IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2026

No. _____

VINCENT T. MONTAGUE, JR.,
Applicant,

v.

CITY OF CLEVELAND, OHIO; KARRIE D. HOWARD; TIMOTHY MAFFO-JUDD; AND BRUCE CUTLIP,
Respondents.

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

APPLICATION FOR A 60-DAY EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

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

Vincent T. Montague, Jr.
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Dated: 11-2, 2026

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APPLICATION AND JURISDICTION

Pursuant to Supreme Court Rules 13.5, 22, and 30, Applicant Vincent T. Montague, Jr., proceeding pro se, respectfully requests a 60-day extension of time within which to file a petition for a writ of certiorari seeking review of the judgment of the United States Court of Appeals for the Sixth Circuit in Nos. 25-3759 and 25-3788.

The Sixth Circuit entered judgment affirming the district court on July 24, 2026. Applicant timely filed a petition for panel rehearing and rehearing en banc on August 3, 2026. Under Supreme Court Rule 13.3, the time to seek certiorari runs from the denial of rehearing, not from the later issuance of the mandate.

The Sixth Circuit denied Applicant's petition for panel rehearing and rehearing en banc on September 8, 2026.

Under Rules 13.3 and 30.1, the petition for a writ of certiorari is due on December 7, 2026. Applicant respectfully requests a 60-day extension, to and including February 5, 2027.

The Sixth Circuit issued its mandate on September 16, 2026. Applicant requests the maximum 60-day extension permitted by Rule 13.5. This Court would have jurisdiction over the petition under 28 U.S.C. § 1254(1).

This application is filed well in advance of the Rule 13.5 deadline and is not presented as an emergency application. Applicant seeks additional time for the specific reasons stated below.

PROCEDURAL BACKGROUND

1. This case arises from Applicant's termination by the City of Cleveland while Applicant was serving on active duty in the United States Navy. The federal action included a claim under the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. § 4311, and constitutional issues arising from the pretermination disciplinary process.

2. On August 19, 2025, the United States District Court for the Northern District of Ohio granted Respondents' unopposed motion for summary judgment. Before entering judgment, the district court had issued a show-cause order because Applicant's retained counsel had filed no opposition. Counsel did not respond to the show-cause order.

3. Applicant states that he was serving on active duty away from Ohio and did not know that counsel had failed to oppose summary judgment or respond to the show-cause order. Applicant learned of the judgment after it was entered and promptly attempted to protect his rights.

4. On September 9, 2025, before filing his notice of appeal, Applicant personally filed a motion for relief from judgment under Federal Rule of Civil Procedure 60, including Rule 60(b)(6), raising the circumstances surrounding counsel's nonperformance. Applicant filed a notice of appeal on September 18, 2025 to preserve his appellate rights.

5. On September 19, 2025, the district court declined to consider Applicant's pro se Rule 60 filing because retained counsel remained counsel of record and hybrid representation was not permitted. Applicant thereafter sought counsel's removal and permission to proceed pro se.

6. During the appeal, the Sixth Circuit sua sponte withdrew Applicant's former counsel after stating that, despite efforts by the clerk's office, counsel had taken no action in furtherance of the appeal. Applicant thereafter prosecuted the appeal pro se.

7. The Sixth Circuit affirmed the district court on July 24, 2026. Applicant timely sought rehearing. While rehearing was pending, Applicant also returned to the district court seeking relief under Rules 60(b)(6) and 62.1 based principally on alleged attorney abandonment. Respondents filed an opposition on August 17, 2026.

8. The Sixth Circuit has now issued its mandate. Applicant's Rule 60(b)(6) request remains awaiting a merits disposition in the district court. That ruling may materially affect the proper questions presented, procedural posture, and scope of any petition for certiorari.

REASONS FOR GRANTING THE EXTENSION

A. The Pending Rule 60(b)(6) Proceeding May Materially Affect the Petition

The principal reason for the requested extension is that a material postjudgment matter remains pending in the district court. Applicant alleges that retained counsel ceased performing essential litigation functions while remaining counsel of record, resulting in unanswered requests for admission, an unopposed dispositive motion, an unanswered show-cause order, and judgment on a record that Applicant contends was never fully adversarially developed.

Now that the Sixth Circuit's mandate has issued, the district court has the opportunity to address the Rule 60(b)(6) request on the merits. A ruling granting relief, denying relief, or otherwise addressing the attorney-abandonment issue could materially alter the issues that should be presented to this Court and could avoid unnecessary or duplicative Supreme Court proceedings.

Applicant therefore seeks additional time so that, if the district court rules during the extended period, any petition filed in this Court can accurately describe a stable procedural record rather than a posture that may change shortly after filing.

B. Applicant Remains on Active Duty and Is Proceeding Pro Se After the Representation Breakdown

Applicant remains on active duty in the United States Navy and is stationed away from the courts involved in this litigation. His military duties and geographic separation materially complicate the review and organization of the substantial district-court and appellate record and the preparation of a petition that complies with this Court's Rules.

Applicant is also proceeding without counsel following the representation breakdown described above. He must review the record, research the federal issues, prepare the appendix, and comply with the Court's procedural requirements while continuing to perform active-duty responsibilities. These are specific practical circumstances supporting additional time; Applicant does not rely on pro se status or military service as automatic grounds for an extension.

C. Applicant Has Acted Diligently

Applicant has acted diligently following the district-court judgment. He sought Rule 60 relief within weeks of judgment, filed a timely notice of appeal, sought removal of prior counsel, prosecuted the consolidated appeals pro se, timely sought rehearing, returned to the district court for postjudgment relief, and has begun preparing a petition for certiorari. This application is being submitted well before the petition is due and is not sought for purposes of delay.

D. The Intended Petition Presents Substantial Federal Issues Requiring Careful Preparation

The intended petition is expected to address, among other matters, the distinction between ordinary attorney negligence and alleged abandonment under Rule 60(b)(6); the application of USERRA's motivating-factor and same-decision framework; and the procedural protections applicable when active military service prevents a public employee from personally participating in a pretermination hearing. The requested extension will permit Applicant to present those issues accurately and concisely without requiring this Court to consider a petition prepared against an unstable procedural record.

E. Respondents Will Not Be Prejudiced

The requested extension concerns only the time for seeking discretionary review. The judgment below remains in Respondents' favor, and Respondents retain every opportunity

provided by this Court's Rules to respond to any petition that is ultimately filed. The requested extension therefore will not cause cognizable prejudice.

CONCLUSION

For these reasons, Applicant respectfully requests a 60-day extension of time within which to file a petition for a writ of certiorari. If the Circuit Justice declines to grant the full 60 days requested, Applicant respectfully requests such lesser extension as the Circuit Justice deems appropriate.

Respectfully submitted,

Vincent T. Montague, Jr.
Applicant Pro Se
3638 Ivy Court
Reminderville, Ohio 44202
Telephone: (216) 801-0129
Dated: 11-2, 2026

PROOF OF SERVICE

I, Vincent T. Montague, Jr., certify that on 11-2, 2026, I served a true and correct copy of the foregoing Application for a 60-Day Extension of Time to File a Petition for a Writ of Certiorari, together with the accompanying lower-court materials, by United States Postal Service, First-Class Mail, postage prepaid, upon counsel for Respondents at the following addresses:

William M. Menzalora
Chief Assistant Director of Law
City of Cleveland, Department of Law
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114

Matthew R. Aumann
Assistant Director of Law
City of Cleveland, Department of Law
601 Lakeside Avenue, Room 106
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Mark D. Griffin
Director of Law
City of Cleveland, Department of Law
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114

I declare under penalty of perjury that the foregoing is true and correct.

Vincent T. Montague, Jr.
Applicant Pro Se
Dated: 11-2, 2026

APPENDIX TABLE OF CONTENTS

App. A — Sixth Circuit Opinion and Judgment dated July 24, 2026

App. B — Sixth Circuit Order denying panel rehearing and rehearing en banc dated September 8, 2026

App. C — Sixth Circuit Mandate dated September 16, 2026

Important: Supreme Court Rule 13.5 requires the application to include a copy of the opinion and any order respecting rehearing. Attach the actual July 24, 2026 Sixth Circuit opinion and the actual rehearing-denial order behind this appendix table before filing. The September 16, 2026 mandate may also be attached as App. C.

NOT RECOMMENDED FOR PUBLICATION

Nos. 25-3759/3788

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Jul 24, 2026
KELLY L. STEPHENS, Clerk

VINCENT MONTAGUE, Plaintiff-Appellant Cross-Appellee, v. CITY OF CLEVELAND, OH, Defendant-Appellee Cross-Appellant, KARRIE D. HOWARD, et al., Defendants-Appellees.	)	ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO

ORDER

Before: McKEAGUE, THAPAR, and MURPHY, Circuit Judges.

Vincent Montague, proceeding pro se, appeals the district court's judgment dismissing his employment-discrimination lawsuit, which alleged a violation of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. § 4311, constitutional violations under 42 U.S.C. §§ 1981 and 1983, and state-law violations. The City of Cleveland has filed a cross-appeal, arguing that the district court should not have allowed one of Montague's claims to proceed past the pleading stage. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a). For the following reasons, we affirm the district court's judgment.

Montague, a former Cleveland police sergeant, sued the City of Cleveland, the City's Director of Public Safety Karrie Howard, and City police officers Timothy Maffo-Judd and Bruce

EXHIBIT
APP A
P. 1

Cutlip. He alleged that the City violated USERRA, retaliated against him for exercising his First Amendment rights, discriminated against him due to his race, deprived him of equal protection of the laws due to his race, and violated various state laws when it terminated his employment on December 29, 2021. Montague acknowledged that the City terminated his employment after investigating his involvement in a bribery scheme, but he alleged that the investigation was biased and that his termination actually was motivated by his October 4, 2021, call-up to serve on active duty with the United States Navy, his exercise of his free-speech rights, and his African-American race. Based on these allegations, Montague set forth seven claims: (1) violation of USERRA, because his active-duty status prevented him from participating in his pre-disciplinary hearing and served as the basis for his termination; (2) retaliation for raising complaints about racism and sexual harassment within the police department; (3) racial discrimination, in violation of 42 U.S.C. § 1981; (4) violation of his Fourteenth Amendment equal-protection rights; (5) racial discrimination, in violation of Ohio Revised Code § 4112.02; (6) defamation, in violation of state law; (7) intentionally inflicting emotional distress, in violation of state law; and (8) breach of his employment contract, in violation of state law.

The district court dismissed Montague's complaint against Maffo-Judd and Cutlip under Federal Rule of Civil Procedure 4(m), because Montague failed to show that he properly served them with a copy of the complaint. Howard and the City moved for judgment on the pleadings under Federal Rule of Civil Procedure 12(c). The district court dismissed all claims against Howard, finding that Montague sued Howard in his official capacity only and, therefore, all claims against Howard should be construed as claims against the City. It denied the City's motion to dismiss Montague's USERRA and Fourteenth Amendment equal-protection claims but granted the City's motion to dismiss Montague's remaining claims. The City moved the district court to reconsider its decision to allow Montague to proceed on his equal-protection claim, arguing that the complaint did not allege facts sufficient to hold a municipality liable. The district court denied the motion.

The City subsequently moved for summary judgment on Montague's USERRA and equal-protection claims. The district court granted that motion, noting that Montague had not



responded and finding that (1) the City's unrebutted evidence was sufficient to show that it terminated Montague's employment for reasons "unrelated to his military service," and (2) Montague failed to produce evidence showing that "a similarly-situated comparator . . . was treated differently," as required to show an equal-protection violation. Montague appealed, and the City cross-appealed, challenging the district court's denial of its motion for judgment on the pleadings as to Montague's USERRA and equal-protection claims.

Shortly before Montague filed his notice of appeal, he filed a pro se motion for relief from judgment under Federal Rule of Civil Procedure 60(b), arguing that his attorney admitted that he had failed to diligently litigate his case by opposing the City's motion for summary judgment because he was "overwhelmed with other matters" and that counsel had "advised [Montague] to seek new representation." Citing the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. § 3901, et seq., Montague also argued that the district court should have stayed his case, because his "military service materially affect[ed his] ability to appear." The district court declined to consider the pro se motion, because Montague was still represented by counsel. Montague, with his attorney's consent, then moved to remove counsel and proceed pro se. The district court denied that motion "as moot for lack of jurisdiction," citing the pending appeal.

I. Montague's Direct Appeal

On appeal, Montague argues that (1) the district court violated the SCRA and his due process rights by ruling on his summary-judgment motion while he was serving on active military duty; (2) the district court should not have relied on medical records that the City obtained without proper authorization when ruling on the summary-judgment motion; (3) the evidence in the record does not support the district court's decision to grant summary judgment on his USERRA claim; (4) the City retaliated against him for engaging in protected speech, in violation of the First Amendment; (5) the district court should not have dismissed his racial discrimination claim; (6) the City violated his due process rights by failing to provide a meaningful opportunity to challenge the termination decision; and (7) the district court should have granted his Rule 60(b) motion for relief from judgment.



We review both a judgment on the pleadings and a grant of summary judgment de novo. *Herrera v. Churchill McGee, LLC*, 680 F.3d 539, 544 (6th Cir. 2012). When reviewing a judgment on the pleadings, "all well-pleaded material allegations of the pleadings of the opposing party must be taken as true," and we will affirm only if "no material issue of fact exists and the party making the motion is entitled to judgment as a matter of law." *Brown v. Louisville-Jefferson Cnty. Metro Gov't*, 135 F.4th 1022, 1030 (6th Cir. 2025) (quoting *Tucker v. Middleburg-Legacy Place*, 539 F.3d 545, 549 (6th Cir. 2008)). Summary judgment, on the other hand, requires courts to consider the parties' evidence and is properly granted only if the moving "party establishes there is no genuine issue of material fact and that it is entitled to judgment as a matter of law." *Paris v. MacAllister Mach. Co.*, 175 F.4th 787, 794 (6th Cir. 2026) (citing Fed. R. Civ. P. 56(a)). The party opposing summary judgment "must lay out 'enough evidence that will be admissible at trial' to show a genuine issue of material fact." *Id.* at 795 (quoting *Alexander v. CareSource*, 576 F.3d 551, 558 (6th Cir. 2009)).

A. SCRA and Due Process

Montague first argues that the district court violated the SCRA and his due process rights, as enunciated in *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 546 (1985), by ruling on the City's summary-judgment motion while he was serving on active military duty. According to Montague, his attorney effectively abandoned him after discovery, and he learned of the summary-judgment ruling only through the media. The first SCRA provision that Montague cites, 50 U.S.C. § 3931, does not, by its own terms, apply to him, because it applies only in civil proceedings "in which the defendant does not make an appearance." 50 U.S.C. § 3931(a). Here, Montague was the plaintiff, and he was represented by counsel, who, at least initially, litigated the case faithfully. In *Loudermill*, the Supreme Court held that due process requires a public employer to provide "oral or written notice of the charges against [an employee], an explanation of the employer's evidence, and an opportunity [for the employee] to present his side of the story" before depriving an employee of a property right to continued public employment. 470 U.S. at 546. Because *Loudermill* addresses what process an employer must provide to an employee, it does not



support Montague's claim that the *district court* violated his due process rights when ruling on the City's summary-judgment motion.

Montague cites a second SCRA provision, § 3932, for the first time in his reply brief. This section provides that a servicemember may obtain a stay of civil proceedings if he submits an "application for a stay" that includes, among other things, a "letter" from a "commanding officer stating that the servicemember's current military duty prevents appearance" in the proceedings "and that military leave is not authorized[.]" 50 U.S.C. § 3932(b)(2)(B). Montague never submitted this stay application or letter, so § 3932 provides him no help.

B. Medical Records

Montague next argues that the district court, in ruling on the City's motion for summary judgment, improperly relied on medical information that the City obtained from the Navy without proper authorization. But despite Montague's appellate argument that the City improperly obtained these records without a court order, the record shows that the City requested, and the district court issued, a subpoena for the records. Montague was represented by counsel, who could have opposed the City's request for a subpoena.

Montague contends on appeal that the disclosure nevertheless violates one of the privacy regulations implementing the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. § 1320d, et seq. *See* 45 C.F.R. pts. 160 & 164 (2025). The regulation that Montague cites, 45 C.F.R. § 164.502(a), bars "covered entit[ies]" from "disclos[ing] protected health information" unless expressly authorized to do so. But a separate regulation, § 164.512(e)(1), provides that authorization, stating that "[a] covered entity" may "disclose protected health information in the course of any judicial . . . proceeding . . . [i]n response to an order of a court . . . , provided that the covered entity discloses only the protected health information expressly authorized by such order." 45 C.F.R. § 164.512(e)(1)(i). Here, the district court's subpoena expressly authorized the Navy to disclose "[a]ll documents related to . . . Montague's recruitment to the U.S. Navy from June 2021 through October 2021," including his "[p]hysical fitness screening." The July 19, 2021, medical record and September 15, 2021, delayed entry recertification provided by the Navy fell within those parameters.



We note, in any event, that the City did not rely on medical evidence to justify terminating Montague's employment, and the district court did not rely on medical evidence when it granted the City's motion for summary judgment. Rather, the district court found that the unrebutted evidence in the record showed that the City terminated Montague's employment "for numerous violations of Cleveland's General Police Order and Manual of Rules," which "carry disciplinary penalties up to and including dismissal." Specifically, it cited Howard's declaration, which stated that the City fired Montague because of "his dishonesty and communications with a person indicted for attempted bribery."

C. USERRA

Third, Montague argues that the district court should not have granted summary judgment to the City on his USERRA claim. USERRA protects a servicemember "from being 'denied . . . retention in employment . . . or any benefit of employment'" due to his status as a servicemember. *Hickle v. Am. Multi-Cinema, Inc.*, 927 F.3d 945, 952 (6th Cir. 2019) (quoting 38 U.S.C. § 4311(a)). A violation occurs "if the person's membership . . . or obligation for service in the uniformed services is a motivating factor in the employer's action, unless the employer can prove that the action would have been taken in the absence of such membership . . . or obligation for service." 38 U.S.C. § 4311(c)(1).

The district court granted summary judgment on this claim, finding that Howard's declaration showed that the City terminated Montague's employment because of "his dishonesty and communications with a person indicted for attempted bribery." Indeed, both Howard's declaration and the official termination notice provided to Montague show that the City investigated Montague's connection to the attempted bribery incident and terminated his employment after concluding that he had lied to investigators and engaged in misconduct connected to the incident. Montague argues on appeal that the temporal proximity between his October 4, 2021, enlistment and December 29, 2021, firing and the timing of his disciplinary hearing support his claim that his enlistment caused the City to terminate his employment. But the City initially issued a charge letter on August 19, 2021, which informed Montague that a pre-disciplinary hearing was scheduled for September 2, 2021. The hearing was postponed at



Montague's request, and Montague did not inform the City until September 30, 2021, that he would be reporting for active duty with the Navy. So, the misconduct investigation commenced before the City learned of Montague's active-duty status.

Montague also argues on appeal that other officers who engaged in similar misconduct were not fired. But the only evidence that Montague cites in support of this allegation is his deposition testimony claiming that other City employees engaged in "untruthfulness" and were not properly disciplined. Montague cites no evidence to prove his claim, and he cannot rely on "conclusory allegations" in a "deposition" at the summary-judgment stage. *Reedy v. West*, 988 F.3d 907, 914 (6th Cir. 2021) (citation omitted). In sum, the evidence in the record wholly fails to show that the City terminated Howard's employment due to his enlistment in the Navy and that it would not have fired him if he had not enlisted. The district court properly granted summary judgment to the City on this claim.

D. First Amendment Retaliation

Fourth, Montague contends that the City retaliated against him for engaging in protected speech, in violation of the First Amendment. Montague's complaint raised a single retaliation claim, citing "42 U.S.C. § 2001"[1] and alleging that the City terminated his employment because he spoke out against racial discrimination and sexual harassment within the police department, supported "Issue 24," and discouraged a "black law enforcement agency" from supporting Howard's campaign for public office.

The district court construed Montague's retaliation claim as brought under Title VII and dismissed it because Montague failed to show that he exhausted his administrative remedies before bringing suit. "A plaintiff generally cannot bring Title VII claims in federal court without first exhausting [his] administrative remedies." *Hayes v. Clariant Plastics & Coatings USA, Inc.*, 144 F.4th 850, 865 (6th Cir. 2025) (citing 42 U.S.C. § 2000e-5(e)(1)). Montague does not challenge the district court's finding that he failed to exhaust his administrative remedies and, therefore, has

[1] 42 U.S.C. § 2001 relates "to the maintenance and operation of hospital and health facilities for Indians," but 42 U.S.C. § 2000e, et seq., is the general citation for Title VII of the Civil Rights Act of 1964.



forfeited review of that finding. *See Kuhn v. Washtenaw County*, 709 F.3d 612, 624-25 (6th Cir. 2013).

Even if Montague's retaliation claim were construed as a First Amendment retaliation claim, remand is not warranted. We may affirm on any basis supported by the record, *Campbell v. Riahi*, 109 F.4th 854, 860 (6th Cir. 2024), and Montague's complaint failed to plead a plausible First Amendment retaliation claim. To plead such a claim, Montague had to allege facts showing that (1) he "engaged in protected conduct," (2) the City took an adverse action against him, and (3) "there is a causal connection between elements one and two—that is, the adverse action was motivated at least in part by [his] protected conduct." *Heywood v. Cooper*, 88 F.4th 648, 657 (6th Cir. 2023) (quoting *Thaddeus-X v. Blatter*, 175 F.3d 378, 394 (6th Cir. 1999) (en banc) (opinion of Moore, J.)). The facts that Montague alleged satisfied elements one and two, but Montague did not allege any facts from which to infer a causal connection. He did not state when he engaged in the protected conduct alleged or otherwise tie that protected conduct to the termination of his employment. Montague also did not allege that the retaliation that he allegedly experienced was caused by an official City policy or custom, which is required to state a constitutional claim against a municipal defendant under § 1983. *See Boulton v. Swanson*, 795 F.3d 526, 531 (6th Cir. 2015). For both reasons, Montague has not shown that he should have been allowed to proceed on a First Amendment retaliation claim against the City.

E. Racial Discrimination

Fifth, Montague challenges the dismissal of his racial-discrimination claim, which Montague sought to pursue under § 1981. The district court dismissed this claim, finding that § 1983, rather than § 1981, provides the exclusive remedy for a racial discrimination claim against the City. By failing to address this finding in his initial appellate brief, Montague has forfeited appellate review of it. *See Kuhn*, 709 F.3d at 624-25. Regardless, we have affirmed that § 1983 provides the exclusive remedy for racial discrimination claims brought against government entities. *McCormick v. Miami Univ.*, 693 F.3d 654, 661(6th Cir. 2012) (citing *Jett v. Dallas Indep. Sch. Dist.*, 491 U.S. 701, 733 (1989) (plurality opinion)).



Even if the district court should have liberally construed Montague's claim against the City as arising under § 1983 rather than § 1981, the district court properly dismissed it. As noted above, we may affirm on any ground supported by the record, *Campbell*, 109 F.4th at 860, and Montague's complaint did not adequately plead a § 1983 discrimination claim against the City. To plead a § 1983 claim against a municipality, a complaint must include specific facts showing that a City policy or custom caused the alleged constitutional violation. *Bright v. Gallia County*, 753 F.3d 639, 660 (6th Cir. 2014). "The policy or custom can be 'an illegal official policy or legislative enactment,' ratification of 'illegal actions' by 'an official with final decision making authority,' a 'policy of inadequate training or supervision,' or 'a custom of tolerance or acquiescence of federal rights violations.'" *Linden v. City of Southfield*, 75 F.4th 597, 605 (6th Cir. 2023) (quoting *Wright v. City of Euclid*, 962 F.3d 852, 880 (6th Cir. 2020)).

Montague's complaint did not identify "an illegal official policy or legislative enactment," allege that a specific official ratified the illegal actions of others, or allege that the City inadequately trained or supervised its employees. *Id.* (quoting *Wright*, 962 F.3d at 880). He therefore could establish the City's liability under § 1983 only if he alleged specific facts showing that the racial discrimination that he experienced was caused by "a custom of tolerance or acquiescence of federal rights violations." *Id.* (quoting *Wright*, 962 F.3d at 880). Montague did allege that the City "is still subject to a consent agreement based upon a pattern and practice of violating the constitutional rights of African-American citizens" and that it has a "culture, policy, pattern and practice of violating the constitutional rights of its African-American police officers." But these are not specific factual allegations detailing the nature or manner of the constitutional violations. "Even at the motion-to-dismiss stage, [a plaintiff] must plead specific facts beyond speculation and bare recitation of the standard for municipal liability." *Romero v. City of Lansing*, 159 F.4th 1002, 1015 (6th Cir. 2025).

At most, Montague alleged that the "City engages in arbitrary and capricious disciplinary proceedings with one standard and procedure for white officers, and a separate standard and procedure for black officers." But the complaint does not detail the different standards, nor does it explain how the standard allegedly applied to black officers resulted in his termination.



Montague also alleged that the City has an "unofficial policy and/or custom of . . . expect[ing], encourag[ing,] and coerc[ing]" officers to show "obedience to their fellow officers." According to Montague, this "required [him] to" support a fellow officer during the bribery investigation. But even if this could qualify as a policy or custom, there are no allegations in the complaint linking this custom of supporting fellow officers to any form of racial discrimination. In the absence of such factual allegations, Montague failed to state a plausible § 1983 claim against the City.

F. Due Process Claim

Montague next argues that the City violated his due process rights under *Loudermill* by failing to provide a meaningful opportunity to challenge the termination decision, because he was on active military duty when his pre-disciplinary hearing was held. Montague's complaint did not set forth a due process claim, however, and Montague may not raise a new claim for the first time on appeal. *See Greco v. Livingston County*, 774 F.3d 1061, 1064 (6th Cir. 2014).

G. Rule 60(b) Motion

Finally, Montague argues that the district court should have granted his Rule 60(b) motion, because his attorney effectively abandoned him, which prevented him from challenging the City's motion for summary judgment. But this decision is not properly before us, because Montague appealed only the district court's judgment dismissing his case; he did not file a second notice of appeal challenging the subsequent decision declining to consider his Rule 60(b) motion. *See Am. Civ. Liberties Union of Ky. v. McCreary County*, 607 F.3d 439, 451 (6th Cir. 2010). In any event, Montague's notice of appeal deprived the district court of jurisdiction to grant the Rule 60(b) motion. *Ruelas v. Wolfenbarger*, 580 F.3d 403, 407 (6th Cir. 2009).

II. The City's Cross-Appeal

On cross-appeal, the City argues that the district court should have dismissed Montague's equal-protection claim at the pleading stage, because he did not plead facts sufficient to establish municipal liability under § 1983. It acknowledges that the district court granted summary judgment in its favor on this claim, but it argues that the claim should have been dismissed at the pleading stage, and it asks us to "reverse the district court's Rule 12 denial . . . and then affirm



without remand the district court's denial of all other claims." We decline to address this argument. Regardless of the reasoning, the district court ultimately entered judgment in the City's favor on all claims. "As a general rule, a party may not appeal from a favorable judgment simply to obtain review of findings it deems erroneous." *Mathias v. WorldCom Techs., Inc.*, 535 U.S. 682, 684 (2002) (per curiam).

For the foregoing reasons, we **AFFIRM** the district court's judgment.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens, Clerk



Nos. 25-3759/25-3788

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Sep 8, 2026
KELLY L. STEPHENS, Cler

VINCENT MONTAGUE, JR., [25-3759/25-3788]

Plaintiff-Appellant Cross Appellee,

v.

CITY OF CLEVELAND, OH [25-3759/25-3788]

Defendant - Appellee Cross-Appellant

KARRIE D. HOWARD; TIMOTHY MAFFO-JUDD, Individually and in his Official Capacity as Lieutenant; BRUCE CUTLIP, Individually and in his Official Capacity as Lieutenant [25-3759],

Defendants-Appellees.

ORDER

BEFORE: McKEAGUE, THAPAR, and MURPHY, Circuit Judges.

The court received a petition for rehearing en banc. The original panel has reviewed the petition for rehearing and concludes that the issues raised in the petition were fully considered upon the original submission and decision of the case. The petition then was circulated to the full court. No judge has requested a vote on the suggestion for rehearing en banc.

Therefore, the petition is denied.

ENTERED BY ORDER OF THE COURT

Kelly L. Stephens, Clerk

EXHIBIT
App B

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No: 25-3759/25-3788

Filed: September 16, 2026

VINCENT MONTAGUE [25-3759 & 25-3788]

Plaintiff - Appellant Cross-Appellee

v.

CITY OF CLEVELAND, OH [25-3759 & 25-3788]

Defendant - Appellee Cross-Appellant

KARRIE D. HOWARD; TIMOTHY MAFFO-JUDD, Individually and in his Official Capacity as Lieutenant; BRUCE CUTLIP, Individually and in his Official Capacity as Lieutenant [25-3759]

Defendants - Appellees

MANDATE

Pursuant to the court's disposition that was filed 07/24/2026 the mandate for this case hereby issues today.

COSTS: None



25-3759

Mr. Vincent Montague, Jr.
3638 Ivy Court
Reminderville, OH 44202



UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202-3988

Kelly L. Stephens
Clerk

Tel. (513) 564-7000
www.ca6.uscourts.gov

Filed: September 16, 2026

Mr. Christian Marc Capece
Northern District of Ohio at Cleveland
801 W. Superior Avenue
Suite 100 Carl B. Stokes U.S. Courthouse
Cleveland, OH 44113

Re: Case Nos. 25-3759/25-3788
Vincent Montague v. City of Cleveland, OH, et al
Originating Case No. 1:22-cv-01878

Dear Clerk,

Enclosed is a copy of the mandate filed in this case.

Sincerely yours,

s/Avery Cook-Porter, Clerical Intern
Appeal Case Manager: Roy

cc: Mr. Matthew Aumann
Mr. William M. Menzalora
Mr. Vincent Montague Jr.

Enclosure



25-3759

Mr. Vincent Montague
3638 Ivy Court
Reminderville, OH 44202



IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 2026

No. _____

VINCENT T. MONTAGUE, JR.,
Applicant,

v.

CITY OF CLEVELAND, OHIO; KARRIE D. HOWARD; TIMOTHY MAFFO-JUDD; AND BRUCE CUTLIP,
Respondents.

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

SECTION 1746 DECLARATION FOR PROOF OF SERVICE

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

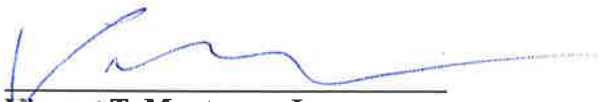
I, Vincent T. Montague, Jr., certify that on November 2, 2026, I served a true and correct copy of the foregoing Application for a 60-Day Extension of Time to File a Petition for a Writ of Certiorari, together with the accompanying lower-court materials, by United States Postal Service, First-Clas Mail, postage prepaid, upon counsel for Respondents at the following addresses:

William M. Menzalora
Chief Assistant Director of Law
City of Cleveland, Department of Law
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114

Matthew R. Aumann
Assistant Director of Law
City of Cleveland, Department of Law
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114

Mark D. Griffin
Director of Law
City of Cleveland, Department of Law
601 Lakeside Avenue, Room 106
Cleveland, Ohio 44114

I declare under penalty of perjury that the foregoing is true and correct.



Vincent T. Montague, Jr.
Applicant Pro Se
3638 Ivy Court
Reminderville, Ohio 44202
Telephone: (216) 801-0129
Dated: 11 - 2, 2026