

No. 26-_____

IN THE
Supreme Court of the United States

LOGAN K. KULESA AND SHAWN M. JONES,
Petitioners,

v.

TAMALA J. JONES, PERSONALLY, AND AS THE
ADMINISTRATRIX OF THE ESTATE OF
TRAMON TYQUEZE SAVAGE,
Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

At approximately 11:56 p.m. on June 13, 2019, Officers Shawn Jones and Logan Kulesa of the Jacksonville Police Department responded to a late-night burglary call at a Jacksonville car dealership after cleaning crew members reported an intruder inside the building. Officers discovered Tramon Savage inside the service department attempting to start vehicles. Despite officers identifying themselves and issuing repeated commands, Savage entered a truck and drove toward the open bay door. Officers perceived that Savage was attempting to strike officers with the vehicle and opened fire. After the truck crashed, Officer Kulesa briefly continued firing because he believed Savage was reaching for a weapon or other object. The shooting lasted less than five seconds. Officers then summoned medical assistance and rendered aid. Savage later died from his injuries.

The questions presented are:

1. Whether the Eighth Circuit wrongly denied qualified immunity to Officers Jones and Kulesa by finding that it did not have jurisdiction to reverse the District Court's denial of qualified immunity based on its determination that there were disputed facts.
2. Had the Eighth Circuit properly engaged the qualified immunity analysis, would it have found that Officers Kulesa and Jones violated clearly established law.

PARTIES TO THE PROCEEDINGS AND RULE 29.6 STATEMENT

The parties to the proceedings in the Court whose judgment is sought to be reviewed are:

- Shawn Jones, an individual defendant and appellant below, petitioner here
- Logan Kulesa, an individual defendant and appellant below and respondent here
- Tamala T. Jones, personally, and as the Administratrix of the Estate of Tramon Savage, an individual plaintiff and appellee below and respondent here.

There are no publicly held corporations involved in this proceeding.

RELATED PROCEEDINGS

- United States District Court, Eastern District of Arkansas, Central Division, Case No. 4:22-CV-00545-BSM, *Tamala T. Jones v. Logan K. Kusela, Shawn M. Jones, and City of Jacksonville, Arkansas*; Order denying summary judgment entered January 28, 2025.
- United States Court of Appeals for the Eighth Circuit, Case No. 25-1216, *Tamala Jones v. Logan Kulesa, et. al*; Judgement entered June 16, 2026; Order denying rehearing entered on July 23, 2026.

TABLE OF CONTENTS

Questions Presented	i
Parties to the Proceedings and Rule 29.6 Statement	ii
Related Proceedings	ii
Table of Authorities	vi
Opinions Below	1
Basis for Jurisdiction in this Court	1
Constitutional and Statutory Provisions at Issue	1
Statement of the Case	3
I. Facts	3
II. Proceedings	3
A. Trial Court	3
B. Court of Appeals	4
1. Jurisdiction	4
2. District Court's Recitation of Facts Not Blatantly Contradicted by the Record	5
3. Denial of Rehearing	5

Reasons Why Certiorari Is Warranted	5
I. Review is necessary because the panel's blatant disregard of this Court's precedent in deciding qualified immunity thwarts the important public policies underlying qualified immunity.	6
II. If the panel had applied the qualified immunity analysis to the undisputed facts as determined by the district court, qualified immunity should have been granted; the panel's failure to engage the qualified immunity analysis blatantly contradicts this Court's precedent and the public policy which supports qualified immunity.	9
A. This Court should review the panel's opinion because had the panel applied the qualified immunity analysis and applied this Court's precedent to the facts as determined by the district court, it could only have concluded that the officers did not violate the Fourth Amendment in firing their weapons at Mr. Savage under the circumstances of this case.....	11
B. Review should be granted because once the District Court determined the relevant set of facts in this case, the determination of the reasonableness of Officer Jones and Officer Kulesa's use of deadly force is a question of law which should have been decided by the panel.	15

C. Review is necessary because in refusing to engage the qualified immunity analysis, the panel blatantly disregarded this Court's precedent by failing to identify a factually similar case for purposes of determining clearly established law in deciding qualified immunity.	17
Conclusion	18

TABLE OF AUTHORITIES

Cases

<i>Ashcroft v. al- Kidd</i> , 563 U.S. 731 (2011)	10
<i>Brosseau v. Haugen</i> , 125 S. Ct. 596 (2004)	9
<i>City & Cnty. of San Fransisco v. Sheehan</i> , 575 U.S. 600 (2015)	6
<i>Davis v. Scherer</i> , 468 U.S. 183 (1984)	7
<i>District of Columbia v. Wesby</i> , 138 S. Ct. 577 (2018)	17
<i>Graham v. Connor</i> , 490 U.S. 368 (1989)	11-12
<i>Harlow v. Fitzgerald</i> , 457 U.S. 800 (1982)	6, 7, 8
<i>Hunter v. Bryant</i> , 502 U.S. 224 (1991)	7
<i>Johnson v. Carroll</i> , 658 F.3d 819 (8th Cir. 2011)	9
<i>Kisela v. Hughes</i> , 138 S. Ct. 1148 (2018)	10

<i>Mitchell v. Forsyth</i> , 472 U.S. 511 (1985)	6
<i>Mullenix v. Luna</i> , 136 S. Ct. 305 (2015)	6, 10, 15
<i>Pearson v. Callahan</i> , 555 U.S. 223 (2009)	9
<i>Plumhoff v. Rickard</i> , 134 S. Ct. 2012 (2014)	12
<i>Rivas-Villegas v. Cortesluna</i> , 595 U.S. ___, 2021 WL 4822662 (2021)	10
<i>Saucier v. Katz</i> , 533 U. S. 194 (2001)	9
<i>Scott v. Harris</i> , 550 U.S. 372 (2007)	6, 15
<i>Tennessee v. Garner</i> , 471 U.S. 1 (1985)	10, 11
<i>White v. Pauly</i> , 137 S. Ct. 548 (2017)	6, 10
Constitutional and Statutory Provisions	
U.S. Const. Amend. IV	2, 10
42 U.S.C. § 1983	1, 2

OPINIONS BELOW

The Eighth Circuit's opinion, the subject of this petition, is reported at 178 4th 1179 (8th Cir. 2026) and reproduced in Petitioner's Appendix A hereto at pages 1a. The Eighth Circuit's denial of petitioner's motion for rehearing *en banc* is produced in Appendix C at Pet. App. 23a. The opinion of the District Court for the Eastern District of Arkansas is reproduced at pages 12a.

BASIS FOR JURISDICTION IN THIS COURT

The Eighth Circuit entered its judgment and its opinion on June 16, 2026. (Pet. App. 1a) Petitioner timely filed a petition for panel and *en banc* rehearing, and on July 23, 2026, the court denied the petition. (Pet. App. 23a).

This Court has jurisdiction to review the Eighth Circuit's July 23, 2026, decision on writ of certiorari under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS AT ISSUE

Respondent brought the underlying action under 42 U.S.C. § 1983, which states:

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.

Respondent alleges Petitioner violated the rights secured by the United States Constitution's Fourth Amendment, which 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.

STATEMENT OF THE CASE

I. Facts

At approximately 11:56 p.m. on June 13, 2019, Officers Shawn Jones and Logan Kulesa of the Jacksonville Police Department responded to a late-night burglary call at a Jacksonville car dealership after cleaning crew members reported an intruder inside the building. (Pet. App. 6a). Officers discovered Tramon Savage inside the service department attempting to start vehicles. (Pet. App. 6a). Despite officers identifying themselves and issuing repeated commands, Savage entered a truck and drove toward the open bay door. (Pet. App. 7a). Officers perceived that Savage was attempting to strike officers with the vehicle and opened fire. After the truck crashed, Officer Kulesa briefly continued firing because he believed Savage was reaching for a weapon or other object. (Pet. App. 7a). The shooting lasted less than five seconds. (Pet. App. 7a). Officers then summoned medical assistance and rendered aid. Savage later died from his injuries. (Pet. App. 7a).

II. Proceedings

A. Trial Court

Jones filed suit in the United States District Court for the Eastern District of Arkansas Central Division against Officer Shawn Jones and Logan Kulesa in their individual capacities and against the City of Jacksonville, Arkansas claiming, *inter alia*, that Officer Jones and Kulesa used excessive force, in violation of the Fourth Amendment when both

officers discharged their firearms and Tramon Savage was struck and killed. The district court granted summary judgment for the City of Jacksonville and denied summary judgment and qualified immunity to Officers Jones and Kulesa. (Pet. App. 22a).

The District Court ultimately denied qualified immunity to Officers Jones and Kulesa because, “whether it was objectively reasonable for the officers to believe that Savage posed a serious and immediate threat after the truck passed them, struck a wall, and came to a stop is in dispute.” (Pet. App. 18a)

B. Court of Appeals

1. Jurisdiction

The panel noted that the district court, “concluded that it was disputed whether it was objectively reasonable for the officers to believe that Savage posed an immediate and serious threat to them after the truck passed them, struck the wall, and came to a stop.” (Pet. App. 10a). The panel then stated that, “The risk Savage posed to the officers, no matter how they try to couch it, is a factual dispute that we cannot review.” (Pet. App. 10a). Ultimately, the panel erroneously held that because the interlocutory appeal of qualified immunity advanced factual arguments, the appeal was beyond the scope of its jurisdiction. (Pet. App. 10a).

2. District Court's Recitation of
Facts Not Blatantly Contradicted
by the Record

The Panel correctly noted that it, “may only reject the district court’s recitation of the facts only to the extent that they are ‘blatantly contradicted by the record,’” and recognized that the recitation of the facts as stated by the district court are not blatantly contradicted by the record. (Pet. App. 10a).

3. Denial of Rehearing

Officers Jones and Kulesa petitioned for rehearing and rehearing *en banc*. The panel and the Eighth Circuit denied both. (Pet. App. 23a)

**REASONS WHY CERTIORARI IS
WARRANTED**

This Court should grant review because in denying qualified immunity to Officers Jones and Kulesa, the panel blatantly disregarded this Court’s precedent setting forth the correct analysis to apply in deciding qualified immunity in excessive force cases. Specifically, the panel failed to recognize and accept the factual findings made by the District Court and apply the precedent to those facts in order to find that both officers are entitled to qualified immunity. Instead, the panel found that there was a dispute of fact as to whether, “the officers had probable cause to believe Savage posed a threat of serious physical harm...” then failed to apply the qualified immunity analysis to the facts as determined by the district court. The question of whether the officers had

probable cause to believe there was a serious threat of serious physical harm goes to the reasonableness of the officers' actions in using deadly force which this Court has determined is a question of law. *See Scott v. Harris*, 550 U.S. 372 (2007) and *Mullenix v. Luna*, 136 S. Ct. 305 (2015). This court should grant review because the panel's holding blatantly disregards this Court's precedent setting forth the correct analysis to apply in deciding qualified immunity which would require the panel to apply the relevant case law to the facts as determined by the district court. *Id.* If review is not granted, the panel's opinion which fails to apply the required qualified immunity analysis at all will thwart the policies underlying qualified immunity, which this Court has determined to be important to "society as a whole." *See White v. Pauly*, 137 S. Ct. 548, 551 (2017) (per curiam).

I. Review is necessary because the panel's blatant disregard of this Court's precedent in deciding qualified immunity thwarts the important public policies underlying qualified immunity.

This Court recognizes that qualified immunity is important to society as a whole because it protects the public's interest in public officials' ability to take legitimately required actions, with independence, and without inhibition of discretionary action where clearly established rights are not implicated. *See White v. Pauly*, 137 S. Ct. at 551; *City & Cnty. of San Francisco v. Sheehan*, 575 U.S. 600, 611, n.3 (2015); *Harlow v. Fitzgerald*, 457 U.S. 800 (1982); *Mitchell v. Forsyth*, 472 U.S. 511, 525-26 (1985). Failure to recognize these important interests, would not only

risk deterring lawful decisiveness of police officers in tensely dangerous and rapidly evolving circumstances, it would also risk, “deterring able people from public service.” *Harlow*, 457 U.S. at 816.

Police officers are charged with apprehending criminals and protecting the public. Many times, as in this case, the discharge of those duties requires split second decisiveness under extremely tense circumstances, and this Court has recognized, “officials should not err always on the side of caution’ because they fear being sued.” *Hunter v. Bryant*, 502 U.S. 224, 229 (1991) (quoting *Davis v. Scherer*, 468 U.S. 183, 196 (1984)). The panel’s opinion which fails to apply the qualified immunity analysis to the facts as determined by the district court denies the officers the defense of qualified immunity and requires them to stand trial for actions which did not violate clearly established law and for which they are entitled to qualified immunity. Such a denial of the defense of qualified immunity risks law enforcement officers erring on the side of caution for fear of being sued, even where their safety, or the public’s safety is at risk. Moreover, denial of the defense of qualified immunity limits the discretion of police officers who are considering use of force to protect themselves and/or the public in extremely tense, split-second circumstances by sending the message to those officers that their decisions will be subject to after the fact, second-guessing, by judges, without consideration for the on-the-scene judgment of the police officers who are charged with protecting the public in the face of death or serious injury. Limiting a police officer’s judgment in this way does not promote the public’s interests, moreover, it

contradicts the policies that this Court determined underlie the necessity for qualified immunity in *Harlow*.

The important policies underlying qualified immunity are compellingly illustrated by the facts in this case- Police officers dispatched, at night, to the location of a commercial burglary in process inside the garage of a car dealership, when the officers encounter the suspect trying to enter and start vehicles the suspect fails to comply with their repeated commands, enters and starts a vehicle and attempts to strike them with the vehicle, then refuses to show his hands once the vehicle strikes a wall and comes to stop. Society plainly has a strong interest in allowing a police officer facing such dangerous and tense circumstances the ability to act with uninhibited discretion where this type of split-second decision making could be a matter of life or death to himself, or those he serves to protect. Therefore, this Court should grant review to ensure the important policies underlying qualified immunity as set out in *Harlow* are not thwarted by the panel majority's opinion which fails to provide officers with the proper qualified immunity analysis of their undisputed actions as determined by the district court. If the panel majority's opinion is allowed to stand as law in the Eighth Circuit, the public's safety will be at risk.

II. If the panel had applied the qualified immunity analysis to the undisputed facts as determined by the district court, qualified immunity should have been granted; the panel's failure to engage the qualified immunity analysis blatantly contradicts this Court's precedent and the public policy which supports qualified immunity.

The doctrine of qualified immunity shields officials from liability "unless the official's conduct violates a clearly established constitutional or statutory right of which a reasonable person would have known." *Johnson v. Carroll*, 658 F.3d 819, 825 (8th Cir. 2011). When ruling on qualified immunity, a court must first consider whether, taken in the light most favorable to the plaintiff, the facts show a violation of a particular constitutional right. *Saucier v. Katz*, 533 U. S. 194, 200 (2001). If the court finds no constitutional violation occurred, then the official is entitled to qualified immunity; however, if the facts as construed could make out a violation, then a second inquiry is required. *Id.* The second inquiry requires determining whether the right is clearly established. *Id.* Courts have discretion to find that an alleged constitutional right was not clearly established without having to resolve first whether there was, in fact, a constitutional violation. *Pearson v. Callahan*, 555 U.S. 223, 230 (2009).

This Court has held that the second inquiry "must be taken in light of the specific context of the case, not a broad general proposition." *Brosseau v. Haugen*, 125 S. Ct. 596, 599 (2004). A right is clearly established only if "existing precedent has placed the

statutory or constitutional question beyond debate." *Mullenix v. Luna*, 577 U.S. 7, 12 (2015) (emphasis added). "The dispositive question is 'whether the violative nature of particular conduct is clearly established.'" *Id.* at 552 (quoting *Ashcroft v. al-Kidd*, 563 U.S. 731, 742 (2011) (emphasis added)).

When determining clearly established law, this Court has repeatedly held that factual "specificity is especially important in the Fourth Amendment context, where . . . it is sometimes difficult for an officer to determine how the relevant legal doctrine, here excessive force, will apply to the factual situation the officer confronts." *Rivas-Villegas v. Cortesluna*, 595 U.S. 1 (2021) (quoting *Mullenix*, 577 U.S. at 12)). Given the fact specific nature of excessive force claims, "officers are entitled to qualified immunity unless existing precedent 'squarely governs,' the specific facts at issue." *Kisela v. Hughes*, 138 S. Ct. 1148, 1153 (2018) (quoting *Mullenix*, 577 U.S. at 13). Unless the case is obvious, the correct analysis for qualified immunity in a Fourth Amendment claim requires identification of a "case where an officer acting under similar circumstances as the officer was held to have violated the Fourth Amendment." *White*, 137 S. Ct. at 552.

Had the panel performed the qualified immunity analysis, it could have reached no conclusion other than Officer Jones and Officer Kulesa are entitled to qualified immunity because at the moment the force was used they both had probable cause to believe that Mr. Savage posed a threat of serious physical harm, either to the officers or others. *See Tennessee v. Garner*, 471 U.S. 1, 11 (1985). At the least, there is

no case clearly establishing that the officers' use of deadly force in the circumstances specific to this incident violated clearly established law. Therefore, Officer Jones and Officer Kulesa are entitled to qualified immunity. Review should be granted and the panel's denial of qualified immunity should be reversed.

A. This Court should review the panel's opinion because had the panel applied the qualified immunity analysis and applied this Court's precedent to the facts as determined by the district court, it could only have concluded that the officers did not violate the Fourth Amendment in firing their weapons at Mr. Savage under the circumstances of this case.

In excessive force cases, to demonstrate that a Fourth Amendment violation occurred, this Court requires a Plaintiff to show that the force used was objectively unreasonable. *Graham v. Connor*, 490 U.S. 368, 394 (1989). The use of deadly force is not constitutionally unreasonable "[w]here the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others" *Garner*, 471 U.S. at 11. The objective reasonableness standard is judged "from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight" *Graham*, 490 U.S. at 396. Courts must "allow[] for the fact that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain and rapidly evolving -- about the amount of force that is necessary in a particular situation." *Id.*

at 397. Reasonableness is judged on the "facts and circumstances of each particular case." *Id.* at 396. Finally, this Court has held that when law enforcement officers are justified in using force to subdue a suspect, they can continue to use force until the threat has been neutralized. *Plumhoff v. Rickard*, 134 S. Ct. 2012, 2022 (2014). Here, the threat created by Mr. Savage's threatening and noncompliant behavior was not neutralized until the vehicle was stopped and Mr. Savage was secured, searched and/or in custody.

The facts in this case are much like the facts in *Plumhoff v. Rickard*. In *Plumhoff*, there was a vehicle pursuit that came to a momentary stop, leading officers to exit their vehicles in an attempt to effectuate an arrest of the driver and passenger. *Plumhoff*, 572 U.S. at 769–70. However, the driver continued maneuvering the car. *Id.* At that point, the officers fired at the vehicle, killing both the driver and passenger. *Id.* No officers were injured, though one was nearly struck by the car. *Id.* This Court held that the officers' use of deadly force was reasonable. *Id.* at 776. In reaching that holding, this Court concluded that under the circumstances, "all that a reasonable police officer could have concluded was that [the driver] was intent on resuming his flight [and] would once again pose a deadly threat for others on the road." *Id.* at 777. In rejecting the argument that even if the use of deadly force was permissible, the officers acted unreasonably in firing a total of 15 shots, the Supreme Court stated:

...during the 10-second span when all the shots had been fired, ***Rickard never***

abandoned his attempt to flee. Indeed, even after all the shots had been fired, he managed to drive away and to continue driving until he crashed. This would be a different case if petitioners had initiated a second round of shots after an initial round had clearly incapacitated Rickard and had ended any threat of continued flight, or if Rickard had clearly given himself up. But that is not what happened.

Id.

Here, in comparison, the officers reasonably concluded that the driver was intent on running over Officer Kulesa and fleeing the scene, which would have resulted in death or serious physical injury to Officer Kulesa. (Pet. App. 9a). In addition, there were other officers outside the building who could have been injured, including Sergeant Robert Slash (“Sergeant Slash”) and Officer Joshua Isom (“Officer Isom”). (Pet App. 9a). Officer Isom was positioned just outside the open bay door and would have been struck and injured by Mr. Savage if the officers did not stop him. (Pet. App. 9a). The officers’ actions also prevented potential injury to the cleaning crew personnel still on scene as well as other civilians and nearby vehicular traffic who could have been harmed if Mr. Savage fled towards the access road that led to the interstate. (Pet. App. 9a).

Mr. Savage had already established his intent to disobey the Defendant officers’ verbal commands and did not indicate any concern for the lives of those around him. The officers first used verbal commands

in an attempt to deescalate the situation and get Mr. Savage to stop the vehicle, but Mr. Savage did not comply with their commands. (Pet. App. 7a). Officers approached Mr. Savage in the truck to effectuate his arrest for the felony of commercial burglary and the crime of motor vehicle theft which he was committing in their presence. (Pet. App. 14a). At this point, Mr. Savage was in the process of committing a felony and was actively resisting arrest by disobeying the officers' commands to stop the vehicle. Mr. Savage's felonious act of commercial burglary further escalated in seriousness when he threatened the lives of the officers and bystanders. Mr. Savage proceeded to evade arrest by flight and endanger the lives of the officers and other bystanders and motorists outside the bay door. Officer Kulesa was in immediate fear for his life as Mr. Savage steered the large truck toward him just before Officer Jones used deadly force. (Pet. App. 15a). Officer Jones also feared for Officer Kulesa's life as he witnessed Mr. Savage steer the truck in Officer Kulesa's direction. (Pet. App. 14a) When Officer Kulesa heard a gunshot and noticed Mr. Savage reaching down to the floorboard of the truck, he immediately feared that Mr. Savage had shot at Officer Jones and took action that he reasonably believed necessary to protect the lives of Officer Jones and the lives of others outside of the bay door. (Pet. App. 15a). In light of the threat the officers faced, their use of force was objectively reasonable. Once the vehicle struck the wall of the garage, Officer Kulesa believed Mr. Savage was reaching down for a weapon, and continued firing shots until he showed his hands. *Id.* Therefore, had the panel applied the relevant precedent from this court to the undisputed facts as determined by the district court, it could only have

concluded that the officers were entitled to qualified immunity because they did not violate Mr. Savage's Fourth Amendment rights.

Instead of properly applying the precedent set out above to the facts in this case as determined by the district court, the panel found that there was a dispute of fact as to whether, "the officers had probable cause to believe Savage posed a threat of serious physical harm..." then failed to apply the qualified immunity analysis to the facts as determined by the district court. (Pet. App. 10a). This analysis by the panel, or lack thereof, was improper pursuant to precedent set forth by this Court. See *Scott v. Harris*, 550 U.S. 372 (2007). When the correct analysis is applied, it is clear that Officer Jones and Officer Kulesa are entitled to qualified immunity.

B. Review should be granted because once the District Court determined the relevant set of facts in this case, the determination of the reasonableness of Officer Jones and Officer Kulesa's use of deadly force is a question of law which should have been decided by the panel.

This Court's precedent holds that that, at the summary judgment stage, once the court has determined the relevant set of facts and drawn all inferences in favor of the nonmoving party a court's review of the reasonableness of force "is a pure question of law," *Mullenix v. Luna*, 136 S. Ct. 305, 307 (2015), quoting *Scott*, 550 U.S. at n.8. Under this standard set out by this Court, the panel was required to apply the relevant precedent to what it determined

to be the relevant set of facts and reasonable inferences in favor of the nonmoving party in order to determine the reasonableness of Officer Kulesa and Officer Jones' use of deadly force in this incident. Here, after the District Court determined the relevant set of facts and drew all inferences in favor of Mr. Savage, (Pet. App. 12a), the panel erroneously determined that there was a disputed issue of fact as to whether "the officers had probable cause to believe Savage posed a threat of serious physical harm..." (Pet. App. 9a). Had the panel properly applied the precedent above to what the District Court determined to be the relevant facts and inferences in this case as set out in pages 12a through 15a of the district court's order, the only conclusion it could have reached is that the force used by Officer Kulesa and Officer Jones was objectively reasonable and not in violation of clearly established law.

Given that there are no material facts in dispute in this case, whether Officer Jones or Officer Kulesa used excessive force was a question of law to be determined by the Court at summary judgment, not by a jury. Given this Court's precedent, the undisputed facts taken in the light most favorable to the Respondent in this case as set out by the District Court demonstrate that Officer Jones and Officer Kulesa were faced with extreme circumstances in dealing with Mr. Savage's threatening, felonious, and noncompliant behavior. Given the circumstances, an application of the relevant precedent demonstrates that Officer Jones and Officer Kulesa's deadly use of force was objectively reasonable and not in violation of clearly established law. This Court should grant

review of the panel's denial of qualified immunity in this case.

C. Review is necessary because in refusing to engage the qualified immunity analysis, the panel blatantly disregarded this Court's precedent by failing to identify a factually similar case for purposes of determining clearly established law in deciding qualified immunity.

This Court should grant review because, in failing to apply the qualified immunity analysis and denying qualified immunity to Officers Jones and Kulesa, the panel blatantly disregarded this Court's precedent regarding the appropriate analysis to be applied to a claim for qualified immunity where the case is not obvious, by failing to identify a case where the officer was held to have violated the Fourth Amendment under similar facts.

This Court has not yet decided what precedents, other than its own, qualify as controlling authority for determining clearly established law for qualified immunity purposes. *District of Columbia v. Wesby*, 138 S. Ct. 577, 591 n. 8 (2018). Regardless, neither the panel below, or the appellee, cited to any precedent which determines clearly established law for the purpose of deciding qualified immunity in this case because no precedent with the requisite factual similarity exists from either this Court or any United States Circuit Court. Therefore, Officers Jones and Kulesa were not given fair notice that using deadly force under the circumstances they faced violated clearly established law. Because there is no clearly

established law on this point, Officers Jones and Kulesa should have been granted qualified immunity.

Under these circumstances, review is necessary to ensure consistency with the mandate of this Court in applying the correct analysis for qualified immunity to which Officers Jones and Kulesa are entitled under this Court's precedent. Most importantly, review of the denial of qualified immunity in this case is necessary to ensure the protection of officer discretion in taking required legitimate actions in split second circumstances where clearly established rights are not at issue, which as this Court has recognized, is important to society as a whole.

CONCLUSION

There is simply no precedential case that makes it "sufficiently clear" that Officer Jones and Officer Kulesa's actions in this case violated a constitutional right. Under these circumstances, Officers Jones and Kulesa should be granted qualified immunity. Officers Jones and Kulesa hereby respectfully request review of the panel's opinion, so that they may be granted the protection afforded by qualified immunity and the dismissal of this instant case, and so that society's interests which underly qualified immunity will not be thwarted by the panel majority's refusal to apply the qualified immunity analysis in this case.

Respectfully submitted,

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