

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

NICHOLAS S. BOLTON,

Petitioner,

v.

SHERIFF OF COWETA COUNTY,
GEORGIA; JOHN TAYLOR COLLINS,
CHRISTIAN SPINKS; and JON HOUSE;

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

1. Whether sheriff deputies are entitled to summary judgment based on qualified immunity in a federal § 1983 civil rights action despite evidence that the deputies investigated whether the plaintiff was loitering without seeking any relevant information; induced the plaintiff to leave the scene by threatening him with arrest and refusing to explain why he was instructed to exit from his parked vehicle; then aimed firearms at the plaintiff's head before he drove away from the parking lot.

2. Whether sheriff deputies are entitled to summary judgment based on qualified immunity in a federal § 1983 civil rights action despite evidence that the deputies initiated an unauthorized vehicle chase of the plaintiff and immobilized his vehicle by performing a dangerous, unjustified, and unauthorized “precision immobilization technique” or “pursuit intervention tactic” (PIT maneuver).

3. Whether sheriff deputies are entitled to summary judgment based on qualified immunity in a federal § 1983 civil rights action despite evidence that the deputies used deadly force to shoot the plaintiff in the head without giving him a feasible advance warning or any opportunity to turn off his engine while he was sitting in an immobilized vehicle without posing a threat to anyone.

4. Whether a sheriff deputy is entitled to summary judgment based on qualified immunity in a federal § 1983 civil rights action despite evidence that he used excessive, unnecessary force on the critically wounded, helpless plaintiff.

5. Whether a county sheriff, sued in his official capacity, is entitled to summary judgment based on sovereign immunity in a federal § 1983 civil rights action despite evidence that he a) failed to train deputies to investigate a criminal offense, b) failed to enforce training to de-escalate potential conflicts with vehicle drivers, c) failed to enforce policies on vehicle pursuits, d) failed to enforce policies on PIT maneuvers, and e) failed to enforce policies on the use of deadly force.

6. Whether sheriff deputies are entitled to summary judgment on state law claims for assault and battery despite ample evidence that the deputies acted with actual malice and intent to injure the plaintiff.

LIST OF ALL PARTIES & COURT PROCEEDINGS

The following persons and entities are parties to this case:

Bolton, Nicholas S.	Petitioner
Sheriff of Coweta County, Georgia	Respondent
Collins, John Taylor	Respondent
Spinks, Christian	Respondent
House, Jon	Respondent

The following lower court proceedings are directly related to this case:

1. *Bolton v. Sheriff of Coweta County*, Docket No. 23-12752, 177 F.4th 1070 (11th Cir. 2026). Judgment on May 21, 2026. Appx. 14
2. *Bolton v. Wood, Sheriff of Coweta County*, Docket No. 1:21-CV-2279-MHC, 682 F.Supp.3d 1304 (N.D.Ga. 2023). Judgment on July 18, 2023. Appx. 15

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BASIS FOR JURISDICTION

This is a petition for a writ of certiorari to appeal the order granting summary judgment to Respondents in the United States District Court for the Northern District of Georgia following a proper appeal to the Eleventh Circuit Court of Appeals.

On May 21, 2026, the Eleventh Circuit Court of Appeals issued a decision affirming the district court's summary judgment in favor of Respondents.

The United States Supreme Court has jurisdiction to review the circuit court of appeals decision on a writ of certiorari pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS, STATUTES, & REGULATIONS INVOLVED IN THE CASE

United States Constitution, Fourth Amendment. “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated...”

42 U.S.C. § 1983. “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...”

STATEMENT OF THE CASE

1. Federal Court Proceedings & Dispositions

On June 2, 2021, Petitioner NICHOLAS S. BOLTON (“Bolton”) filed a Complaint initiating this civil rights action in the United States District Court for the Northern District of Georgia, No. 1:21-CV-02279-MHC. Appx 1. Pursuant to 28 U.S.C. §§ 1331 and 1343, this district court had jurisdiction to resolve Bolton’s civil rights and excessive force claims based on the Fourth Amendment to the U.S. Constitution, 42 U.S.C. § 1983, and Georgia state law. Doc 1.

On July 18, 2023, United States District Judge Mark H. Cohen issued an *Order* granting summary judgment to Respondents. Doc 93. The district court clerk promptly issued a judgment in favor of Respondents. Doc 94. Appx 14.

On August 14, 2023, Bolton filed a *Notice of Appeal* to the Eleventh Circuit Court of Appeals pursuant to 28 U.S.C. § 1291. Doc 95.

On May 21, 2026, an Eleventh Circuit Court of Appeals decision affirmed the district court’s grant of summary judgment to Respondents. Appx 15.

2. Summary of the Material Facts

In June 2019, Respondent SHERIFF OF COWETA COUNTY, GEORGIA (“the Sheriff”) operated the Coweta County Sheriff’s Office (CCSO), a political

subdivision of the State of Georgia. Respondents JOHN TAYLOR COLLINS (“Deputy Collins”), CHRISTIAN SPINKS (“Deputy Spinks”), and JON HOUSE (“Deputy House”) were deputy sheriffs employed with CCSO. Doc 74-2 – Pg 2-3, ¶¶ 11-14; Doc 74-3 – Pg 2, ¶ 2; Doc 85-2 – Pg 1-2, 5-6, ¶¶ 1-3, 11-14.

In June 2019, was a 34-year-old man born and raised in the State of Georgia. Bolton resided in Hogansville, but he owned and primarily lived in his white 2001 Chevrolet Tahoe SUV (“the Tahoe”) while he picked up odd jobs and begged for handouts in Newnan. At night, Bolton parked the Tahoe to sleep in the enormous vacant parking lots used by retail establishments in the Newnan Pavilion. The Newnan Pavilion is a prominent, privately owned shopping center located in Coweta County, Georgia. Doc 70, Pg 7-11; Doc 74-3, Pg 7, ¶ 17; Doc 85-2, Pg 1-2, ¶¶ 1-3.

On June 29, 2019, Bolton parked the Tahoe in a remote section of the Newnan Pavilion parking lot used by a Kohl’s store. At 11:00 a.m., Bolton was sitting on the Tahoe bumper when CCSO Deputy George Thompson approached and initiated a pleasant conversation. Bolton readily answered questions and produced his driver’s license. Deputy Thompson verified Bolton’s identity and ownership of the Tahoe. Doc 77-2 – Pg 3, ¶ 1; Doc 70 – Pg 18-19; Doc 82-FD; Doc 85-5; Doc 85-6. Appx 9.

Deputy Thompson also verified that Bolton was living and sleeping in the Tahoe in the parking lot. Deputy Thompson told Bolton that he was “fine” while parked at that location. Deputy Thompson encouraged Bolton to seek employment

at the retail establishments in the Newnan Pavilion while he was parked in the lot. Doc 70 – Pg 18-19; Doc 77-2 – Pg 3, ¶ 2; Doc 82; Doc 85-5; Doc 85-6. Appx 9.

Deputy Thompson reported his interaction with Bolton to the CCSO dispatch office. Deputy Thompson had no negative impressions or concerns about Bolton or his presence in the parking lot. After their conversation, Deputy Thompson never considered arresting Bolton for loitering. Deputy Thompson verified Bolton's identity and found no reason to suspect he was in the parking lot for any illegal purpose. Doc 82; Doc 85-5; Doc 85-6. Appx 9.

On June 30, 2019, at 2:22 a.m., Deputy Collins saw the Tahoe parked at the same location in the parking lot. Deputy Collins never received any complaints about the Tahoe, and he never tried to verify "whether any other deputy had called in or communicated with someone in the Tahoe." Doc 70 – Pg 29, 37; Doc 73 – Pg 94.

After Deputy House came to the scene as back-up, Deputy Collins approached the Tahoe and saw Bolton asleep in the rear cargo area. Deputy Collins asked Bolton to open a window and produce identification. Deputy Collins assured Bolton that Deputy Collins just needed to check Bolton's ID before he left because Bolton was loitering. Bolton explained that he had recently spoken to two (2) other officers, but he promptly moved up into the driver's seat and retrieved his driver's license. Doc 69 – Pg 60; Doc 72 – Pg 60, 68; Doc 73 – Pg 95-96, 99-100, 102, 297; Doc 75-FD2; Doc 75-FD3; Doc 85-7; Doc 85-8. Appx 10.

Bolton retrieved his driver's license, but the deputies never even looked at it.¹ Instead, Deputy Collins told Bolton to exit from the Tahoe. Bolton intended to sit in his vehicle while he showed his driver's license to Deputy Collins. Bolton was holding a driver's license in his hand, so he did not expect or understand this new demand to exit from the Tahoe. Doc 69 – Pg 60; Doc 73 – Pg 96, 99-100; Doc 75-FD2; Doc 75-FD3; Doc 77-2 – Pg 5, ¶ 7; Doc 85-6; Doc 85-7; Doc 85-8; Doc 85-9. Appx 9; Appx 10.

Deputy Collins and Deputy House both accused Bolton of “loitering” even though they knew there was “nothing illegal about parking (his) car in a lot like that and going to sleep.” The deputies never asked Bolton to identify himself, never asked Bolton why he was parked at that location, never noted the tag number of the Tahoe to verify the registration or ownership of the vehicle, and never tried to verify whether the other deputy had already spoken to Bolton about parking at that location. Doc 43-1 – Pg 8; Doc 72 – Pg 57, 59, 66, 68-69, 73; Doc 73 – Pg 90, 94, 108-110, 161, 297-298; Doc 75-FD2; Doc 75-FD3; Doc 77-2 – Pg 5, ¶¶ 8-9; Doc 82; Doc 85-6; Doc 85-7; Doc 85-8. Appx 9; Appx 10.

Bolton never refused to exit from the Tahoe, but he stayed in the vehicle while he asked, “How am I loitering?” and continued to explain that he had already spoken

¹ The district court distorted the evidence by noting that “Bolton did not hand...his driver's license” to Deputy Collins. Doc 93 – Pg 4. However, Deputy Collins never asked Bolton to hand over his license after he produced it.

to another officer. Without providing any explanation or reason for Bolton to exit from the Tahoe, both deputies raised their voices and demanded obedience. Doc 73 – Pg 123, 164-165; Doc 75-FD2; Doc 75-FD3; Doc 85-7; Doc 85-8. Appx 10.

Deputy Collins walked toward his patrol car for gloves to break a window of the Tahoe and forcibly remove Bolton from the vehicle. Deputy House instructed the sleepy and confused Bolton to exit from the Tahoe. The deputies chose to force Bolton out of the vehicle, even if it required breaking a window, instead of merely explaining why they were asking Bolton to get out of the vehicle. Doc 72 – Pg 70-72; Doc 73 – Pg 111; Doc 75-FD2; Doc 75-FD3; Doc 85-7; Doc 85-8. Appx 10.

Most CCSO traffic stops are conducted with a driver seated in his vehicle, so a driver may be concerned or confused when a deputy tells the driver to exit from his vehicle. A CCSO deputy may explain why he wants a driver out of his vehicle, and the most common explanation is a concern for officer safety. “Officer safety” reasonably encompasses a concern about passing cars, or concern about whether a motorist has a weapon in the vehicle. Doc 69 – Pg 86; Doc 85-14; Doc 85-15.

Deputies receive annual “de-escalation training,” but they are not trained or obligated to explain why they want a driver to exit from his vehicle during a traffic stop. Drivers commonly ask why they are being instructed to exit from their vehicles, and deputies *should* provide an explanation to seek voluntary compliance. CCSO policies do not require a deputy to explain why he wants someone to exit from his

vehicle, and deputies are trained to request, demand, and force compliance without providing any explanation. Providing an explanation is certainly “consistent with the principle of de-escalation,” but CCSO deputies are not obligated to apply this training in traffic stops. Doc 69 – Pg 84-87; Doc 72 – Pg 77; Doc 73 – Pg 165-166.

Deputy Collins believed he had no obligation to explain why someone must step out of a vehicle. When “drivers objected to getting out of a vehicle,” Deputy Collins might inform the drivers “that they needed to get out of the vehicle for officer safety reasons.” However, Deputy Collins also realized that his decision to provide an explanation when he told someone to exit from a vehicle was “a judgment call.” Doc 73 – Pg 162-166.

Deputy House could not explain why he also refused to “tell Mr. Bolton the reason he needed to get out of the vehicle was for officer safety if that was (his) primary concern.” Instead, Deputy House only claimed that he was not obligated to give Bolton a reason. Doc 72 – Pg 74-78.

Deputy House stepped forward to speak to Bolton as Deputy Collins went back to his patrol car. Bolton did not realize that Deputy Collins was retrieving a glove to break a window and forcibly remove Bolton from the vehicle. Doc 72 – Pg 70; Doc 73 – Pg 111, 165; Doc 75-FD2; Doc 75-FD3; Doc 85-7 – Pg 3. Appx 10.

At that point, Deputy House asked Bolton, “You going to get out, or you going to jail?” Doc 72 – Pg 79; Doc 75-FD3; Doc 85-8 – Pg 2. In response, Bolton chose

to “get out” of the parking lot. Bolton was not sure whether he was specifically “told to leave or not,” but he decided that his best option was to drive away to get out of the parking lot and avoid jail. Doc 70 – Pg 21-24; Doc 75-FD2; Doc 75-FD3.

Deputy House claims that he intended to tell Bolton to “get out” *of the Tahoe* or go to jail. However, Deputy House’s statement was obviously ambiguous. The deputies never told Bolton that he was under arrest or that he could not drive away to “get out” of the parking lot. The deputies certainly threatened Bolton, but nobody told him that he could not leave the parking lot. Doc 72 – Pg 81; Doc 73 – Pg 117; Doc 75-FD2; Doc 75-FD3; Doc 85-8.

Bolton started the Tahoe engine to drive away from the parking lot. Deputy Collins was close to the rear of the Tahoe. Deputy House was standing close to Bolton and the driver’s window. Bolton looked straight ahead while the deputies aimed their service pistols directly at Bolton’s head. Bolton did not recall hearing Deputy Collins or Deputy House telling him to turn off his engine.² Doc 70 – Pg 17-26; Doc 72 – Pg 49-50, 79, 83, 88; Doc 73 – Pg 112; Doc 75-FD2; Doc 75-FD3; Doc 85-7; Doc 85-8; Doc 85-10. Appx 10.

Bolton shifted the Tahoe into gear and drove away. The deputies got in their patrol cars and chased Bolton as he drove away on a vacant access road. Deputy

² Bolton suffered a traumatic head injury, so he had a limited recollection of his observations and thought processes prior to the shooting. Doc 70 – Pg 19-21, 30; Doc 75-FD2; Doc 75-FD3.

Collins followed and performed a PIT maneuver by striking the right rear corner of the Tahoe. Deputy Collins never received permission from a supervisor or training to perform the PIT maneuver as required by CCSO's Vehicle Pursuit policy. Exhibit 7; Exhibit 8; Doc 40 – Pg 12-13; Doc 43-1 – Pg 15-17; Doc 72 – Pg 88; Doc 73 – Pg 143-144, 282-287; Doc 75-FD2; Doc 75-FD3; Doc 85-7; Doc 85-8. Appx 10.

The Tahoe spun around until it faced Deputy Collins' patrol car. Deputy House and Deputy Spinks both arrived immediately in their own patrol cars. The Tahoe was pinned and immobilized between all three (3) patrol cars. Doc 72 – Pg 104-105; Doc 73 – Pg 144, 308-309; Doc 75-FD2; Doc 75-FD3; Doc 85-7; Doc 85-8; Doc 85-11. Appx 10; Appx 13.

The Tahoe engine was still running, and its wheels were spinning after Bolton lost control of the vehicle during the PIT maneuver. However, the Tahoe remained stationary and pinned between all three (3) patrol cars. The wheels of the Tahoe were pointed straight ahead toward Deputy Collins' patrol car and never turned. The front bumper of Deputy Collins's patrol car probably bumped the front of the Tahoe because it moved back a couple of feet before it stopped. Bolton never moved the Tahoe after it stopped. Doc 40 – Pg 13, 16; Doc 43-1 – Pg 18; Doc 72 – Pg 103-105; Doc 75-FD2; Doc 75-FD3; Doc 85-13; Doc 85-14; Doc 85-2 – Pg 31 ¶ 82. Appx 13.

Deputy House stopped his patrol car next to and facing Bolton in the Tahoe. Deputy House jumped out of his patrol car, stood behind the driver door, aimed his

service pistol, and yelled at Bolton to “turn off the car.” Doc 72 – Pg 109; Doc 73 – Pg 148; Doc 75-FD3 (02:14-02:17); Doc 85-8; Doc 85-12. Appx 13.

Within four (4) seconds after he stopped, Deputy Collins jumped out of his patrol car, stood behind the driver door, aimed his service pistol, and fired a bullet through the Tahoe windshield into Bolton’s right eye. Deputy Collins fired his weapon without giving Bolton any verbal command, but at the same moment Deputy House told Bolton to “turn off the car.” Doc 73 – Pg 148, 160; Doc 75-FD2 (03:16-03:20); Doc 75-FD3; Doc 85-7; Doc 85-8; Doc 85-13. Appx 10; Appx 13.

CCSO trained the deputies to exercise a great deal of discretion in firing their weapons. Based on that training, CCSO, Deputy Collins, and Deputy House all claimed the deputies had complete discretion to either give Bolton a verbal warning or shoot him. Thus, Deputy House was given complete discretion to give Bolton a verbal instruction to turn off the engine while Deputy Collins was given complete discretion to immediately shoot Bolton in the head before he could comply with any warning or instruction. Doc 69 – Pg 83, 103-108; Doc 73 – Pg 152, 160-161.

Bodycam footage verifies that Bolton never posed a threat to anyone before the deputies initially drew their pistols and pointed them at Bolton’s head. Bolton still posed no threat to anyone during the vehicle chase or the shooting. Doc 72 – Pg 111; Doc 73 – Pg 161; Doc 75-FD2; Doc 75-FD3; Doc 85-7; Doc 85-8. Appx 10.

Bolton was critically injured, immobile, and twitching in the driver’s seat of

the Tahoe after the shooting. Deputy Spinks dragged Bolton out of the Tahoe face-down on the pavement, then put a knee on Bolton's back to handcuff him. Deputy Spinks had no EMT training or medical reason to remove Bolton from the Tahoe, and he knew Bolton suffered a gunshot wound to his head. Deputy Spinks was concerned with restraining Bolton, but unconcerned with any impact on Bolton's injury. Doc 71 – Pg 38-42; Doc 72 – Pg 115; Doc 75-FD2; Doc 75-FD3; Doc 89FD.

The Comparable Traffic Stop of Dr. Onyeka

On December 18, 2020, Deputy Spinks initiated a comparable routine traffic stop of Emmanuel Onyeka, M.D., a hospital emergency room physician. Dr. Onyeka was driving home from a hospital shift in the middle of the night. While Deputy Spinks wrote a traffic citation for an expired tag registration, he told Dr. Onyeka to exit from his vehicle. Doc 85-14. Appx 11.

Dr. Onyeka did not understand why Deputy Spinks suddenly wanted him out of the vehicle, so he was “apprehensive about getting out of the car at that location with no witnesses and very little traffic.” Dr. Onyeka never refused to exit from the car, but he repeatedly asked why the deputy wanted him to get out. Deputy Spinks refused to answer this question or to provide any explanation. Doc 85-14. Appx 11.

Deputy Spinks placed Dr. Onyeka in a headlock to forcibly remove him from his vehicle. Dr. Onyeka did not resist while deputies pushed him to ground, put him in handcuffs, and detained him in a patrol car. After this abuse, Dr. Onyeka was

given a traffic citation for his expired registration and released. Doc 85-14. Appx 11.

Dr. Onyeka tried to avoid taking any action that could be perceived as a threat. Dr. Onyeka is certain that he would have gotten out of the car if he had been given any reasonable explanation for the instruction to get out of the car. Dr. Onyeka is also certain that he would have gotten out of the car if he understood that the deputies would forcibly remove him from the car. Doc 85-14. Appx 11.

Dr. Onyeka promptly wrote a letter to the local police department to complain about this incident. CCSO took no further action because “Deputy Spinks did not violate any department policy.” Doc 85-14; Doc 85-15. Appx 11.

Expert Witnesses

Bolton employed Dr. Andrew J. Scott, III and Curtis Marshall as experts in police practices, police training, and use of force. Both of Bolton’s expert witnesses independently evaluated evidence in this case, reached conclusions based on the evidence, and drafted expert reports with opinions summarized as follows:

- a) The deputies had no reason to detain Bolton after the initial stop.
- b) Both deputies initiated the vehicle pursuit contrary to CCSO policy and well-established police practices and procedures.
- c) Deputy Collins conducted the PIT maneuver and used deadly force to shoot Bolton contrary to CCSO policy and well-established police practices and procedures. Doc 40; Doc 43-1; Doc 85-4 – Pg 2-3, ¶¶ 4-5. Appx 2; Appx 3.

3. Standard and Scope of Review

The district court granted summary judgment to Respondents, so the Eleventh Circuit Court of Appeals was obligated to “view the evidence and all factual inferences therefrom in the light most favorable to” Bolton. *Perez v. Suszczynski*, 809 F.3d 1213, 1217 (11th Cir. 2016). See *Celotex Corporation v. Catrett*, 477 U.S. 317, 323 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248, 255 (1985).

REASONS TO GRANT CERTIORARI

The issues raised in this appeal will have an enormous impact on whether law enforcement officers continue to use excessive, deadly force based on an improper interpretation of the Fourth Amendment to the United States Constitution. Too often, law-abiding motorists are unnecessarily shot and killed in confrontations with law enforcement officers even while the officers receive more extensive training in limiting their use of force and de-escalating such confrontations. Unless police training is enforced by § 1983, the same fact pattern will repeatedly emerge:

- a) A law-abiding motorist is stopped and confronted by antagonistic officers.
- b) The officers have received ample training in the proper use of force and communicating with citizens to de-escalate potential conflicts.
- c) The officers disregard their use of force and de-escalation training. Instead, the officers deliberately frighten and intimidate the motorist.
- d) The motorist tries to leave or flee from the scene to avoid the conflict.

- e) The officers claim that the motorist's vehicle is a deadly weapon and chase the vehicle until it stops.
- f) The officers shoot and/or kill the motorist while he is still in the vehicle even if the vehicle is immobilized.

The federal courts have been so protective of law enforcement that they fail to consistently enforce the Fourth Amendment or the excessive use of force by law enforcement officers. Without explicit direction, the law enforcement officers in this case believed they had no obligation to abide by their training, any movement of a vehicle will be accepted as an attempt to injure a nearby officer, any motorist can be chased down for any possible violation of the law, and any motorist may be summarily shot before he can turn off his engine.

The lower court decisions in this case certainly promote this reasoning. The lower courts found that a county sheriff and his deputies are entitled to immunity for their roles in chasing and shooting an unarmed citizen who had been sleeping in his vehicle and left the scene of a parking lot to avoid an arrest or conflict. The deputies fabricated a "threat" by the vehicle to justify chasing and shooting the driver.

This is *not* a case in which law enforcement officers were forced to make a split-second decision to defend themselves that led to an unforeseen tragedy. This is *not* a case in which the officers were unaware that their conduct might lead to frightening a citizen to make an unnecessary choice with tragic consequences.

A reasonable construction of the evidence shows that two (2) sheriff deputies deliberately created a dangerous situation for Bolton that culminated in a foreseeable and unnecessary shooting. A sheriff deputy allowed Bolton to sleep in his Chevrolet Tahoe (“the Tahoe”) in a public parking lot after he produced identification and verified ownership of his vehicle. Two (2) other deputies asked for, then ignored, Bolton’s identification. These deputies intentionally refused to explain why they wanted Bolton to get out of the Tahoe in the middle of the night at that secluded location. Instead, the deputies decided to drag Bolton out of the Tahoe, a tactic intentionally chosen and employed by CCSO deputies on other occasions.

Bolton was forced to immediately choose between three (3) frightening scenarios. Bolton could voluntarily get out of the Tahoe to face the angry deputies, Bolton could be dragged out of the Tahoe, or Bolton could drive away. When Deputy House told Bolton to “get out” or “go to jail,” Bolton decided to drive away to “get out” of the parking lot.

By granting certiorari, this Court will have an opportunity to clarify the circumstances that must exist before law enforcement officers can threaten, chase, and shoot the driver of a vehicle while disregarding their training and established policies. Clarification is also needed to confirm that a moving vehicle is not always a deadly weapon, and a driver is entitled to a reasonably available warning before he is summarily shot in the head for failing to turn off his engine.

A. THE DEPUTIES ARE ARGUABLY LIABLE FOR USING EXCESSIVE, DEADLY FORCE BECAUSE QUALIFIED IMMUNITY DOES NOT APPLY TO A VIOLATION OF CLEARLY ESTABLISHED LAW AND SHERIFF POLICIES

Bolton asserted a § 1983 civil rights claim against State law enforcement officers for use of excessive force. Any “claim that law enforcement officials used excessive force in the course of an arrest, investigatory stop, or other ‘seizure’...of a free citizen...invok(es) the protections of the Fourth Amendment” to the U.S. Constitution. *Graham v. Conner*, 490 U.S. 386, 388, 394 (1989). See also *Oliver v. Fiorino*, 586 F.3d 898, 905 (11th Cir. 2009). Doc 1 – Pg 1, ¶ 1.

The parties agree that Bolton “had not been arrested prior to the shot fired by Deputy Collins.” However, the purported investigatory stop of Bolton in the parking lot, the PIT maneuver, and the shooting each constituted a seizure. Bolton was not yet under law enforcement control at the time of the shooting.” The “facts of the instant case are governed by the Fourth Amendment.” Doc 74-1 – Pg 26.

“When government officials abuse their offices, ‘action(s) for damages may offer the only realistic avenue for vindication of constitutional guarantees’... (W)hether an official protected by qualified immunity may be held personally liable for an allegedly unlawful official action generally turns on the ‘objective legal reasonableness’ of the action (cit.) assessed in light of the legal rules that were ‘clearly established’ at the time it was taken.” *Anderson v. Creighton*, 483 U.S. 635,

638-39 (1987), quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 814, 818 (1982). See *Oliver, supra*, 586 F.3d at 904.

In resolving “a summary judgment motion based on qualified immunity,” a district court is “required to resolve all issues of material fact in favor of the plaintiff.” The “legal question of whether the defendant [is] entitled to qualified immunity” must be answered “under that version of the facts.” *Lee v. Ferraro*, 284 F.3d 1188, 1190 (11th Cir. 2002); *Sheth v. Webster*, 145 F.3d 1231, 1236 (11th Cir. 1998); *Thornton v. City of Macon*, 132 F.3d 1395, 1397 (11th Cir. 1998).

“Qualified immunity protects officers engaged in discretionary functions from civil liability only if the officers’ actions do ‘not violate clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Perez v. Suszczyński*, 809 F.3d 1213, 1218 (11th Cir. 2016), quoting *Harlow, supra*, 457 U.S. at 818. In this case, Bolton produced ample evidence that the defendant deputies created an extremely dangerous situation that culminated in using excessive, deadly force. Their acts may have been “discretionary,” but the deputies knowingly and intentionally violated clearly established law and CCSO policies during the stop, pursuit, and shooting of Bolton.

**1. The initial stop was lawful, but intentionally conducted
in an unlawful, threatening, and confusing manner**

Plaintiff’s experts both recognized that “Bolton’s presence in the parking lot may have warranted an initial police contact.” An “investigatory stop was

authorized,” and the deputies also “had the legal authority to request identification from Mr. Bolton.” The deputies even had legal authority to instruct Mr. Bolton to “exit his vehicle” for purposes (*e.g.* officer safety) unrelated to an investigation into whether Bolton was loitering. Doc 40 – Pg 10; Doc 43-1 – Pg 6.

However, the deputies decided to intimidate Bolton by conducting this investigatory stop in a threatening and confusing manner. Defendants rely heavily on a theory that Bolton was suspected of loitering and obstructing an investigation of the loitering. In fact, the deputies never conducted a legitimate investigation into whether Bolton was loitering as he slept in his vehicle.

Bolton was “seized” during the purported investigatory stop of his vehicle. The shooting would have never occurred if the deputies had simply acted in accordance with their training, their knowledge, or CCSO policies. The deputies failed to conduct any legitimate investigation of criminal activity. The deputies deliberately refused to explain why they wanted Bolton to get out of his vehicle. Instead, the deputies quite deliberately chose to intimidate Bolton by conducting this “investigatory stop” in a threatening and confusing manner.

“A person commits the offense of loitering or prowling when he is in a place at a time or in a manner not usual for law-abiding individuals under circumstances that warrant a justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity.” O.C.G.A. § 16-11-36(a).

However, a person cannot be arrested for loitering unless he has been afforded “an opportunity to dispel any alarm or immediate concern which would otherwise be warranted by requesting the person to identify himself and explain his presence and conduct.” O.C.G.A. § 16-11-36(b). Bolton could not be charged with loitering unless he refused to identify himself or to explain why he was parked in the lot.

Based on the statutory criteria, Deputy Collins and Deputy House completely avoided any legitimate investigation into whether Bolton was loitering in the parking lot. Bolton readily produced his driver’s license, but the deputies were no longer interested in looking at the license when they told Bolton to exit from the vehicle. The deputies never looked at the tag of the Tahoe to determine whether Bolton was the owner. The deputies never even asked Bolton to “explain his presence and conduct.” The deputies “failed ‘to dispel any alarm or immediate concern’ with basic questioning.” Doc 43-1 – Pg 8, quoting O.C.G.A. § 16-11-36(b).

By comparison, Deputy Thompson previously verified Bolton’s identity by asking him to produce his driver’s license. Deputy Thompson also confirmed that Bolton was living out of his vehicle on consecutive days at precisely the same location, so he was probably sleeping there at night. Deputy Thompson efficiently confirmed that Bolton was not “loitering” in the parking lot, so he was allowed to remain. Deputy Collins and Deputy House were more interested in exerting their authority, intimidating Bolton into compliance, and dragging him out of the Tahoe.

“The observations of Deputy Thompson and Deputy House during their contact with Mr. Bolton...did not support any further investigation of Loitering.” Doc 43-1, Pg 6. The purported “investigation” by the deputies had the desired effect. Bolton was so intimidated and confused that he reasonably concluded his best option was to leave the parking lot. The flawed “investigation” proximately caused and culminated in an unjustified, dangerous vehicle chase and a bullet in Bolton’s brain.

Furthermore, a routine traffic stop is usually conducted while the driver remains seated in his vehicle. A driver may be asked to exit from his vehicle, but the driver is likely to ask for a reason, particularly when the vehicle is stopped in a remote location. By providing an explanation, a deputy may ease the driver’s mind and encourage voluntary compliance with the deputy’s request. Doc 69, Pg 84-87.

Deputy Collins and Deputy House knew that drivers would sometimes ask why they were being instructed to exit from their vehicles during traffic stops. Sometimes these deputies would give the driver a reasonable explanation (*e.g.* “officer safety”) to alleviate his concerns and promote voluntary compliance with the instruction. Despite annual “de-escalation training” consistent with this approach, these deputies knew they were also authorized to forcibly remove a driver from a vehicle without any explanation or effort to encourage voluntary compliance. In other words, the deputies had no obligation to act “consistent(ly) with the principle of de-escalation,” by providing an explanation to a driver. Doc 69 – Pg 87.

Deputy Collins claimed that Bolton “kept refusing to” exit from the Tahoe. Doc 73 – Pg 298. Bolton was certainly reluctant to exit from the Tahoe because he did not understand the reason for the request. Bolton previously conversed with another deputy while parked at the same location, identified himself, and confirmed that he was living in his car. Bolton did not “keep refusing to” exit from his vehicle. Instead, Bolton kept asking the deputies why they wanted Bolton to step out of the vehicle at night in an isolated location when he was already holding his driver’s license in his hand while the deputies ignored it.

Deputy Collins and Deputy House made a conscious decision to forcibly remove Bolton from the Tahoe without explaining their demand to exit the vehicle. Deputy Spinks subsequently made the same decision when he forcibly removed Dr. Onyeka from his vehicle during a routine traffic stop. In short, CCSO deputies routinely used excessive force against selected drivers. It may be no coincidence that Bolton and Dr. Onyeka are both black males.

Dr. Onyeka and Bolton both asked essentially the same question during a CCSO traffic stops six (6) months apart. Deputy Spinks refused to explain why he wanted Dr. Onyeka to exit from his vehicle. Dr. Onyeka verified that he would have voluntarily exited from his vehicle if he had received an explanation for the request. Instead, the doctor was forcibly dragged from his vehicle and detained before he received a minor traffic citation for an expired tag. Doc 85-14; Doc 85-15. Appx 11.

2. The Tahoe chase was an unjustified, dangerous violation of proper police practices and CCSO vehicle pursuit policy

Bolton understandably “felt concern for his safety given the aggressive nature of the contact (with the deputies) and the sudden pivot from verbal commands to the threat of breaking the vehicle’s window and forcibly removing him from the vehicle.” Even if the deputies intended to arrest Bolton, he was entitled to resist an unlawful arrest. “Mere flight by Bolton would have been the lowest form of resistance at that point.” Doc 43-1 – Pg 13.

Bolton was understandably confused and intimidated when he decided to drive away from the parking lot. At that point, Bolton certainly was not a legitimate “suspect” for any criminal offense, and he certainly not a suspect for any offense that authorized a vehicle chase.

A police practices expert, Dr. Andrew J. Scott, III, concluded that “the pursuit of Mr. Bolton once he left the deputies in the parking lot should not have occurred, per CCSO pursuit policy.” In fact, the “pursuit was inconsistent with CCSO pursuit policy and well-established police practices and procedures which negligently contributed to the shooting of Mr. Bolton.” Doc 40 – Pg 9, 11.

The alleged “misdemeanor crimes of Loitering and Obstruction” could not justify the deputies’ decision to pursue the Tahoe. Bolton never struck Deputy House with the Tahoe. The deputies made this allegation to fabricate a felony aggravated assault charge and justify the pursuit. Doc 40 – Pg 9-12.

Another police expert, Curtis Marshall, reached the same conclusion. The pursuit of the Tahoe was “based almost entirely on the notion that Deputy House was physically struck or at serious risk of injury from the Tahoe as Mr. Bolton drove away from the parking space.” The evidence (including BWC video footage and the deputies’ statements) overwhelmingly established that Deputy House was never struck or endangered by the vehicle.” Doc 43-1 – Pg 11-13. See also Doc 75 – FD2.

According to CCSO policy, deputies may “conduct motor vehicle pursuits only when the necessity of immediate apprehension of the suspect outweighs the level of danger to the community created by the pursuit.” Doc 73 – Pg 282. The vehicle pursuit of Bolton as a suspected “loiterer” cannot arguably meet this standard without fabricating a more serious crime. “The need to apprehend the fleeing driver (Mr. Bolton) based on misdemeanor crimes, did not outweigh the inherent dangers of a vehicle pursuit.” Doc 40 – Pg 9; Doc 43-1 – Pg 13.

The deputies violated another CCSO policy by failing to “advise the dispatch center of the...offense committed.” Doc 43-1 – Pg 14; Doc 73 – Pg 283. The deputies probably realized that they would not be authorized to engage in a vehicle pursuit of a suspect for loitering, so the deputies fabricated a claim that Bolton used the vehicle as a deadly weapon by driving toward a deputy as he drove away from the lot.

**3. The PIT maneuver was dangerous, unauthorized,
unjustified, and prohibited by a written CCSO policy**

Bolton was driving on a vacant access road next to the parking lot when

Deputy Collins performed the PIT maneuver to forcibly stop the Tahoe. Bolton had committed no crime prior to the chase, and he was only trying to “get out” of the parking lot and away from the deputies. At worst, Bolton may have failed to come to a complete stop at a stop sign or crossed over the center of the vacant access road during the brief and unnecessary chase.

The propriety of a PIT maneuver is explicitly encompassed within the CCSO Vehicle Pursuit Policy. A PIT maneuver is an “offensive tactic” that must be approved by a CCSO supervisor. Deputy Collins violated CCSO’s Vehicle Pursuit policy by driving “on the wrong side of (the) roadway” to perform the PIT maneuver without “department training” or supervisory permission. Deputy Collins had no “specific training in performing PIT maneuvers” and he never even asked for permission. PIT maneuvers are inherently dangerous, so they “should only be instituted when the use of deadly force is warranted. In this instance, deadly force was not warranted when Deputy Collins implemented the PIT maneuver.” Doc 40 – Pg 12-13; Doc 43-1 – Pg 15-17; Doc 73 – Pg 27, 284-287; Doc 75 – FD2.

Deputy Collins incorrectly decided that “deadly force was warranted” when he performed the PIT maneuver to stop Bolton’s vehicle. The PIT maneuver was dangerous, unauthorized, unjustified, and prohibited by a written CCSO policy. Deputy Collins lacked the requisite training and supervisory permission to perform the PIT maneuver at a time when deadly force was certainly unwarranted.

The shooting occurred immediately after the Tahoe was stopped and immobilized by the PIT maneuver. In this context, the PIT maneuver proximately caused the shooting and the resulting injuries.

4. Deputy Collins unreasonably and unjustifiably used excessive, deadly force in shooting Bolton

The district court concluded that Deputy Collins was justified in shooting Bolton after the Tahoe was stopped and immobilized by the PIT maneuver. The district court held that “a law enforcement officer in Collins’ position” could have “a reasonable belief that Bolton (1) was still attempting to flee, (2) was using his vehicle as a deadly weapon, (3) posed a threat of serious physical harm to himself and other officers on the scene, including Deputy House, (4) had violated multiple traffic laws, and (5) had committed” criminal offenses while fleeing from the deputies. Doc 93 – Pg 25-26.

The proper application of deadly force is based on more limited criteria. The district court improperly considered disputed evidence and irrelevant arguments that Bolton committed traffic and criminal offenses while he drove away from the parking lot. An officer may constitutionally use deadly force only when he:

(1) has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others or that he has committed a crime involving the infliction or threatened infliction of serious physical harm; (2) reasonably believes that the use of deadly force was necessary to prevent escape; *and* (3) has given some warning about the possible use of deadly force, if feasible. *Perez, supra*, 809 F.3d at 1218-19; *Morton v. Kirkwood*, 707 F.3d 1276, 1281 (11th Cir. 2013).

The italicized word “*and*” is critical to the analysis. Deadly force is unjustified unless all three (3) of these criteria are met. Deadly force is inherently unjustified unless the suspect presents an immediate “threat of serious physical harm.” *Perez, supra*, 809 F.3d at 1220-21, quoting *Morton, supra*, 707 F.3d at 1281.

No Attempt to Flee. After the PIT maneuver, the Tahoe spun around backwards, was bumped by two (2) patrol cars, and came to a complete stop. The Tahoe engine was on and the wheels were still spinning, but the Tahoe was completely immobilized between three (3) patrol cars.

Bolton was shot just four (4) seconds after Deputy Collins stopped his patrol car. During those four (4) seconds, there was no evidence that Bolton was still attempting to flee from the deputies. Deputy House immediately told Bolton to turn off his engine, but Bolton was shot in the head while Deputy House was still speaking those words. Expert testimony and video recordings discredited Appellees’ bogus theory that Bolton was still trying to turn the steering wheel and flee during those four (4) seconds.

Bolton’s initial attempt to “flee” was merely an effort to get out of the parking lot and away from the hostile deputies. Bolton drove away after he was threatened with jail unless he decided to “get out” of the parking lot.

After the Tahoe was immobilized, the deputies had no “reasonable belief” that Bolton was still attempting to flee. Bolton was unarmed. The deputies had no reason

to believe, or even suspect, that Bolton had a weapon. The Tahoe was immobilized, and Bolton “was no longer trying to flee.” Any conflict in the evidence on these issues must be construed in favor of Bolton.

Deputy Collins’ decision to immediately jump out of his patrol car and shoot Bolton in the head was objectively unreasonable. Even if the prior conduct of the deputies is rationalized, Deputy House refrained from using deadly force as he told Bolton to turn off his vehicle. The words barely came out of Deputy House’s mouth before Deputy Collins shot Bolton in the head.

The Eleventh Circuit decision relies heavily on a disputed claim that Bolton “continued to accelerate” before he was shot. Doc 64-1, p. 2. However, the BWC recordings and the expert reports show the truth. Bolton never took his foot off the accelerator as the Tahoe spun around after the PIT maneuver. Bolton was not going anywhere; his wheels were spinning as the Tahoe stopped and was immobilized by three (3) patrol cars. Before he even got out of his patrol car, Deputy Collins had obviously decided to use deadly force. As his patrol car stopped and he got out of his seat, Deputy Collins was already aiming his firearm to immediately shoot Bolton.

Deputy Collins’ decision to use deadly force was objectively reasonable only if the evidence is construed in favor of Appellees. The district court granted summary judgment based on this error. Bolton presented ample evidence that would allow a jury to conclude that the shooting was an excessive use of deadly force.

No Use of the Vehicle as a Deadly Weapon or Threat of Physical Harm. The district court relied on case law verifying that law enforcement officers may use deadly force against a driver using his vehicle as a deadly weapon. Each case is clearly distinguishable because the drivers presented an imminent “threat of serious physical harm or death to the officers” or other people. In each case, “deadly force was reasonable” because the suspect appeared to be “using the car as a deadly weapon” by either driving “in a threatening manner” or “aim(ing) a motor vehicle at another person.” Doc. 93 – Pg 26-30.

For example, the district court identified *Robinson v. Arrugueta*, 415 F.3d 1252 (11th Cir. 2005) as “a case involving (similar) facts.” In *Robinson*, however, the suspect drove his car toward a police officer standing directly in front of the moving vehicle. The officer was entitled to use deadly force by firing a shot through the windshield because he “had to make a split-second decision of whether he could escape before he got crushed.” Doc. 93 – Pg 28, quoting *Robinson, supra*, at 1255.

The Eleventh Circuit and the State of Georgia never previously held that an officer is authorized to use deadly force, without warning, against the unarmed driver of an immobilized vehicle who is no longer attempting to flee. In effect, such a decision would authorize the summary execution of any driver who flees from any law enforcement officer.

In *Perez, supra*, a deputy sheriff claimed “deadly force was constitutionally

permissible because *he* believed... that his life or his fellow deputy's life was in danger...However, this argument misunderstands the relevant standard.” The district court “must engage in an objective inquiry to determine the reasonableness of an officer's actions in an excessive force case: ‘the question is whether the officers' actions are ‘objectively reasonable’ in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.’” *Id.*, 809 F.3d at 1219, quoting *Graham, supra*, 490 U.S. at 397. See *Hall v. McGhee*, 762 F. Appx. 837, 841 (11th Cir. 2019).

In *Rand v. Lavoie*, No. 14-cv-570-PB, 2017 U.S. Dist.Lexis 142755 (D.N.H. 2017), a driver led several patrol cars on a high-speed chase. The driver's vehicle finally crashed, and the court considered conflicting evidence as to whether the vehicle was immobile or still moving when a police officer shot and killed the driver. A “jury could reasonably discount” the testimony supporting the officer's account and “very well conclude” that the vehicle had stopped moving and no longer posed an imminent threat to the officer. Therefore, the plaintiff “produced enough evidence to avoid summary judgment.” *Id.* at *14-15.

In the case at bar, the “deadly force used was (so) ‘grossly disproportionate’” to Bolton's conduct that the deputies attempted to justify the shooting by claiming that the immobilized vehicle was imminently dangerous. *Perez, supra*, 809 F.3d at 1223, quoting *Lee, supra*, 284 F.3d at 1199. Bolton presented evidence and expert

testimony to verify that the Tahoe was not moving, Bolton was not trying to move it, and the vehicle could not move more than a couple of feet while it was immobilized between three (3) patrol cars. The engine was still running, and the wheels were still spinning for only four (4) seconds after the Tahoe was abruptly spun around backwards by the PIT maneuver.

As an expert in use of force, Dr. Scott concluded that the “force used by Deputy Collins was unnecessary and excessive. Shooting Mr. Bolton when he was not an immediate threat to the safety of Deputy Collins or others was inconsistent with well-established police practices and procedures.” Doc 40 – Pg 14. Another expert, Mr. Marshall, agreed and each expert outlined a detailed factual basis for this opinion. Doc 40 – Pg 14-20; Doc 43-1 – Pg 17-29.

No Warning of Deadly Force. Deputy House attempted to comply with the final condition precedent for the use of deadly force. Bolton was entitled to “some warning about the possible use of deadly force, if feasible.” *Perez, supra*, 809 F.3d at 1218-19. A warning was obviously “feasible” because Deputy House immediately yelled at Bolton to “turn off the car.”

Unfortunately, Deputy Collins had no interest in warning Bolton about “the possible use of deadly force.” From this deputy’s perspective, Bolton disobeyed instructions and fled from the deputies. Now Bolton was apprehended, he was still in the vehicle, and the engine was running. Within four (4) seconds, Deputy House

got out of his patrol car and shot Bolton in the head before he could hear the warning or turn off his engine.

5. Deputy Spinks used excessive force against Bolton

The “gratuitous use of force when a suspect is not resisting arrest constitutes excessive force.” *Hall, supra*, 762 F. Appx. at 843, citing *Hadley v. Gutierrez*, 526 F.3d 1324, 1330 (11th Cir. 2008).

Bolton was grievously injured, harmless, and twitching spasmodically on the ground due to the gunshot wound to his head. Deputy Spinks dragged Bolton from the Tahoe despite his critical head injury. Deputy Spinks had no EMT training or medical reason to remove Bolton from the Tahoe. Deputy Spinks then yelled at Bolton to “stop moving” as he put a foot and knee on Bolton’s back and neck to handcuff him. Doc 75 – FD3; Doc 89-FD.

Deputy Spinks may be the least culpable of the defendant deputies, but he still used excessive force against Bolton.

6. Deputy House failed to intervene

A law enforcement officer who “fails or refuses to intervene when a constitutional violation such as (a use of excessive force) takes place in his presence ...is directly liable under Section 1983.” Liability arises when an “officer is in a position to intervene and fails to do so.” *Helm v. Rainbow City*, 989 F.3d 1265, 1272 (11th Cir. 2021); *Dukes v. Miami-Dade County*, 232 F. Appx. 907, 913 (11th Cir.

2007); *Ensley v. Soper*, 142 F.3d 1402, 1407 (11th Cir. 1998).

Deputy Collins decided to draw and fire his service pistol before he even stopped his patrol car. Nobody could have intervened to prevent the shooting within the four (4) seconds it took Deputy Collins to jump out of his seat, aim, and fire a bullet into Bolton's right eye.

However, Deputy House failed to intervene several times before the shooting. Instead, he chose to support Deputy Collins during every flawed step of the encounter. Deputy House should have intervened by:

- explaining to Bolton that he needed to exit the vehicle for "officer safety";
- confirming Bolton's identity;
- inquiring why Bolton was sleeping in his vehicle in the parking lot;
- advising Deputy Collins not to pursue the Tahoe; and/or
- advising Deputy Collins not to perform an unauthorized PIT maneuver.

Intervention by Deputy House in any of these matters could have prevented the shooting and its tragic consequences.

7. The deputies' false statements provide evidence that they knowingly and intentionally violated Bolton's civil rights

Bolton presented ample evidence that the deputies repeatedly misrepresented material facts to justify their conduct and evade CCSO policies. Some of the misrepresentations seem trivial, but they each served a specific purpose. These false

allegations arguably confirm that the deputies were fully aware of their misconduct and excessive use of force against Bolton.³

1. Deputy Collins falsely alleged that he investigated the parked Tahoe “due to several recent commercial burglaries in the area, specifically cell phone and electronics stores.” Doc 73 – Pg 81-82, 297. Deputy Collins, Deputy House, and the CCSO representative, Major Fenninger, all had to admit that they were unaware of any break-ins or burglaries in or near the Newnan Pavilion within six (6) months

2. Deputy Collins falsely alleged that Bolton “pretended to be asleep” when the deputy knocked on the Tahoe window. Doc 73 – Pg 297.

3. Deputy Collins falsely alleged that Bolton claimed “he did not have to provide his identification.” Doc 73 – Pg 94-95, 297. Bolton only asked why he had to produce identification again after he had already shown it to another officer. Bolton promptly retrieved his driver’s license, held it in his hand, and never refused to produce it. Exhibit 7; Exhibit 8; Exhibit 9; Doc 69 – Pg 60; Doc 73 – Pg 95-96; Doc 75 – FD2; Doc 75 – FD3.

4. Deputy Collins falsely alleged he told Bolton that “he would be allowed to go free” after Deputy Collins “completed (his) investigation.” Doc 73 – Pg 297.

5. At his deposition, Deputy Collins falsely alleged that he had no

³ Due to space limitations, the evidence of Respondents’ false representations is only summarized herein. Bolton presented more evidence of these misrepresentations in the Eleventh Circuit briefing.

“chance” to tell Bolton why he was instructed to exit from his vehicle. Deputy Collins obviously had ample time and opportunity to give Bolton an explanation. 6.

6. Deputy Collins falsely reported that the Tahoe struck Deputy House before Bolton drove away from the parking lot. Doc 73 – Pg 114-115. Deputy House also falsely reported that the Tahoe pushed him “out of the way” before Bolton drove away from the parking lot. Doc 72 – Pg 92, 310. However, the BWC of each deputy verifies that Deputy House was already standing to the side of the Tahoe before Bolton drove away from the parking lot.

7. Deputy Collins falsely reported that the Tahoe continued to ram and push the patrol car after the PIT maneuver. Doc 73 – Pg 134-135, 147, 298. It never happened. After the PIT maneuver, Deputy Collins drove his patrol car forward until it bumped the front of the Tahoe. Tire marks verify that the Tahoe tires were spinning, but the vehicle did not move after this “mild impact” with Deputy Collins’ patrol car. Each deputy’s BWC verified that the Tahoe stopped a short distance away without ever pushing the patrol car. Exhibit 11; Doc 75 – FD2; Doc 75 – FD3.

Plaintiff’s experts examined the evidence and agreed that the Tahoe was immobilized between three (3) patrol cars when Deputy Collins used deadly force to shoot Bolton. The spinning tires only suggest that Bolton was disoriented after the Tahoe spun around during the PIT maneuver and his foot was still on the accelerator. Doc 40 – Pg 16-17; Doc 43-1 – Pg 19-20.

8. Deputy Collins falsely reported that he was still in his patrol car while Deputy House gave multiple “verbal commands” before the shooting. Doc 73 – Pg 298. Deputy Collins was already out of his patrol car and firing his pistol at Bolton’s head when Deputy House shouted a single verbal command to “turn off the car.” Bolton had no opportunity to comply by turning off his engine before Deputy Collins shot Bolton in the head. Exhibit 7; Exhibit 8; Doc 75 – FD2; Doc 75 – FD3.

9. Deputy Collins falsely reported that Bolton was “trying to break free” by turning “the steering wheel to the left” toward Deputy House. Doc 73 – Pg 149-150, 298. Bolton was shot immediately after the Tahoe stopped. During the four-second interval before the shooting, the BWC videos do not show Bolton trying to turn the steering wheel. Doc 40 – Pg 16-17; Doc 43-1 – Pg 19-20; Doc 75 – FD2; Doc 75 – FD3; Doc 85-12. Appx 13.

10. Deputy Collins falsely reported that he shot Bolton when he saw Deputy House in danger “directly between the suspect vehicle (*i.e.* the Tahoe) and his patrol car.” Doc 73 – Pg 287-98. In fact, the BWC recordings and Bolton’s experts all verified that Deputy House was a safe distance away behind the door of his own patrol car and never endangered by the Tahoe. Doc 40 – Pg 13, 16-17, 20, 25-26; Doc 43-1 – Pg 18-24; Doc 72 – Pg 111; Doc 73 – Pg 298; Doc 75 – FD2; Doc 75 – FD3; Doc 85-11; Doc 85-12; Doc 85-13. Appx 13.

B. THE COUNTY SHERIFF IS ARGUABLY LIABLE IN HIS OFFICIAL CAPACITY FOR THE ALLEGED CIVIL RIGHTS VIOLATIONS UNDER 42 U.S.C. § 1983

A county sheriff is not an “agent of the State” for purposes of a § 1983 claim. A county sheriff represents the county, just as a city official represents the municipality. These government officials are only liable in their official capacities for their own contributions to the misconduct of subordinates. *Monell v. Dept. of Social Services of City of New York*, 436 U.S. 658, 691, 701 (1978).

County and municipal liability may be based on deficient police department policies, practices, or training that caused or contributed to the conduct of a police officer which “inflicts the injury.” These entities may also be liable for sanctioning, ratifying, or acquiescing to police officer conduct which promotes a constitutional violation. *Id.* at 694. See also *Board of County Commissioners v. Brown*, 520 U.S. 397, 403–04 (1997); *Pembaur v. City of Cincinnati*, 475 U.S. 469, 478, 480 (1986); *Matthews v. Columbia County*, 294 F.3d 1294, 1297 (11th Cir. 2002).

A county, through its sheriff, may be liable even if the deputies are protected by qualified immunity. The question is whether a governmental entity “was the ‘moving force’ behind the alleged injury.” *Board of County Commissioners*, *supra*, 520 U.S. at 404. A deputy may act reasonably, but inappropriately, if the county sheriff fails to provide adequate training or implement appropriate practices.

In this case, the Sheriff shares some responsibility for the conduct of the defendant deputies due to these deficiencies in training and supervision:

1. Deputies were not properly trained on the legal definition of loitering, so Deputy Collins and Deputy House failed to conduct a proper investigation of that offense by merely asking Bolton to identify himself and explain why he was in the parking lot. Bolton was obviously willing to comply with a loitering investigation.

2. Deputies were not properly trained to contact CCSO to confirm whether another deputy has already spoken to someone or investigated a matter. As a result, the deputies never confirmed that Deputy Thompson had already spoken to Bolton and investigated his presence in the parking lot

3. Deputies were not properly trained or supervised to conduct vehicle pursuits in accordance with CCSO's own written policy. Doc 73 – Pg 282-287. Consequently, deputies may pursue any fleeing vehicle based “on their discretion at the time” without any limitations. As implemented by CCSO, the policy allows a deputy to pursue someone in a fleeing vehicle “who simply didn’t want to cooperate with the officers and decided to leave.” Doc 69 – Pg 44-46.

4. Deputies were not properly trained or supervised to conduct PIT maneuvers in vehicle pursuits in accordance with CCSO's written policy. Doc 73 – Pg 282-287. Consequently, a deputy is not bound by the written policy requirements that restrict the use of this procedure. Doc 69 – Pg 47-48.

5. Deputies were not properly trained or supervised to apply de-escalation training to traffic stops. A deputy has no obligation to seek voluntary compliance with a demand for a motorist to exit from his vehicle. Instead, deputies may choose to break a window and drag the motorist from his vehicle. Doc 69 – Pg 83-87.

6. Deputies were trained and supervised to exercise unlawful discretion in deciding when to use deadly force. Doc 69 – Pg 103-108. Deadly force should never be used against someone committing a traffic violation, misdemeanor, or non-forcible felony, so a CCSO written policy prohibits it. However, deputies are allowed to use “necessary force” to achieve *any* police objective and overcome (any) “resistance.” In this case, any level of force can be used to identify someone sleeping in his vehicle, to remove a driver from his vehicle, to keep someone from leaving a scene, or to pursue any “fleeing vehicle.” Deadly force is always a viable option, even if it is contrary to a written policy. Doc 69 – Pg 21, 24, 44-46.

7. The Sheriff condoned the conduct of the deputies when they violated official written policies or used excessive force. No deputy was disciplined in this case despite blatant violations of written CCSO policies, including the unauthorized vehicle chase, PIT maneuver, and use of deadly force. Similarly, Deputy Spinks was not even chastised for forcibly dragging Dr. Onyeka out of his car for an expired tag because Deputy Spinks was allowed to blatantly violate Dr. Onyeka’s civil rights without violating any CCSO policy. Doc 85-14; Doc 85-15. Appx 11.

**C. BOLTON STATED VIABLE STATE LAW
TORT CLAIMS AGAINST THE DEPUTIES**

As to the state law claims, the defendant deputies are entitled to “official immunity when they merely act in a negligent manner.” Conversely, the deputies “lose their official immunity when they act with actual malice or intent to injure.” *Touchton v. Bramble*, 284 Ga. App. 164, 167, 643 S.E.2d 541 (2007).

The Eleventh Circuit affirmed the summary judgment on Bolton’s state law tort claims, citing a lack of evidence that the deputies “acted with actual malice or an actual intent to cause injury.” *Bolton v. Sheriff of Coweta County*, 177 F.4th 1070, ____ (11th Cir. 2026), quoting the Georgia Constitution, Art. I, § I, Art. IX(d).

Bolton somehow failed to meet this burden with evidence that the deputies deliberately intimidated and frightened Bolton until he fled from the scene, chased Bolton down in an unauthorized vehicle pursuit, forcibly stopped his vehicle with an unauthorized PIT maneuver, then unjustifiably shot him in the head even though he was not under arrest and committed no crime; then dragged him out of the Tahoe face-down on the pavement while he was critically injured and posed no threat.

Under these circumstances, a jury could reasonably conclude that each deputy acted “with actual malice or an actual intent to cause injury.” *Id.*

CONCLUSION

Petitioner NICHOLAS S. BOLTON asserted viable § 1983 claims against

Respondents that are substantially supported by evidence. Deputy Collins' use of deadly force against Bolton was at least arguably unjustified due to evidence that Bolton did not pose a threat of serious physical harm to anyone, he was no longer trying to flee, and he was not given a "feasible...warning about the possible use of deadly force" before he was shot in the head. A deputy's use of deadly force is inherently excessive and a violation of the victim's Fourth Amendment rights unless the circumstances meet all three (3) of these criteria.

The Eleventh Circuit's decision to affirm the summary judgment to Respondents expands the scope of qualified immunity and sets a dangerous precedent. The deputies arguably misrepresented facts to justify their intentional use of excessive, deadly force. The case should be remanded to the district court so that the factual disputes may be properly resolved by a jury.

Respectfully submitted,

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