to a substantial risk of harm.” *Darnell v. Pineiro*, 849 F.3d 17, 35 (2d Cir. 2017). The Second Circuit concluded:

Therefore, to establish a claim for deliberate indifference to conditions of confinement under the Due Process Clause of the Fourteenth Amendment, the pretrial detainee must prove that the defendant-official acted intentionally to impose the alleged condition, or recklessly failed to act with reasonable care to mitigate the risk that the condition posed to the pretrial detainee even though the defendant-official knew, or should have known, that the condition posed an excessive risk to health or safety. In other words, the “subjective prong” (or “*mens rea* prong”) of a

deliberate indifference claim is defined objectively.

Id. The Sixth, Seventh, and Ninth Circuits also agree that an objective standard applies to pretrial detainee Due Process Clause denial of medical care claims. *Browner v. Scott County*, 14 F.4th 585, 596–97 (6th Cir. 2021); *Miranda v. County of Lake*, 900 F.3d 335, 352–53 (7th Cir. 2018); *Gordon v. County of Orange*, 888 F.3d 1118, 1124–25 (9th Cir. 2018).

By contrast, the Eighth, Tenth, and Eleventh Circuits join the Fifth Circuit in this case by using a subjective standard for pretrial detainee Due Process Clause denial of medical care claims. The reasoning given for refusing to apply *Kingsley* to denial of medical care claims is not convincing. For example, the Eighth Circuit rejected *Kingsley* by stating only that “it was an excessive force case, not a deliberate indifference case.” *Whitney v. City of St. Louis, Missouri*, 887 F.3d 857, 860 n.4 (8th Cir. 2018). The Eleventh Circuit also declined to apply *Kingsley* in the space of a footnote, simply because it was an excessive force case rather than a denial of medical care case. *Nam Dang by and through Vina Dang v. Sheriff, Seminole County Florida*, 871 F.3d 1272, 1279 n.2 (11th Cir. 2017).

The Eighth and Eleventh Circuit’s reliance upon the difference between the use of force and the provision of medical care is focused on the wrong details. Certainly a pretrial detainee’s right to medical care is as fundamental and deserving of protection as the right to be free from excessive force. Accordingly, the appropriate focus should be on the facts surrounding the deprivation – not the specific right at issue.

The Tenth Circuit provided the most reasons for its repudiation of *Kingsley*. *Strain v. Regalado*, 977 F.3d 984, 991-93 (10th Cir. 2020). According to the Tenth Circuit, a subjective standard applies to pretrial detainee Due Process Clause denial of medical care claims because: (1) *Kingsley* only pertained to excessive force claims; (2) a deliberate indifference claim does not relate to punishment; and (3) deliberate indifference often involves a failure to act which is at most negligence and not a constitutional violation. *Id.*

The Fourth Circuit has adeptly explained why the Tenth Circuit's rationale is wrong. In *Short*, the Fourth Circuit utilized an objective standard while rejecting *Strain* because: (1) this Court in *Kingsley* recognized that a variety of Due Process Clause claims are judged under an objective standard; (2) this Court in *Estelle v. Gamble*, 429 U.S. 97, 104-05, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976) acknowledged that deliberate indifference can amount to punishment; and (3) this Court in *Kingsley* and *Farmer v. Brennan*, 511 U.S. 825, 836-37, 114 S.Ct. 1970, 128 L.Ed.2d 811 (1994) recognized that deliberate indifference can be established by a failure to act in response to a substantial risk that should have been known. 87 F.4th at 610-11. So not only do the Circuits disagree on whether the subjective or objective standard applies, their reasoning also is in direct conflict.

Thus, it is indisputable that a real Circuit split exists with respect to pretrial detainee Due Process Clause denial of medical care claims. In well-reasoned decisions, the Second, Fourth, Sixth, Seventh, and Ninth Circuits have decided that *Kingsley* requires such claims to be evaluated with

an objective standard. Relying upon a distinction without a difference, the Fifth, Eighth, Tenth, and Eleventh Circuits use a subjective standard. This Court should grant Chasity's petition to resolve the Circuit split in favor of the objective standard to be applied to Chaisty's claim against Dr. Shaw. *See* S. Ct. R. 10(a). *See also Braxton v. U.S.*, 500 U.S. 344, 347, 111 S.Ct. 1854, 114 L.Ed.2d 385 (1991) (stating that the principal justification for granting certiorari is to settle Circuit disputes on the meaning of federal law).

II. The Fifth Circuit Decision Conflicts with *Kingsley*.

The Fifth Circuit's use of a subjective standard for Chasity's Due Process Clause denial of medical care claim cannot be reconciled with this Court's decision in *Kingsley*. Instead of a subjective standard, the Fifth Circuit should have evaluated Dr. Shaw's failures to act under an objective reasonableness standard as instructed by this Court in *Kingsley*.

First, this Court highlighted its prior statements about pretrial detainee Due Process Clause claims. *Kingsley*, 576 U.S. at 397-98, 135 S.Ct. 2466. For example, the Due Process Clause protects pretrial detainees from punishment which could consist of a variety of actions. *Id.* And this Court stated that such unconstitutional punishment can occur even without an expressed intent to punish. *Id.*

Second, this Court recalled its prior use of an objective standard in *Bell v. Wolfish* for pretrial detainee Due Process Clause claims. *Kingsley*, 576

U.S. at 398, 135 S.Ct. 2466. “The *Bell* Court applied this latter objective standard to evaluate *a variety of prison conditions* including a prison’s practice of double-bunking.” *Id.* (emphasis added).

Third, this Court confirmed that a prison official’s subjective beliefs are irrelevant to whether a pretrial detainee’s Due Process Clause rights are violated. *Kingsley*, 576 U.S. at 398, 135 S.Ct. 2466. Instead, the proper focus is on the objective evidence to determine the existence of a constitutional violation. *Id.* As an example, the constitutionality of double-bunking pretrial detainees depended upon “objective evidence, such as the size of the rooms and available amenities . . .” *Id.*

Fourth, this Court noted that an objective standard is viable for evaluating pretrial detainee Due Process Clause claims. *Kingsley*, 576 U.S. at 399, 135 S.Ct. 2466. In support, this Court pointed to the facts that the objective standard is consistent with several Circuits’ pattern jury instructions and that prison officials are trained that their conduct will be judged under an objective reasonableness standard. *Id.*

Fifth, this Court stated that an objective standard protects a prison official who acts in good faith. *Kingsley*, 576 U.S. at 399-400, 135 S.Ct. 2466. Courts looking at the objective reasonableness of a prison official’s actions must consider the official’s perspective as well as the interests of maintaining order and security within the prison. *Id.*

In this case, the Fifth Circuit used a subjective standard for Chasity’s Due Process Clause denial of medical care claim against Dr. Shaw. The Fifth Circuit affirmed summary judgment for Dr. Shaw

because he claimed not to have any subjective knowledge of a substantial risk of harm.

Instead of a subjective standard, the Fifth Circuit should have followed *Kingsley* and utilized an objective standard for Chasity's Due Process Clause denial of medical care claim. Because the Fifth Circuit's decision conflicts with *Kingsley*, this Court should grant Chasity's petition and reverse the grant of summary judgment to Dr. Shaw. See S. Ct. R. 10(c).

III. This Petition Presents An Important Question that Should Be Resolved by This Court.

It is difficult to imagine a more brutal misuse of government power than Chasity's newborn baby suffocating to death inside a jail cell. And anyone reading this petition should be saddened by the fact that Chasity was left alone in the jail cell to deliver her baby without any medical assistance.

This Court has acknowledged the importance of the Due Process Clause in protecting our constitutional rights. "The Due Process Clause guarantees more than fair process, and the 'liberty' it protects includes more than the absence of physical restraint." *Washington v. Glucksberg*, 521 U.S. 702, 719, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997). Specifically, the Due Process Clause "protects individual liberty against certain governmental actions regardless of the fairness of the procedures used to implement them." *Id.* (quotation and quotation marks omitted).

In addition, the Due Process Clause "provides heightened protection against government

interference with certain fundamental rights and liberty interests.” *Department of State v. Munoz*, 602 U.S. 899, 909-10, 144 S.Ct. 1812, 219 L.Ed.2d 507 (2024) (quotation and quotation marks omitted).

When fundamental liberty interests are at stake, the Due Process Clause means that the Government “can act only by narrowly tailored means that serve a compelling state interest.” *Id.*

This petition presents a question regarding the proper standard for evaluating the Due Process Clause protections for Chasity and her baby’s fundamental rights. Do their and other pretrial detainees’ fundamental right to medical care depend upon the subjective thoughts of a prison official? Or does the Due Process Clause guarantee that constitutional rights violations are judged under an objective standard based upon the evidence? This Court should grant certiorari in this case to answer the first question “no” and the second question “yes.”

IV. Chasity Could Prevail on the Due Process Clause Claim Against Dr. Shaw Under an Objective Standard.

Chasity’s Due Process Clause denial of medical care claim was decided in Dr. Shaw’s favor on summary judgment. If the facts show that a reasonable jury could find in Chasity’s favor, then summary judgment for Dr. Shaw was inappropriate. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986) (stating that summary judgment is improper “if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.”).

If this case was judged under an objective standard, then Chasity could prevail on her Due Process Clause denial of medical care claim against Dr. Shaw. As noted above, the Fourth Circuit set forth the following four-part objective test:

To state a claim for deliberate indifference to a medical need, the specific type of deliberate indifference claim at issue in this case, a pretrial detainee must plead that (1) they had a medical condition or injury that posed a substantial risk of serious harm; (2) the defendant intentionally, knowingly, or recklessly acted or failed to act to appropriately address the risk that the condition posed; (3) the defendant knew or should have known (a) that the detainee had that condition and (b) that the defendant's action or inaction posed an unjustifiably high risk of harm; and (4) as a result, the detainee was harmed.

Short, 87 F.4th at 611. Chasity's claim against Dr. Shaw easily passes this four-part test.

First, there is no question that Chasity faced a substantial risk of serious harm because she could go into labor at any time and not be able to realize it or tell anyone. (ROA.1368). And it cannot be disputed that Z.C.H. was at substantial risk of serious harm as a newborn baby needing immediate medical attention. (ROA.2168-2170; ROA.1414-1415).

Second, Dr. Shaw knowingly and intentionally failed to act in response to the risks faced by Chasity and Z.C.H. For starters, Dr. Shaw did not tell anyone at the jail that Chasity may not be able to understand or communicate when she was in labor.

(ROA.1292-1295). In addition, Dr. Shaw did not open the email he received containing information about Chasity's abdominal pain prior to Z.C.H. being born. (ROA.1314). Dr. Shaw has never claimed that these failures were a mistake. Rather, Dr. Shaw intentionally and knowingly took no action to address the substantial risk of serious harm to Chasity and Z.C.H.

Third, Dr. Shaw knew that Chasity was near-term for the delivery of her baby and that Chasity might not recognize or be able to communicate when she was in labor. (ROA.1294; ROA.1285; ROA.1307-1308). And Dr. Shaw absolutely should have known that taking no action in response presented an unjustifiable risk of harm to Chasity and her baby.

Fourth, the harm in this case is beyond words. Because Dr. Shaw took no action, Chasity delivered her baby alone in a jail cell. Z.C.H. then suffocated to death.

A reasonable jury could examine these facts under the four-part objective test to decide in Chasity's favor on the Due Process Clause denial of medical care claim against Dr. Shaw. *See Short*, 87 F.4th at 611. Summary judgment for Dr. Shaw therefore was incorrect and should be reversed. *See Anderson*, 477 U.S. at 248, 106 S.Ct. 2505.

Conclusion

For the reasons set forth above, Chasity respectfully requests that this Court grant the petition for a writ of certiorari.

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