(ORDER LIST: 607 U.S.)

MONDAY, MARCH 23, 2026

CERTIORARI -- SUMMARY DISPOSITION

25-640 WILLIAMS, RANDALL, ET AL. V. CHARLESTON CTY. SHERIFF, ET AL.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Fourth Circuit for further consideration in light of *Galette* v. *New Jersey Transit Corp.*, 607 U. S. ___ (2026).

ORDERS IN PENDING CASES

24-889 HIKMA PHARMACEUTICALS, ET AL. V. AMARIN PHARMA, INC., ET AL.

The motion of the Solicitor General for leave to participate in oral argument as *amicus curiae* and for divided argument is granted.

25-459 SALAZAR, MICHAEL V. PARAMOUNT GLOBAL

The motion of petitioner to dispense with printing the joint appendix is granted.

25-6605 BATES, JULIAN F. V. GENERAL MOTORS, LLC

25-6617 JOHNSON, NAQUEA E. V. NEW JERSEY, ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied. Petitioners are allowed until April 13, 2026, within which to pay the docketing fees required by Rule 38(a) and to submit petitions in compliance with Rule 33.1 of the Rules of this Court.

CERTIORARI DENIED

24-805 MALDONADO-MAGNO, WALTER, ET AL. V. BONDI, ATT'Y GEN.

24-992 MO HIGHER ED. LOAN AUTH. V. GOOD, JEFFREY, ET AL.

25-313 CHINOOK INDIAN NATION, ET AL. V. BURGUM, SEC. OF INTERIOR, ET AL.

25-361 ASANTE, ET AL. V. KENNEDY, SEC. OF H&HS, ET AL.

25-412 WILLIAMSON, ROLANDO A. V. UNITED STATES

25-447 SCHENA, MARK V. UNITED STATES

25-588 SUMMERS, DONNA E. V. MONTANA

25-594) CROCKETT, ELIZABETH, ET AL. V. KRUEGER, JOHN, ET AL.
) 25-604) CRAIG, DREW, ET AL. V. KRUEGER, JOHN, ET AL.

25-625 TAKEDA PHARMACEUTICAL, ET AL. V. PAINTERS & ALLIED TRADES, ET AL.

25-660 KLUM, NICOLE, ET AL. V. DAVENPORT, IA, ET AL.

25-661 BLECHER, ERIK, ET AL. V. THE HOLY SEE

25-667 CoSTAR GROUP, INC., ET AL. V. COMMERCIAL REAL ESTATE EXCH.

25-704 FULTON COUNTY, PA, ET AL. V. DOMINION VOTING SYSTEMS, ET AL.

25-712 HERNDEN, SANDRA V. CHIPPEWA SCH. DIST., ET AL.

25-784 CUNNINGHAM, KIYA V. WELLS FARGO BANK, N.A., ET AL.

25-810 FINK, JOHN W. V. STANZIONE, KAYDON A., ET AL.

25-813 BOGARDUS, KIM V. YAKIMA, WA

25-815 KODE, SIDDHARTH V. PARGIN, JOSEPH, ET AL.

25-823 MOSS, WILLIAM K. V. SACHEM CENT. BD. OF ED., ET AL.

25-824 MOODY, TONY V. OH DEPT. OF MENTAL HEALTH

25-826 POMPY, LESLY V. MOORE, MARC, ET AL.

25-827 McCLORY, JOSEPH L. V. HOBBS, SCOTT

25-830 KANUSZEWSKI, ADAM, ET AL. V. SHAH, SANDIP, ET AL.

25-832 SMITH, BONNIE M. V. SMITH, SHIRLEY

25-834 ERIE INDEM. CO. V. STEPHENSON, TROY, ET AL.

25-835 RIGOLLET, JEAN-FRANCOIS V. LE MACARON DEV., LLC

25-836 ROCKLAND COUNTY, NY, ET AL. V. NEW YORK, ET AL.

25-838 HEID, JOSEPH V. RUTKOSKI, MARK, ET AL.

25-850 CA CRANE SCH., INC. V. GOOGLE LLC, ET AL.

25-852 EDELSTEIN, KIMBERLY V. EDELSTEIN, ELIOTT

25-854 HOLLEY, ADAM V. LEPAK, BENJAMIN M., ET AL.

25-857 YARBROUGH, JOSHUA, ET AL. V. SLASHSUPPORT, INC., ET AL.

25-858 CHEMUTI, CHARLOTTE V. NORTH CAROLINA

25-859 EASTEP, CHELESY V. CARRICK, STEVEN, ET AL.

25-860 THERMOLIFE INT'L LLC, ET AL. V. BPI SPORTS, LLC

25-864 OTU, DANIEL V. WHYTE-OTU, ANITA

25-866 WRIGHT, CHARLES V. WRIGHT, MONICA M.

25-873 CATTELL, THOMAS B. V. DEEKS, VICTORIA, ET AL.

25-875 FORT BEND SCH. DIST. V. PAXTON, ATT'Y GEN. OF TX

25-894 BRATHWAITE, ABIEL V. GEORGIADES, ANTHONY, ET AL.

25-896 HOUSE, MICHAEL J. V. GENERAL ELECTRIC CO., ET AL.

25-900 GLOBAL MARINE EXPLORATION, INC. V. REPUBLIC OF FRANCE, ET AL.

25-907 MATTHEWS, GERARD P. V. BONDI, ATT'Y GEN.

25-926 KEELY, ALEXANDER V. PA BOARD OF LAW EXAMINERS

25-931 BAS, LLC V. LAND, TOMMY

25-951 BANKS, MORGAN, ET AL. V. HOFFMAN, DAVID H., ET AL.

25-968 KAVURU, KISHORE K. V. UNITED STATES

25-969) ZOTTOLA, ANTHONY V. UNITED STATES
)
25-6812) ROSS, HIMEN V. UNITED STATES

25-978 KONDILIS, ADRIANNA, ET AL. V. CHICAGO, IL

25-984 McCALEB, DAN V. LONG, MICHELLE

25-990 NATIONWIDE BIWEEKLY ADM., INC. V. CFPB

25-997 SINNISSIPPI ROD & GUN, ET AL. V. RAOUL, ATT'Y GEN. OF IL, ET AL.

25-5309 DAVIDO, TEDOR V. HARRY, SEC., PA DOC, ET AL.

25-5948 KIMBRELL, JODY D. V. USDC CD CA

25-6063 LeBLANC, TIMOTHY V. UNITED STATES

25-6097 GLYNN, SHANNA M. V. MARQUETTE POLICE DEPT., ET AL.

25-6105 ISAACSON, BRITTANY L. V. UNITED STATES

25-6127 DAVIS, BRODRICK E. V. UNITED STATES

25-6158 NOCK, JOHN V. UNITED STATES

25-6171 DiBELARDINO, ALDO V. MIYARES, ATT'Y GEN., VA, ET AL.

25-6208 PECKHAM, MATTHEW V. RHODE ISLAND

25-6315 RUSHING, JASPER P. V. ARIZONA

25-6316 CAMPBELL, KYLE R. V. UNITED STATES

25-6444 ABDULLAH, RASHID M. V. PLANT CITY, FL, ET AL.

25-6476 BLUNTSON, DEMOND D. V. TEXAS

25-6531 JORGE, RAFAEL V. ADLER, MARIE

25-6537 EVERETT, DAVID T. V. THARRETT, SARAH E.

25-6543 PHILLIPS, STEPHEN D. V. SIEG, AMY, ET AL.

25-6545 MONTGOMERY, GREGORY V. GUERRERO, DIR., TX DCJ

25-6547 WILTZ, CASSANDRA V. MILLER, CHAD M., ET AL.

25-6554 SONNIER, JUSTIN G. V. TEXAS

25-6558 HUYNH, PHILONG V. SUPERIOR COURT OF CA, ET AL.

25-6575 PEREZ PADILLA, LOURDES C. V. DEPT. OF SOCIAL SERV., ET AL.

25-6578 NORTHRUP, DAVID J. V. FLORIDA

25-6586 M. G. J. V. OR DEPT. HUMAN SERVICES, ET AL.

25-6588 SKELLCHOCK, DEREK V. DEAN, JUDGE, ET AL.

25-6591 MAPLE, LATEEF V. MARYLAND

25-6592 GIPBSIN, CLARENCE A. V. UNITED STATES, ET AL.

25-6596 KETCHAM, JAMIE B. V. DEPT. OF DEFENSE

25-6603 MARTIN, DAVID V. RAOUL, ATT'Y GEN. OF IL, ET AL.

25-6608 CHRISTENSEN, DENNIS V. DIXON, SEC., FL DOC, ET AL.

25-6609 BRADY, ROGER H. V. WILLIAMS, WARDEN, ET AL.

25-6613 MATTHEWS, DUSTIN V. TEMPE, AZ, ET AL.

25-6615 ADDISON, WESLEY K. V. GUERRERO, DIR., TX DCJ

25-6618 RAMOS, JONATHAN F. V. G. H., KAREN

25-6620 LUMSDEN, RAYMOND E. V. GUERRERO, DIR., TX DCJ

25-6621 REESE, LAMAR V. OHIO

25-6625 SERPIK, ROMAN V. V. WEEDON, FORMER JUDGE, ET AL.

25-6626 CAREW, TERRANCE V. MORTON, SUPT., DOWNSTATE

25-6628 SOUARE, ELHADJ A. M. V. OH COURT OF COMMON PLEAS, ET AL.

25-6631 SANCHEZ, JUAN J. Z. V. TEXAS

25-6632 RIVERA, ALVETO V. GRAY, MARK

25-6635 SANCHEZ-JIMENEZ, JOSE A. V. UNITED STATES, ET AL.

25-6645 CLARK, LA'SHAUN V. NY CITY HOUSING AUTH., ET AL.

25-6646 HEALY, NOAH P. V. SQUIRES, JOHN A.

25-6655 SILVERS, KERRY E. V. INDIANA

25-6656 SHERRILL, ALLEN M. V. MICHIGAN

25-6657 GREEN, DALE B. V. DIXON, SEC., FL DOC

25-6658 KELLER, JEFFREY V. ILLINOIS

25-6672 CHILDS, DOMINIQUE A. V. VIRGINIA

25-6673 CAPUTO, JAMES R. V. TUBIOLO, RICHARD S., ET AL.

25-6686 NELLONS, RICARDO V. GEE, SUPT., CAYUGA

25-6705 WOLF, CHAD B. V. UNITED STATES

25-6711 ENGLAND, MATTHEW H. V. UNITED STATES

25-6718 RAMIREZ, OTTO M. V. UNITED STATES

25-6719 SANCHES-RAUDALES, ROLANDO H. V. UNITED STATES

25-6723 DEMA, VICTOR V. TOTH, JENNIFER

25-6725 POWELL, SHAWN D. V. GUZMAN, WARDEN

25-6729 HEAGGEANS, ANTWAUN O. V. UNITED STATES

25-6747 McLENNAN, BRAD V. UNITED STATES

25-6748 CORN, JOHN E. V. UNITED STATES

25-6757 HARDIN, JWAN L. V. INDIANA

25-6758 WASHINGTON, QUINTIN V. TANNER, WARDEN

25-6759 GRANDA, CARLOS V. UNITED STATES

25-6761 ALEXIS, KENNAN V. UNITED STATES

25-6765 HARDY, WILLIE M. V. UNITED STATES

25-6771 REED, KIONNATAYA S. V. UNITED STATES

25-6775 McCOWAN, MICHAEL T. V. UNITED STATES

25-6780 SMITH, HENRY L. V. SCHIEBNER, WARDEN

25-6783 BOYAJIAN, RONALD G. V. USCA 9

25-6785 WOOZENCROFT, NICHOLAS C. V. UNITED STATES

25-6786 CLISBY, CORNELL V. UNITED STATES

25-6789 BRUNDIGE, RICHARD V. UNITED STATES

25-6790 CASTILLO-PEDRAZA, DIEGO V. UNITED STATES

25-6791 SANO-PEREZ, DAVID V. UNITED STATES

25-6799 GLENN, SALENA N. V. MALDONADO, WARDEN

25-6810 MANNING, TERENCE E. V. IOWA

25-6813 SIMPSON, DEIMON N. V. UNITED STATES

25-6814 LE, TONY M. V. UNITED STATES

25-6816 FIGUEROA, CARLOS J. V. UNITED STATES

25-6817 TAYLOR, GERALD K. V. UNITED STATES

25-6819 PRAWL, BRANDON V. UNITED STATES

25-6821 ALMEIDA-PONCE, HUGO V. UNITED STATES

25-6823 RAMDEO, SONNY A. V. TYLER, D.

25-6824 DiPIETRO, RONALD V. UNITED STATES

25-6827 COSTON, TITUS V. UNITED STATES

25-6829 JOHNSON, ALONZO L. V. UNITED STATES

25-6830 WILEY, HAKEEM A. V. UNITED STATES

25-6831 ELLIOTT, SAMUEL V. UNITED STATES

25-6833 ROMERO, ISRAEL V. CHARTER COMMUNICATIONS, ET AL.

25-6835 SESSUM, LAURENCE V. UNITED STATES

25-6839 NJI, ERIC F., ET AL. V. UNITED STATES

25-6843 KUNTZ, RON D. V. UNITED STATES

25-6845 HENDERSON, MICHAEL V. UNITED STATES

25-6847 RAWLS, ANDRE L. V. UNITED STATES

25-6848 CARRANZA-CLAVEL, DENNIS L. V. UNITED STATES

25-6851 LACAYO, JOSE D. P. V. UNITED STATES

25-6856 MAES, JOSE O. V. UNITED STATES

25-6858 GOMEZ, ADAM V. UNITED STATES

25-6867 KAYIAN, RICHARD H. V. UNITED STATES

25-6868 FINNEY, RONALD S. V. UNITED STATES

25-6869 FERNANDEZ-FUENTES, JUAN V. UNITED STATES

25-6870 CHEATHAM, MARCELLUS M. V. UNITED STATES

25-6871 PALMER, GREGORY M. V. UNITED STATES

25-6872 TANG, MIN V. KENNEDY, SEC. OF H&HS

25-6874 STRICKER, BRANDON F. V. UNITED STATES

25-6879 BELIN, KING V. UNITED STATES

25-6880 JONES, SHARIFF A. V. JPMORGAN CHASE & CO., ET AL.

25-6883 ACEBO, FRANCIS J. V. UNITED STATES

25-6884 ALI, ABDULLAHI S. V. PORTLAND, OR

25-6886 WADSWORTH, JUSTIN A. V. UNITED STATES

25-6888 ARNOLD, DARYL S. V. UNITED STATES

25-6889 JOSHI, ASHU V. UNITED STATES

25-6890 BROWN, TIFFANY V. UNITED STATES

25-6891 MARSHALL, JUANITO V. FREDERICK, WARDEN

25-6892 THOMPSON, BRAUN V. UNITED STATES

25-6893 GASPARYAN, EDUARD V. UNITED STATES

25-6894 ESQUIVEL, RICARDO V. UNITED STATES

25-6895 DUFFY, MIKE V. UNITED STATES

25-6896 PETTYJOHN, DYLAN J. V. UNITED STATES

25-6897 PEREZ, JESSE F. V. UNITED STATES

25-6901 BALOGA, MICHAEL V. JACISIN, BRIAN, ET AL.

25-6916 CASTILLO, JESSE V. ILLINOIS

The petitions for writs of certiorari are denied.

25-798 SIEGEL, RICK V. SALAZAR, JUDE

The motion of Professor Kevin Jerome Greene for leave to file a brief as *amicus curiae* is denied. The petition for a writ of certiorari is denied.

25-908 GLYNN ENVIRONMENTAL INC., ET AL. V. SEA ISLAND ACQUISITION, LLC

The petition for a writ of certiorari is denied. Justice Gorsuch took no part in the consideration or decision of this petition.

25-5812 BARRETO, MICHAEL V. UNITED STATES

The motion for leave to file a reply brief under seal with redacted copies for the public record is granted. The petition for a writ of certiorari is denied.

25-6273 COLEMAN, RONNIE V. CHEVRON PHILLIPS CHEM. CO., L.P.

The petition for a writ of certiorari is denied. Justice Alito took no part in the consideration or decision of this petition.

25-6515 SMITH, SAMUEL L. V. BACH ARMAS, JUDGE, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

25-6536 HOLMES, C. V. GRANUAILE, LLC, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin* v. *District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

25-6576 NORFLEET, MARC V. BALDWIN, JOHN R., ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

25-6580 CHHIM, JOSEPH V. HOUSTON HUMAN RESOURCES, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8. As the petitioner has repeatedly abused this Court's process, the Clerk is directed not to accept any further petitions in noncriminal matters from petitioner unless the docketing fee required by Rule 38(a) is paid and the petition is submitted in compliance with Rule 33.1. See *Martin* v. *District of Columbia Court of Appeals*, 506 U. S. 1 (1992) (*per curiam*).

25-6659 ALLEN, ANTHONY V. WALKER, JUSTICE, ET AL.

25-6695 BELL, ANDREW W. V. RAFFENSPERGER, BRAD, ET AL.

The motions of petitioners for leave to proceed *in forma pauperis* are denied, and the petitions for writs of certiorari

are dismissed. See Rule 39.8.

MANDAMUS DENIED

25-880 IN RE ROY DIXON, ET UX.

25-6604 IN RE ANGELIINA L. LAWSON

25-6629 IN RE DEBORA DONATHAN

The petitions for writs of mandamus are denied.

25-6639 IN RE DEON D. COLVIN

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of mandamus is dismissed. See Rule 39.8.

REHEARINGS DENIED

25-252 FLUELLEN, JALINA V. KRASN, DAVID, ET AL.

25-542 RANDLEMAN, TONYA L. V. FIRELANDS HABITAT FOR HUMANITY

25-545 ROBINSON, JULIA M. V. FEDEX INC., ET AL.

25-546 ROBINSON, JULIA M. V. UNITED STATES, ET AL.

25-592 MILLER, TERESA V. HELMS, OFFICER, ET AL.

25-5466 HOERIG, CLAUDIA C. V. OLDS, WARDEN

25-5546 NEAL EL, MOURICE V. SHOWMAN, MICHAEL

25-5617 SAWIRES, MAGDOULEN A. V. ELIZABETH BD. OF ED., ET AL.

25-6013 KESSLER, KIMBERLY L. V. FLORIDA

25-6016 WHITE, TODD V. ACELL, INC.

25-6154 KELLEY, KARYN M. V. FEENEY, MARY, ET AL.

25-6190 BRADLEY, STEVEN D. V. IOWA

25-6238 WEBB, GREGORY V. TENNESSEE

The petitions for rehearing are denied.

Per Curiam

SUPREME COURT OF THE UNITED STATES

JACOB P. ZORN *v.* SHELA M. LINTON

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

No. 25–297. Decided March 23, 2026

PER CURIAM.

On the Governor's inauguration day in Vermont, protesters staged a sit-in at the state capitol. When the capitol closed for the day, police officers told them that they would be arrested for trespassing. They refused to leave. As officers removed the protesters one by one, Sergeant Jacob Zorn asked Shela Linton to stand up and warned her that he would eventually have to use force to remove her. She refused to stand. Zorn took Linton's arm, put it behind her back, placed pressure on her wrist, and lifted her to her feet. Linton sued Zorn for using excessive force, claiming that the arrest left her with arm injuries and psychological disorders. The Second Circuit held that Zorn was not entitled to qualified immunity. We reverse.

I

On January 8, 2015, Vermont hosted the inauguration for Governor Peter Shumlin in the capitol.[1] About 200 protesters attended, and some of them staged a sit-in to demand universal healthcare. Shela Linton joined them. She planned to refuse to leave and anticipated being forcibly removed. "That's the point of the sit-in part of the protest," she later explained. Deposition of S. Linton in No. 5:18–cv–5 (D Vt., June 3, 2022), ECF Doc. 74–4, p. 127.

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[1] Because this case comes here on Zorn's motion for summary judgment, we view the facts in the light most favorable to the nonmoving party, Linton. *City and County of San Francisco* v. *Sheehan*, 575 U. S. 600, 603 (2015).

Per Curiam

When the capitol closed to the public for the night, 29 protesters remained in the legislative chamber, sitting on the floor with their arms linked. At that point, police officers explained that they would arrest the protesters for trespass if they did not leave. The officers dealt with them one at a time; some stood up and were escorted out of the chamber without force, but others refused to stand and had to be lifted to their feet or dragged out.

After removing more than a dozen protesters, the officers turned to Linton. Sergeant Jacob Zorn crouched down to speak with her, but she remained seated with her arms interlocked with those of her fellow protesters. As Linton passively resisted, Zorn unlinked her arm from another protester's, put it behind her back in a rear wristlock, and twisted her arm.[2] Linton exclaimed "'ow, ow, ow,'" while Zorn repeatedly implored her to "'please stand up.'" App. to Pet. for Cert. 47–48. After Linton responded, "'I will not stand up,'" Zorn told her that he would ask "'one more time'" and then would use more pain compliance. *Id.,* at 48. Linton refused, so Zorn placed pressure on her wrist and lifted her up by her underarm. Linton yelled as she stood up. Once on her feet, Linton continued to jerk her arms and fell back to the floor. Zorn asked her to stand up again, and when she did not, three officers picked her up by her arms and legs and carried her outside. Linton alleged resulting physical and psychological injuries including post-traumatic stress disorder.

Linton sued Zorn under Rev. Stat. §1979, 42 U. S. C. §1983, claiming that Zorn violated her Fourth Amendment

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[2] A rear wristlock is a technique that officers use to gain control over a resistant person by gripping his wrist, placing it behind his back, and bending it backward. See U.S. Dept. of Justice, Use of Force by Police: Overview of National and Local Data 49 (Oct. 1999) (summarizing data showing that "[w]hen the suspects used slight resistance, most incidents involved officer use of verbal commands, handcuffing, or wrist/arm locks").

right against excessive use of force. The District Court granted summary judgment for Zorn after concluding that he was entitled to qualified immunity. The District Court reasoned that it was not clearly established at the time of the encounter that, in these circumstances, lifting Linton while putting pressure on her wrist violated the Fourth Amendment.

The Second Circuit reversed. It held that its decision in *Amnesty America* v. *West Hartford*, 361 F. 3d 113 (2004), clearly established that the "gratuitous" use of a rear wrist-lock on a protester passively resisting arrest constitutes excessive force. 135 F. 4th 19, 35 (2025). It remanded for a jury trial against Zorn. Judge Cabranes dissented. "The case before us is not an exceptional case," Judge Cabranes reasoned, but "a routine arrest and removal." *Id.*, at 41.

II

Government officials enjoy qualified immunity from suit under §1983 unless their conduct violates clearly established law. *Rivas-Villegas* v. *Cortesluna*, 595 U. S. 1, 5 (2021) (*per curiam*). "A right is clearly established when it is 'sufficiently clear that every reasonable official would have understood that what he is doing violates that right.'" *Ibid.* A right is not clearly established if existing precedent does not place the constitutional question "'beyond debate.'" *Ibid.*

To find that a right is clearly established, courts generally "need to identify a case where an officer acting under similar circumstances . . . was held to have violated" the Constitution. *Escondido* v. *Emmons*, 586 U. S. 38, 43 (2019) (*per curiam*) (internal quotation marks omitted). The relevant precedent must define the right with a "high degree of specificity," so that "every reasonable official would interpret it to establish the particular rule the plaintiff seeks to apply." *District of Columbia* v. *Wesby*, 583 U. S. 48, 63 (2018) (internal quotation marks omitted).

Principles stated generally, such as that "an officer may not use unreasonable and excessive force," do not suffice. *Kisela* v. *Hughes*, 584 U. S. 100, 105 (2018) (*per curiam*). In short, officers receive qualified immunity unless they could have "read" the relevant precedent beforehand and "know[n]" that it proscribed their specific conduct. *City and County of San Francisco* v. *Sheehan*, 575 U. S. 600, 616 (2015).

The Second Circuit contravened these principles. *Amnesty America* did not clearly establish that Zorn's specific conduct violated the Fourth Amendment.[3] Whether any particular use of force violates the Fourth Amendment depends on "the facts and circumstances of each particular case," *Graham* v. *Connor*, 490 U. S. 386, 396 (1989), including whether the officer gave "warnings" before using force, *Barnes* v. *Felix*, 605 U. S. 73, 80 (2025). In *Amnesty America*, the court considered a wide range of allegations of excessive force. The officers rammed a protester's head into a wall, dragged another protester across the ground, and used rear wristlocks on two more protesters to lift them up before throwing one of them to the ground. 361 F. 3d, at 123. Nothing indicated that the officers gave the protesters any warning that they would use such force.

Amnesty America did not hold that any of those actions violated the Fourth Amendment, let alone all of them. Instead, it remanded for a jury trial because, while a "reasonable jury *could* . . . find that the officers gratuitously inflicted pain," it was also "entirely possible that a reasonable jury would find . . . that the police officers' use of force was objectively reasonable given the circumstances." *Id.*, at 124 (emphasis added). Relevant here, *Amnesty America* even relied on a decision approving the practice of warning

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[3] We assume without deciding that "controlling Circuit precedent" can clearly establish law for qualified-immunity purposes. *Rivas-Villegas* v. *Cortesluna*, 595 U. S. 1, 5 (2021) (*per curiam*).

protesters and then using wristlocks to move them. *Ibid.* (citing *Forrester* v. *San Diego*, 25 F. 3d 804, 807–808 (CA9 1994)).

Reasonable officials would not "interpret [*Amnesty America*] to establish" that using a routine wristlock to move a resistant protester after warning her, without more, violates the Constitution. *Wesby*, 583 U. S., at 63; see *Sheehan*, 575 U. S., at 615–616. Zorn repeatedly warned Linton that he would have to use more force if she did not stand up, and when she did not do so, he used a wristlock to bring Linton to her feet. See App. to Pet. for Cert. 47–49. *Amnesty America* never "held" that such conduct alone "violated" the Fourth Amendment. *Emmons*, 586 U. S., at 43 (internal quotation marks omitted). If anything, it implied the opposite. See *Amnesty America*, 361 F. 3d, at 124 (citing *Forrester*, 25 F. 3d, at 807–808). And its statement that officers who had engaged in a wide range of aggressive conduct may have used excessive force did not "put [Zorn] on notice that his specific conduct was unlawful." *Rivas-Villegas*, 595 U. S., at 6.

The Second Circuit concluded otherwise by reading *Amnesty America* to establish the general principle "that the gratuitous use of pain compliance techniques—such as a rear-wristlock—on a protestor who is passively resisting arrest constitutes excessive force." 135 F. 4th, at 35 (case below). But that principle, even assuming *Amnesty America* established it, lacks the "high degree of specificity" needed to make it "clear" to officers which actions violate the law. *Wesby,* 583 U. S., at 63 (internal quotation marks omitted). It does not "obviously resolve" whether using a rear wristlock to move a noncompliant protester after repeated warnings violates the Fourth Amendment, *id.*, at 64, as it fails to specify which circumstances make the use of force "gratuitous."

Because the Second Circuit failed to identify a case where an officer taking similar actions in similar circumstances

"was held to have violated" the Constitution, *Emmons*, 586 U. S., at 43 (internal quotation marks omitted), Zorn was entitled to qualified immunity. We grant his petition for writ of certiorari and reverse the judgment of the Second Circuit.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

JACOB P. ZORN *v.* SHELA M. LINTON

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

No. 25–297. Decided March 23, 2026

JUSTICE SOTOMAYOR, with whom JUSTICE KAGAN and JUSTICE JACKSON join, dissenting.

Sergeant Jacob Zorn used a "'pain compliance technique'" called a rear wristlock on Shela Linton, a nonviolent protestor who was peacefully demonstrating at a sit-in in the Vermont capitol. 135 F. 4th 19, 24–25 CA2 (2025). The Second Circuit held that Zorn was not entitled to qualified immunity on Linton's Fourth Amendment excessive force claim, at least at the summary judgment stage, because prior Circuit precedent had clearly established that using a rear wristlock against a nonviolent protestor would violate the protestor's constitutional rights. That decision was not erroneous, and certainly not so clearly erroneous as to warrant the "extraordinary remedy of a summary reversal." *Major League Baseball Players Assn.* v. *Garvey*, 532 U. S. 504, 512–513 (2001) (Stevens, J., dissenting). I respectfully dissent.

I

Given that this case is at the summary judgment stage, the Court must "view the evidence . . . in the light most favorable to" Linton, the nonmovant, "with respect to the central facts of the case." *Tolan* v. *Cotton*, 572 U. S. 650, 657 (2014) (*per curiam*). Before Sergeant Zorn's interaction with Linton, officers had arrested 15 or 16 demonstrators: The "officers tapp[ed] some of the demonstrators' shoulders or sp[oke] briefly with them before the officers placed them under arrest." App. to Pet. for Cert. 44 (App.). "Some of the arrestees voluntarily stood up after officers approached

them," while the "[o]fficers lifted the demonstrators who did not stand up voluntarily and escorted, dragged, or carried them out of the chamber." *Ibid.* "Consistent with the concept of a nonviolent sit-in protest, . . . none of [the demonstrators] attacked the officers or used any form of violence." *Id.*, at 45. One officer, Trooper Richardson, described the "level of safety threat in the environment [as] '[v]ery low.'" *Ibid.* (alteration in original).

When Zorn and Richardson first approached Linton, they "did not issue any 'clear request or command,'" and the "video evidence appears to indicate that" one of them said only, "'ma'am?'" *Id.*, at 46. About five seconds later, Zorn and Richardson unlinked Linton's arms from the other demonstrators' arms. Without any warning—indeed, without saying another word to Linton—Zorn placed Linton's left arm into a rear wristlock by twisting her arm and shoulder, "snapp[ing]" her wrist, and "'forc[ing] it down and to the rear.'" *Id.*, at 47; Plaintiff's Supp. Affidavit in No. 5:18–cv–5 (D Vt.), ECF Doc. 74–3, p. 2. Linton immediately exclaimed, "'ow, ow, ow!'" App. 47. Only then did Zorn instruct Linton to "'please stand up.'" *Id.*, at 48.

Linton did not stand up, at which point Zorn further twisted Linton's arm. "Linton's face contorted in pain as she stated, 'my arm!' or 'don't twist my arm!'" *Ibid.* Zorn asked Linton to stand up several more times. Linton refused and replied: "'You're hurting me.'" *Ibid.* Zorn then warned Linton: "'I'm going to ask you one more time . . . and then I will use more pain compliance.'" *Ibid.* Linton repeated that Zorn was "'hurting'" her and did not move to stand up. *Id.*, at 49. Zorn then applied pressure to Linton's wrist and lifted her upward, causing Linton to "contor[t] her face in pain and . . . scream very loudly." *Ibid.* Zorn whispered to her that "she should have called her legislator." *Ibid.*

After being hauled to her feet, Linton collapsed back onto the floor "due to pain and feeling weak." *Id.*, at 50. Zorn,

Richardson, and a third officer "lifted" her "by her arms and legs and carried her out of the House chamber" without further use of a rear wristlock or any other pain-compliance technique. *Id.*, at 51. As a result of this event, Linton "suffered permanent damage to her left wrist and shoulder" and has been "diagnosed with post-traumatic stress disorder, depression, and anxiety." 135 F. 4th, at 25.

II

Officers are not entitled to qualified immunity if "(1) they violated a federal statutory or constitutional right, and (2) the unlawfulness of their conduct was 'clearly established at the time.'" *District of Columbia* v. *Wesby*, 583 U. S. 48, 62–63 (2018). The Second Circuit correctly held that summary judgment must be denied because a jury could find that Zorn violated Linton's clearly established Fourth Amendment rights.

A

Starting with the first prong of the qualified immunity analysis, Linton contends that Zorn violated her Fourth Amendment rights by using excessive force during her arrest. Determining whether a given use of force is excessive requires a "careful balancing of '"the nature and quality of the intrusion on the individual's Fourth Amendment interests"' against the countervailing governmental interests at stake." *Graham* v. *Connor*, 490 U. S. 386, 396 (1989). The inquiry depends on the "'totality of the circumstances,'" "including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, . . . whether [s]he is actively resisting arrest or attempting to evade arrest by flight," *ibid.*, the "relationship between the need for the use of force and the amount of force used[, and] the extent of [her] injury," *Kingsley* v. *Hendrickson*, 576 U. S. 389, 397 (2015).

Here, the Second Circuit rightly concluded that a reasonable jury could find that Zorn's use of force was excessive in violation of the Fourth Amendment. See 135 F. 4th, at 36. First, the crime of trespass for which Linton was arrested is not "'particularly severe.'" *Ibid.* Second, it is undisputed that the threat to safety posed by Linton was relatively low. Trooper Richardson described the level of safety risk as "'[v]ery low.'" *Ibid.* The protestors also "passed through security (and therefore must have been considered to be unarmed), did not significantly outnumber police," and were "not accused of being volatile or violent." *Ibid.* Third, it is also undisputed that Linton "suffered permanent loss of motion in her left wrist and shoulder as a result of the incident." *Ibid.* Fourth, there is a material dispute of fact as to whether Linton was actively resisting arrest, and a jury reasonably could conclude that Linton was only passively resisting and that her failure to comply was because she was "in too much pain to do so." *Id.*, at 37. Finally, a jury also reasonably could conclude that the use of pain compliance was not "reasonably related to any need to use force." *Id.*, at 38. The officers purportedly "did not use pain compliance techniques in the arrests of . . . fellow protestors," and Linton contends that "the Vermont State Police use-of-force policy does not suggest . . . us[ing] pain compliance techniques in response to passive resistance." *Ibid.* Further, Zorn's own expert stated that "the general police practice in response to passive resistance is 'low level physical contact . . . with little or no pain.'" *Ibid.* Taken together, a jury could reasonably conclude that Zorn used excessive force in violation of Linton's Fourth Amendment rights.

B

The second prong of the qualified immunity analysis asks whether the "unlawfulness of [the official's] conduct was 'clearly established at the time,'" *Wesby*, 583 U. S., at 63, which requires assessing whether the "contours of the right

[are] sufficiently clear that a reasonable official would understand that what he is doing violates that right," *Anderson* v. *Creighton*, 483 U. S. 635, 640 (1987). "[E]arlier cases involving 'fundamentally similar' facts can provide especially strong support for a conclusion that the law is clearly established," *Hope* v. *Pelzer*, 536 U. S. 730, 741 (2002), but there need not be a " ' "case directly on point," ' " *White* v. *Pauly*, 580 U. S. 73, 79 (2017) (*per curiam*).

In addition to the long-established principle that officers may use only the "amount of force that is necessary in a particular situation," *Graham*, 490 U. S., at 397, the Second Circuit's prior case, *Amnesty America* v. *West Hartford*, 361 F. 3d 113 (CA2 2004), "clearly establish[ed] that the gratuitous use of pain compliance techniques—such as a rear-wristlock—on a protestor who is passively resisting arrest constitutes excessive force." 135 F. 4th, at 35. In that case, officers used multiple forms of force to arrest anti-abortion protestors who had chained themselves together in front of a women's center. *Amnesty America*, 361 F. 3d, at 118. The plaintiffs alleged that the officers had used excessive force to remove them, including by using a rear wristlock and other pain compliance techniques. *Ibid.* Two plaintiffs in that case were treated much like Linton was: Officers "lift[ed] and pull[ed]" them off the floor "by pressing their wrists back against their forearms in a way that caused lasting damage." *Id.*, at 123. The Circuit then held that, under past cases, "allegations involving comparable amounts of force used during the arrest of a nonviolent suspect are sufficient to allow a reasonable factfinder to conclude that the force used was excessive." *Id.*, at 123–124.

Amnesty America's specific discussion of rear wristlocks thus clearly established that using a rear wristlock against a nonviolent, passively resisting protestor could constitute excessive force. It therefore put Zorn on notice, to a "high 'degree of specificity,'" *Wesby*, 583 U. S., at 63, that using the same technique against a passively resisting protestor

like Linton would expose him to liability for violating Linton's Fourth Amendment rights.

C

The Court's attempts to distinguish *Amnesty America* are mistaken. It first claims that *Amnesty America* differs from this case because the officers there did not give "any warning" to the protestors, while Zorn "repeatedly warned Linton" here. *Ante*, at 4–5. That distinction misrepresents both cases. *Amnesty America*, in fact, did involve warnings: It observed that the "police purportedly employed" the pain-compliance techniques "only after they were unsuccessful in verbally convincing protestors to move." 361 F. 3d, at 119. By comparison, in this case, construing the evidence in favor of Linton (as is required), Zorn "did not issue any 'clear request or command'" before applying a rear wristlock and began asking her to stand only after he had initiated the wristlock. App. 46; see ECF Doc. 74–3, p. 2 (Linton "was not given warning before [Zorn] initiated the use of pain compliance"). *Amnesty America* thus involved "'an officer acting under similar circumstances,'" *Escondido* v. *Emmons*, 586 U. S. 38, 43 (2019) (*per curiam*), and put Zorn on notice that his actions would violate established law.

It is true that, after initiating the wristlock, Zorn warned Linton that he would use "'more pain compliance'" if she did not stand up, App. 48, whereas the *Amnesty America* opinion does not specify whether similar warnings were given after the initiation of the wristlocks. If that is the difference on which the majority relies, the majority is essentially requiring Linton to find a factually identical case, a requirement that this Court has repeatedly rejected. See, *e.g.*, *Anderson*, 483 U. S., at 640 ("This is not to say that an official action is protected by qualified immunity unless the very action in question has previously been held unlawful"); *Hope*, 536 U. S., at 741 (explaining that "'fundamentally similar'" cases can be helpful but are not necessary).

The majority also suggests that *Amnesty America* considered a "wide range" of conduct, implying that it did not specifically address rear wristlocks like the one at issue here. *Ante*, at 4. That, too, is inconsistent with the actual opinion, which recognized that each plaintiff had "standing to assert only those constitutional deprivations that they themselves [were] alleged to have suffered" and specifically identified the use of a rear wristlock against some passively resisting protestors as "sufficient to allow a reasonable factfinder to conclude that the force used was excessive." 361 F. 3d, at 123–124, and n. 6.

The Court next reasons that *Amnesty America* did not clearly establish any law because it stated that while a "reasonable jury could . . . find that the officers" used excessive force, it was also "entirely possible that a reasonable jury would find . . . that the police officers' use of force was objectively reasonable given the circumstances and the plaintiffs' resistance techniques." *Id.*, at 124; see *ante*, at 4–5. These statements in *Amnesty America*, however, reflect that the Second Circuit was reviewing a district court's grant of summary judgment in favor of the defendants where there was factual uncertainty. In reversing the grant of summary judgment, the Second Circuit held that if the plaintiffs' allegations were true, they would be "sufficient to allow a reasonable factfinder to conclude that the force used was excessive," but it found that there were material disputes on "issues of fact" that could not be resolved at summary judgment. 361 F. 3d, at 123–124. Thus, when *Amnesty America* stated that a reasonable jury could rule for the officers, it was merely acknowledging the reality that the jury might well resolve those material factual disputes in favor of the defendants and find that the officers' use of force, under the circumstances that truly occurred, was not excessive. *Id.*, at 124. That possibility, however, does not change the fact that the Second Circuit held the use of a wristlock could be excessive if events had

transpired the way plaintiffs alleged they had in that case. See 135 F. 4th, at 33. Indeed, the Second Circuit has long held that "a vacatur of a grant of summary judgment and a remand in light of the existence of genuine issues of material fact" may clearly establish a constitutional violation, *id.*, at 34, and the dissent below agreed, *id.*, at 40 (Cabranes, J., concurring in part and dissenting in part).

At bottom, the majority's analysis rests on the assumption that the law can be clearly established only by factually identical "'"case[s] directly on point,"'" despite the Court's rejection of such a standard. *White*, 580 U. S., at 79. Instead, it is "enough that governing law places 'the constitutionality of the officer's conduct beyond debate.'" *Kisela* v. *Hughes*, 584 U. S. 100, 120 (2018) (SOTOMAYOR, J., dissenting) (quoting *Wesby*, 583 U. S., at 63). Here, taking the facts in the light most favorable to Linton, it is "beyond debate" that Zorn's use of pain compliance against the passively resisting Linton was excessive. Accordingly, Zorn was not entitled to summary judgment based on qualified immunity.

* * *

For the foregoing reasons, the Second Circuit did not err in holding that Zorn is not entitled to qualified immunity at this stage. At the very least, the decision below was not so wrong as to warrant the "extraordinary remedy of a summary reversal." *Garvey*, 532 U. S., at 512–513 (Stevens, J., dissenting). Relying on disputed facts, the Court today simply disagrees with how the Second Circuit applied a correctly stated legal standard (the requirement that law be established to "'a high degree of specificity'" in the qualified immunity analysis) to this particular set of facts. 135 F. 4th, at 32 (quoting *Wesby*, 583 U. S., at 63). That is a routine, and nowhere near extraordinary, dispute that did not require the Court's intervention.

In the past, I have noted the "troubling asymmetry" in this Court's "unflinching willingness 'to summarily reverse

courts for wrongly denying officers the protection of qualified immunity' but 'rarely interven[ing] where courts wrongly afford officers the benefit of qualified immunity.'" *Kisela*, 584 U. S., at 121 (SOTOMAYOR, J., dissenting). This case unfortunately represents a resurgence and perpetuation of this "one-sided approach to qualified immunity" that "transforms the doctrine into an absolute shield for law enforcement officers, gutting the deterrent effect of the Fourth Amendment." *Ibid.* The majority today gives officers license to inflict gratuitous pain on a nonviolent protestor even where there is no threat to officer safety or any other reason to do so. That is plainly inconsistent with the Fourth Amendment's fundamental guarantee that officers may only use "the amount of force that is necessary" under the circumstances. *Graham*, 490 U. S., at 396. Therefore, I respectfully dissent.

SUPREME COURT OF THE UNITED STATES

RODNEY REED *v.* BRYAN GOERTZ, IN HIS OFFICIAL CAPACITY AS DISTRICT ATTORNEY OF BASTROP COUNTY, TEXAS

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

No. 24–1268. Decided March 23, 2026

The petition for a writ of certiorari is denied.

JUSTICE SOTOMAYOR, with whom JUSTICE KAGAN and JUSTICE JACKSON join, dissenting from the denial of certiorari.

"DNA testing has an unparalleled ability to both exonerate the wrongly convicted and to identify the guilty." *District Attorney's Office for Third Judicial Dist.* v. *Osborne*, 557 U. S. 52, 55 (2009). For the last 11 years, death-row prisoner Rodney Reed has sought DNA testing of key evidence that could prove his innocence. Because the Fifth Circuit did not address a potentially meritorious argument that Reed raised in support of his claim, the Court should summarily vacate the decision below and remand for further consideration of Reed's claim.

In 1998, Reed was convicted and sentenced to death for the murder of Stacey Lee Stites. Over the last two decades, Reed has maintained his innocence and proffered evidence suggesting that Stites's fiancé, a Bastrop County police officer named Jimmy Fennell, murdered Stites because Stites and Reed were having an affair. For instance, Reed has provided sworn affidavits attesting that Fennell told a colleague one month before the murder that Stites was "'f***ing a n***r'" and that Fennell, while imprisoned in 2019 for an unrelated sexual-assault conviction, had confessed to a fellow inmate that he "'had to kill [his] n***r-loving fiancé[e].'" *Reed* v. *Texas*, 589 U. S. 1239, 1240–1241

(2020) (SOTOMAYOR, J., statement respecting denial of certiorari) (summarizing Reed's evidence).

Key to Reed's efforts to prove his innocence have been his requests for DNA testing of multiple pieces of evidence including, as relevant here, the murder weapon: Stites's webbed belt. A significant amount of the killer's DNA is likely to be on the belt because the killer, in an act of "'great force,'" used the belt to strangle Stites for "approximately three to four minutes." *Ex parte Reed*, 271 S. W. 3d 698, 705–706 (Tex. Crim. App. 2008). If that DNA is either solely Reed's or solely Fennell's, that finding could finally resolve the "pall of uncertainty over Reed's conviction." *Reed*, 589 U. S., at 1244 (statement of SOTOMAYOR, J.).

In 2014, Reed asked the Bastrop County District Attorney to consent to the DNA testing of the belt, among other items. (Reed's counsel also offered to pay for the testing.) The district attorney denied the request in relevant part. Reed then filed a motion in state court under Article 64, Texas's postconviction DNA-testing statute. To order testing under Article 64, a court must find, among other requirements, "a chain of custody sufficient to establish that" any evidence to be tested "has not been substituted, tampered with, replaced, or altered in any material respect." Tex. Crim. Proc. Code Ann., Art. 64.03(a)(1)(A)(ii) (West 2018). The trial court denied Reed's motion, and the Court of Criminal Appeals (CCA) affirmed. The CCA upheld the trial court's findings that the belt was "contaminated" after being "handled by ungloved attorneys, court personnel, and possibly the jurors," App. to Pet. for Cert. 65a–68a, and that this contamination violated Article 64's chain-of-custody requirement.

Reed then sued in federal court under 42 U. S. C. §1983. He argued that Article 64, as authoritatively construed by the CCA, violated the Fourteenth Amendment Due Process Clause facially and as-applied to him because it is "fundamentally inadequate to vindicate" a defendant's state-

created liberty interest in proving his innocence with new evidence. *Osborne*, 557 U. S., at 69. Reed contended that the CCA's noncontamination requirement does not "compor[t] with fundamental fairness," *ibid.* (internal quotation marks omitted), because it places "arbitrary limitation[s] on . . . potential 'exculpatory results'" despite the fact that DNA testing can still produce probative results even when there is "contamination," App. to Pet. for Cert. 111a. The District Court dismissed Reed's complaint. The Fifth Circuit initially affirmed on the ground that Reed's §1983 suit was untimely, but this Court reversed. See *Reed* v. *Goertz*, 598 U. S. 230, 237 (2023).

On remand, the Fifth Circuit ordered supplemental briefing on the merits of Reed's due process claim. In his supplemental brief, Reed made three related, yet independent, arguments as to why the noncontamination requirement violates due process.

First, Reed argued that the noncontamination requirement is arbitrary because "DNA testing can yield highly probative information even where crime-scene evidence was supposedly contaminated." Plaintiff-Appellant Supp. Brief in No. 19–70022 (CA5), p. 21 (Reed CA5 Supp. Brief). Relying on *amicus* brief by Chase Baumgartner, a former lead forensic scientist at the Texas Department of Public Safety, Reed claimed that laboratories, including in the Texas Department of Public Safety, have protocols for detecting and accounting for contamination that can ensure reliable results. See *id.*, at 21–23 (citing Brief for Chase Baumgartner as *Amicus Curiae* in *Reed* v. *Goertz*, O. T. 2022, No. 21–442 (Baumgartner Brief)); Recording of Oral Arg. in No. 19–70022 (CA5, Sept. 23, 2024), at 8:59–10:05. Baumgartner stated that "[e]ven in th[e] worst-case scenario of developing the most complex, contaminated DNA profile that can still be interpreted," Texas Department of Public Safety analysts "could accurately include or exclude [Reed] or Mr. Fennell with above 95% accuracy."

Baumgartner Brief 18. Yet, Reed maintains, Texas's noncontamination requirement "bars prisoners from accessing DNA testing, no matter its reliability or the resulting unreliability to the truth-finding process of preventing it." Reed CA5 Supp. Brief 2. In other words, the core of Reed's first argument was that the noncontamination requirement "serve[s] no legitimate purpose" or is "disproportionate to the ends" that it is "asserted to promote," *Holmes* v. *South Carolina*, 547 U. S. 319, 326 (2006), because DNA testing has developed such that the accuracy of the results is not meaningfully affected by contamination.

Second, Reed argued that it is "fundamentally unfair" to hold any alleged contamination against the prisoner because the State is "responsible for the condition of the evidence" while it is stored and handled. Reed CA5 Supp. Brief 22–23.

Third, Reed argued that the noncontamination requirement is unfair because the burden it places on prisoners in the postconviction context is more stringent than the burden on prosecutors seeking to introduce DNA-tested evidence at trial. *Id*., at 23–24. As Reed explained, Texas courts routinely admit DNA test results from "contaminated" evidence when offered by the State seeking to secure a conviction. *Ibid.*

The Fifth Circuit concluded that the noncontamination requirement does not violate due process, but its opinion appears to have addressed only the second and third arguments made by Reed. As to the second argument, the Fifth Circuit reasoned that "it seems both inevitable and necessary that the state be tasked with storing evidence" and that "entrusting this responsibility to the government is [not] fundamentally unfair on its face." 136 F. 4th 535, 545 (2025). The Fifth Circuit then rejected Reed's third argument by explaining that it is fair to require a higher standard for postconviction prisoners because "there is no re-

quirement that postconviction relief procedures be held to the same standards as procedures at trial." *Id.*, at 546.

Yet, the Fifth Circuit did not squarely confront the argument that the noncontamination requirement itself serves no legitimate purpose because DNA testing is now capable of generating accurate results even when the evidence has been contaminated. If Reed is right that DNA testing the belt is highly likely to yield an accurate result despite contamination, the CCA's reliance on the noncontamination requirement to block Reed from testing it might well "violate due process principles" by "arbitrar[ily]" denying Reed the opportunity to prove his innocence with new evidence. *Evitts* v. *Lucey*, 469 U. S. 387, 404 (1985); see *Wolff* v. *McDonnell*, 418 U. S. 539, 558 (1974) ("The touchstone of due process is protection of the individual against arbitrary action of government").

To be sure, the Fifth Circuit's opinion noted that Reed stated that "'DNA testing can yield highly probative information even where crime-scene evidence was supposedly contaminated.'" 136 F. 4th, at 545 (quoting Reed CA5 Supp. Brief 21). It appears in context, however, that the panel interpreted that statement as subsidiary to Reed's argument that it is unfair to hold any contamination against the prisoner when the State controls the evidence's storage. See 136 F. 4th, at 545 (characterizing Reed's argument as asserting it was "'fundamentally unfair' . . . to foreclose testing due to deficiencies on the part of the state, especially 'because DNA testing can yield highly probative information even where crime-scene evidence was supposedly contaminated'"); see also Brief in Opposition 25 (admitting the Fifth Circuit discussed Reed's argument only "in the context of an imbalanced burden between the State at trial and a prisoner postconviction"). The panel thus never directly passed upon the question whether the CCA's application of the noncontamination requirement violated the Due Process Clause because it arbitrarily denied Reed the op-

portunity to obtain potentially reliable and exculpatory DNA test results from the murder weapon.

* * *

It is inexplicable why the Bastrop County District Attorney's Office refuses to allow DNA testing of the belt that was used to kill Stites, despite the very substantial possibility that such testing could exculpate Reed and identify the real killer. It is also inexplicable why the courts below did not proceed with more caution and carefully consider each of Reed's arguments, especially given that his claim implicates the "constitutionally intolerable" possibility of the "execution of a[n] . . . innocent person." *Herrera* v. *Collins*, 506 U. S. 390, 419 (1993) (O'Connor, J., concurring). The Court should vacate the Fifth Circuit's judgment and remand the case for the Fifth Circuit to address Reed's argument in the first instance. Because the Court refuses to do so, the State will likely execute Reed without the world ever knowing whether Reed's or Fennell's DNA is on the murder weapon, even though a simple DNA test could reveal that information. I respectfully dissent.

SUPREME COURT OF THE UNITED STATES

PRISCILLA VILLARREAL *v.* ISIDRO R. ALANIZ, ET AL.

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

No. 25–29. Decided March 23, 2026

The petition for a writ of certiorari is denied.

JUSTICE SOTOMAYOR, dissenting from the denial of certiorari.

Petitioner Priscilla Villarreal is a reporter who was arrested for doing something journalists do every day: posing questions to a public official. Specifically, Villarreal twice texted with a police officer to corroborate information Villarreal already knew about events that had occurred within her community. That officer voluntarily provided the information Villarreal sought, and Villarreal published those facts, consistent with her role as a journalist. Six months later, Villarreal was arrested for asking those questions. Making matters worse, Villarreal alleges that the arrest followed a months-long effort by a police department and district attorney's office to retaliate against her because they disliked much of her reporting on their activities. Of course, that reporting was often critical of them.

It should be obvious that this arrest violated the First Amendment. Yet the Fifth Circuit held that the officials were entitled to qualified immunity, and now Villarreal is left without a remedy. The Court today makes a grave error by declining to hear this case.

I

Because this case comes to the Court on a motion to dismiss, the facts as stated in Villarreal's complaint, recounted here, and relied on in the analysis below, are assumed to be true. *Hui* v. *Castaneda*, 559 U. S. 799, 802, n. 1 (2010). Documents incorporated by reference in the complaint also

inform the sufficiency of Villarreal's claims. *Tellabs, Inc.* v. *Makor Issues & Rights, Ltd.*, 551 U. S. 308, 322–323 (2007).

Villarreal is a citizen journalist. (She reports under the name "Lagordiloca." App. to Pet. for Cert. 224a (App.)) Well over a 100,000 people follow her Facebook page, where she covers newsworthy events in her community. Her regular subjects include the Laredo Police Department and local government officials in Webb County. At times she praises the conduct of those officials. Other times she is critical of them, or posts content that she says is "unfavorable" to them. *Id.*, at 229a.

Villarreal often live streams interactions between officers and community members. On one occasion, she recorded officers choking an individual during a traffic stop. On another occasion, she reported on a homeowner who was accused of animal cruelty after many severely malnourished animals were found on the person's property. Villarreal criticized the district attorney for declining to prosecute and instead pursuing a civil settlement with the homeowner, who was also the assistant district attorney's close relative. The district attorney later held a closed-door meeting with Villarreal where she says he told her that he "did not appreciate her criticizing his office." *Id.*, at 231a.

As this interaction reveals, local officials are aware of Villarreal's reporting. Villarreal contends that they do not like it and that they have made their displeasure known. For example, Villarreal recounts how one officer attempted to discredit her in front of other officers by declaring, falsely, that Villarreal is a five-time convicted felon. Villarreal says that another attempted to obstruct her reporting at a crime scene by threatening to take her phone, which she uses to live stream to her followers, claiming that the phone was "'evidence.'" *Id.*, at 230a. Eventually, officials began "plotting [her] takedown." *Villarreal* v. *Laredo*, 94 F. 4th 374, 407 (CA5 2024) (Willett, J., dissenting).

That brings us to the dispute underlying this action. On two occasions in the spring of 2017, Villarreal texted a source within the police department, with whom she had communicated many times before, for details about events that had occurred in her community. The first request included the name and identification of a border agent who died by suicide. The second included the name and condition of a person involved in a fatal traffic accident. Villarreal had already learned these facts from private sources, and the officer she texted willingly gave her the information she requested. With that corroboration in hand, Villarreal then published those details on her Facebook page.

Six months later, police officers secured two warrants for Villarreal's arrest, one for each incident. As Villarreal describes it, the warrants were the result of a months-long investigation in which police officers worked closely with the local district attorneys' office to come up with charges against her. Those officials eventually accused Villarreal of violating Texas Penal Code Ann. §39.06(c) (West Cum. Supp. 2025), which states that "[a] person commits an offense if, with intent to obtain a benefit . . . , he solicits or receives from a public servant information that: (1) the public servant has access to by means of his office or employment; and (2) has not been made public."[1] In the 23 years since the statute was enacted, there is no documented arrest in Webb County, let alone conviction, for violating §39.06(c). 94 F. 4th, at 404–406 (Higginson, J., dissenting). Villarreal says that she was the first.

In affidavits submitted with the warrant application to the Magistrate Judge, an officer attested that Villarreal

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[1] "Benefit" is defined as "anything reasonably regarded as economic gain or advantage." Tex. Penal Code Ann. §1.07(a)(7) (West Cum. Supp. 2025). "[I]nformation that has not been made public" is defined as "any information to which the public does not generally have access, and that is prohibited from disclosure under [the Texas Public Information Act]." §39.06(d).

sought to "benefit" from the information she received from the officer by using it to increase her popularity on Facebook. App. 241a–242a. The affidavits did not address how the information Villarreal asked for, received, and later reported about these two incidents fell within the definition of nonpublic information under Texas law. Villarreal, moreover, has alleged that the officer deliberately misled the Magistrate Judge because he knew that Villarreal "sought *no* benefit from her sourcing, and that she had obtained *no* non-public information." 94 F. 4th, at 402 (Higginson, J. dissenting).

After learning of the arrest warrants, Villarreal turned herself in. At the station, Villarreal alleges that police officers "surrounded her, laughed at her, took pictures with their cell phones, and 'otherwise show[ed] their animus toward Villarreal with an intent to humiliate and embarrass her.'" *Id.*, at 384 (majority opinion). Villarreal was detained at the local jail before she was released on bond. She later filed a writ of habeas corpus, which a Texas state-court judge granted in an oral ruling from the bench after declaring the statute unconstitutionally vague. The county did not appeal.

Villarreal sought redress. She filed this action under 42 U. S. C. §1983 in Federal District Court against the officials involved in her arrest. She alleged that they had violated her First Amendment rights (among others) both (1) directly by arresting her for asking questions of a public official and (2) in retaliation for her earlier reporting. The District Court dismissed the lawsuit in its entirety, concluding that, even accepting the truth of Villarreal's allegations, the officials were entitled to qualified immunity. The Fifth Circuit initially reversed, holding that Villarreal's "arrest was 'obviously' unconstitutional," 94 F. 4th, at 384, but the full en banc court, by a deeply divided vote, vacated the panel decision and affirmed the District Court.

Villarreal then filed a petition for certiorari to this Court. The Court granted the petition, vacated the Fifth Circuit's en banc decision, and ordered further consideration in light of *Gonzalez* v. *Trevino*, 602 U. S. 653 (2024) (*per curiam*), which clarified the evidentiary burden for proving a retaliatory arrest under the First Amendment. *Villarreal* v. *Laredo*, 604 U. S. 973 (2024). On remand, a divided Fifth Circuit, still sitting en banc, construed this Court's order to mean that the "sole claim" it "ought to reconsider" was Villarreal's First Amendment retaliation claim, and that its "previous en banc majority opinion [wa]s superseded only to [that] extent." *Villarreal* v. *Laredo*, 134 F. 4th 273, 275, 276 (2025). It then summarily concluded that the officials were entitled to qualified immunity. This petition followed.

II

To defeat a claim of qualified immunity, an individual must show that an official violated her constitutional rights, and that the official had "fair warning that their conduct violated the Constitution." *Hope* v. *Pelzer*, 536 U. S. 730, 741 (2002). Although "there does not have to be 'a case directly on point'" for this fair-notice requirement to be satisfied, "existing precedent must place the lawfulness of the particular [conduct] 'beyond debate.'" *District of Columbia* v. *Wesby*, 583 U. S. 48, 64 (2018).

Importantly, "'general statements of the law are not inherently incapable of giving fair and clear warning.'" *Hope*, 536 U. S., at 741. This means that "officials can still be on notice that their conduct violates established law even in novel factual circumstances" when "'a general constitutional rule already identified in the decisional law [applies] with obvious clarity to the specific conduct in question.'" *Ibid.*; see also *Taylor* v. *Riojas*, 592 U. S. 7, 8–9 (2020) (*per curiam*). In other words, there can be an "'obvious case,' where the unlawfulness of the officer's conduct is

sufficiently clear even though existing precedent does not address similar circumstances." *Wesby*, 583 U. S., at 64.

III

The adverse action taken against Villarreal is an example of an "'obvious case.'" *Ibid.* Even absent a factually similar precedent, the contours of Villarreal's First Amendment rights were sufficiently clear to place the unlawfulness of the officials' alleged conduct "'beyond debate.'" *Ibid.*

A

The First Amendment protects the "right of citizens to inquire, to hear, to speak, and to use information." *Citizens United* v. *Federal Election Comm'n*, 558 U. S. 310, 339 (2010). It also protects a free press, "bar[ring] [the] government from interfering in any way with" its function. *Pell* v. *Procunier*, 417 U. S. 817, 834 (1974). This encompasses safeguarding "routine newspaper reporting techniques." *Smith* v. *Daily Mail Publishing Co.*, 443 U. S. 97, 103 (1979). Indeed, "without some protection for seeking out the news, freedom of the press could be eviscerated." *Branzburg* v. *Hayes*, 408 U. S. 665, 681 (1972).

This case implicates one of the most basic journalistic practices of them all: asking sources within the government for information. Each day, countless journalists follow this practice, seeking comment, confirmation, or even "scoops" from governmental sources. Reasonably so. "A free press cannot be made to rely solely upon the sufferance of government to supply it with information." *Daily Mail*, 443 U. S., at 104.[2]

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[2] That is not to say that the government cannot impose limits on newsgathering. As the Court has explained, journalists have a right to "seek news from any source by means within the law." *Branzburg* v. *Hayes*, 408 U. S. 665, 681–682 (1972). The First Amendment, however, necessarily places limits on how far States can go in deeming certain practices unlawful. This case presents no occasion to consider where that line may

Guided by these principles, journalists are "free to seek out sources of information not available to members of the general public." *Pell*, 417 U. S., at 834. Although the press is not entitled to special access to government information or facilities, the government also generally "cannot prevent [the press] from learning about [government functions]" in a variety of ways, including by "seek[ing] out . . . public officials." *Houchins* v. *KQED, Inc.*, 438 U. S. 1, 15 (1978) (plurality opinion). In other words, the government has no obligation to make nonpublic information available to journalists, and if an official declines to provide information, the journalist usually has no recourse. See *Pell*, 417 U. S., at 834.

If, however, an official voluntarily chooses to convey information, three things are clear. First, only in the rarest of circumstances can the government prevent or punish the information's publication. See *Daily Mail*, 443 U. S., at 103 (requiring "'a need to further a state interest of the highest order'" before punishing); *New York Times Co.* v. *United States*, 403 U. S. 713, 714 (1971) (*per curiam*) (requiring the "'heavy burden of showing justification for the imposition of such a restraint'" on publication). Second, the government is free to discipline the official, the very person it hired, trained, and supervised in the handling of confidential information. *Florida Star* v. *B. J. F.*, 491 U. S. 524, 534–535 (1989). Third, the government certainly cannot punish the journalist simply for making the request.

Villarreal followed this core journalistic practice here. She asked a source within the local police department about

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fall, given that under any conception, asking a public official for nonpublic information as part of the journalist's verification efforts (with no allegations of force, coercion, deception, or bribery, see *Villarreal* v. *Laredo*, 94 F. 4th 374, 408, n. 9 (CA5 2024) (Willett, J., dissenting), or suggestions that the journalist knew the information was protected from disclosure, see App. 242a) would fall outside of what could be criminalized consistent with the Constitution.

two incidents that occurred within her community. The source could have refused to answer Villarreal's questions. Instead, the source voluntarily gave Villarreal the information she sought, and Villarreal later published it. What happened next flies in the face of the core guarantee of the First Amendment: By arresting Villarreal, rather than solely disciplining the employee for any wrongdoing, county officials took this "everyday journalism" and transformed it "into a crime." Pet. for Cert. 2.

This was a blatant First Amendment violation. No reasonable officer would have thought that he could have arrested Villarreal, consistent with the Constitution, for asking the questions she asked. Such an arrest is plainly inconsistent with basic First Amendment principles. See *supra*, at 6–7. It is also inconsistent with how officers (including the officers in this very county) are trained to interact, and have historically interacted, with the press. See Brief for Reporters as *Amici Curiae* on Pet. for Cert. 7–14. Finally, although there is not a direct, factually analogous precedent confronting this situation, that is unsurprising and, more importantly, irrelevant given just how "'obvious[ly]'" unconstitutional the officials' conduct here was. *Wesby*, 583 U. S., at 64; *Browder* v. *Albuquerque*, 787 F. 3d 1076, 1082–1083 (CA10 2015) (Gorsuch, J.) ("[I]t would be remarkable if the most obviously unconstitutional conduct should be the most immune from liability only because it is so flagrantly unlawful that few dare its attempt").

B

Despite all of this, the Fifth Circuit held that the arrest was lawful. Primarily, the court reasoned that because Villarreal alleged that the officials violated her First Amendment rights by arresting her, she had to prove a Fourth Amendment violation too, which, in its view, she failed to

do. 94 F. 4th, at 384–385.[3] Even assuming such an inquiry is relevant, the Fifth Circuit's analysis does not withstand scrutiny.

First, the Fifth Circuit found that the officials reasonably believed that they had probable cause to arrest Villarreal for violating §39.06(c). *Id.*, at 385–390. Not so. Just like an individual cannot be convicted of a crime for engaging in First Amendment activity, see *Bachellar* v. *Maryland*, 397 U. S. 564, 570–571 (1970), it is axiomatic that a probable-cause determination cannot be based on such protected activity either. As the Court explained in *Wayte* v. *United States*, 470 U. S. 598 (1985), "the decision to prosecute may not be deliberately based upon an unjustifiable standard such as race, religion, or other arbitrary classification, including the exercise of protected statutory and constitutional rights." *Id.*, at 608 (internal quotation marks and citations omitted). It necessarily follows that when an arrest is based on protected First Amendment activity, that activity cannot constitute probable cause and support adverse police action. All reasonable officers know this.

Second, the Fifth Circuit found that even if probable cause was lacking, the officials' actions were still reasonable under the Fourth Amendment. That is because the officials had acted pursuant to a state statute, and, according to the court, given that no "final decision of a state court" had found that statute unconstitutional before Villarreal's arrest, the officials could have reasonably relied on the statute here. 94 F. 4th, at 390–393. In other words, in the

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[3] The Fifth Circuit at times appeared to disparage Villarreal, describing her reporting as "capitaliz[ing] on others' tragedies to propel her reputation and career" and admonishing attempts to "portray her as a martyr for the sake of journalism." 94 F. 4th, at 381–382. The First Amendment does not protect only those journalists whose work is deemed valuable by judges; rather, it "'shields [all] who wan[t] to speak or publish when others wish [them] to be quiet.'" *Harper & Row, Publishers, Inc.* v. *Nation Enterprises*, 471 U. S. 539, 559 (1985).

court's view, the officials committed a reasonable mistake of law by presuming that §39.06(c) was constitutional and enforcing it against Villarreal.

The presence of the state statute, however, does not and cannot insulate the officials from liability. Just like it is unreasonable to rely on a statute that is "so grossly and flagrantly unconstitutional that any person of reasonable prudence would be bound to see its flaws," *Michigan* v. *DeFillippo*, 443 U. S. 31, 38 (1979), it is also unreasonable to "enforc[e] a statute in an obviously unconstitutional way," 94 F. 4th, at 407 (Willett, J., dissenting). Here, it is hard to conceive of a more obvious constitutional violation than arresting a journalist who, in searching for corroboration, simply asks a government source for information. That is the essence of many journalists' jobs. The arrest does not somehow become reasonable, and constitutional, merely because an unconstitutional application of a statute authorizes it. See 42 U. S. C. §1983 (a state official "shall be liable" for constitutional violations if he acted "under color of any [state] statute").

Finally, the Fifth Circuit held that the officials were shielded from liability because the Magistrate Judge had issued the warrants for Villarreal's arrest. 94 F. 4th, at 393–394. The independent-intermediary doctrine does not save the officials here. "[T]he fact that a neutral magistrate [judge] has issued a warrant authorizing the allegedly unconstitutional" arrest "does not end the inquiry into objective reasonableness." *Messerschmidt* v. *Millender*, 565 U. S. 535, 547 (2012). Rather, an official can still be held liable "when 'it is obvious that *no* reasonably competent officer would have concluded that a warrant should issue.'" *Ibid.* This standard is satisfied in this case because the arrest was obviously unconstitutional for the reasons explained above. See *supra*, at 6–8. Even putting that aside, the officers here never told the Magistrate Judge how or why the information was protected from disclosure under

Texas law, see *supra*, at 3, and n. 1, and there are good reasons to believe that it was not, see 94 F. 4th, at 411–412, 417–418 (Ho, J., dissenting) (making this argument).

C

The Court should have granted the petition to resolve tension between the decision below and decisions from the Sixth, Eighth, and Tenth Circuits. Those three courts have each denied officials qualified immunity when those officials violated individuals' First Amendment rights by arresting them, even when those officials had argued that the arrestees' conduct technically fell within the bounds of a state law, that they had arguable probable cause for the arrest, and, in one case, that a Magistrate Judge had authorized the arrest. See *Leonard* v. *Robinson*, 477 F. 3d 347, 352, 356, 361 (CA6 2007) (denying qualified immunity to officer invoking four statutes to arrest man for saying "God damn" at township board meeting); *Snider* v. *Cape Girardeau*, 752 F. 3d 1149, 1154, 1157 (CA8 2014) (same for officer who invoked a statute and secured a warrant from a Magistrate Judge to arrest citizen for trying to burn and shred an American flag); *Jordan* v. *Jenkins*, 73 F. 4th 1162, 1167, 1171 (CA10 2023) (same for officer who used state obstruction of justice statute to arrest a police critic).

The Court's intervention is warranted because the Fifth Circuit's position undermines important bedrock constitutional protections. Under its view, police officers may arrest journalists for core First Amendment activity so long as they can point to a statute that the activity violated and that no high state court had previously invalidated, whether facially or as applied. This rule creates a perverse scheme in which officials can arrest someone for protected activity, decline to appeal a trial court's decision declaring the statute unconstitutional (as the county did here), and use qualified immunity to avoid liability by citing back to that statute. The Court's decision today prevents

adjudication of whether this statute is constitutional and the extent to which this journalist's activities are protected. The Court thus allows this pattern to repeat.

The Fifth Circuit's opinion illustrates the implications. The court criticized Villarreal for asking her questions to a "backchannel[ed]" source, as opposed to following official channels to receive her information. 94 F. 4th, at 388–390, 398 (majority opinion). This appears to suggest that had Villarreal directed her questions to a public relations official for the department, for example, she would have fallen outside the scope of §39.06(c). On the face of the statute alone, it is not clear why. The statute does not draw a distinction between the kinds of "public servant[s]" from which a person "solicits" nonpublic information. §39.06(c). As a result, it arguably could be leveraged to reach the mundane act of asking questions to officials at press conferences, or at crime scenes, when the reporter intends to "benefit" by publishing any answer, even if she does not receive one. Under the Fifth Circuit's rule, however, no individual arrested in any of these circumstances would have recourse. Because of the Court's inaction today, neither does Villarreal.

IV

Below, Villarreal also claimed that the arrest violated her First Amendment rights in yet another way. Given the alleged history between Villarreal and local officials, she said that she was arrested as retaliation for her prior reporting. "'[T]he First Amendment prohibits government officials from subjecting an individual to retaliatory actions' for engaging in protected speech." *Nieves* v. *Bartlett*, 587 U. S. 391, 398 (2019). This is a core protection: "The freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state." *Houston* v. *Hill*, 482 U. S. 451, 462–463 (1987).

According to Villarreal, for months local officers and prosecutors banded together to target her because they did not like much of her reporting. She alleged that her arrest was the culmination of those efforts, bringing to life the oft-cited danger of a state actor "'picking the man and then searching the law books, or putting investigators to work, to pin some offense on him.'" *Morrison* v. *Olson*, 487 U. S. 654, 728 (1988) (Scalia, J., dissenting) (quoting R. Jackson, The Federal Prosecutor, Address Delivered at the Second Annual Conference of United States Attorneys, Apr. 1, 1940). "'It is this realm[,] in which the prosecutor picks some person whom he dislikes or desires to embarrass, or selects some group of unpopular persons and then looks for an offense, that the . . . danger of abuse of prosecuting power lies.'" *Ibid.*

If the events as recounted by Villarreal had occurred today, this would have been a profoundly easy case. As this Court held in *Nieves* v. *Bartlett*, 587 U. S. 391, and later reiterated in *Gonzalez* v. *Trevino*, 602 U. S. 653, although a plaintiff asserting a retaliatory-arrest claim must normally "plead and prove the absence of probable cause for the arrest," probable cause does not defeat her claim if she produces "objective evidence that [she] was arrested when otherwise similarly situated individuals not engaged in the same sort of protected speech had not been." *Nieves*, 587 U. S., at 402, 407. This exception accounts for situations "where officers have probable cause to make arrests, but typically exercise their discretion not to do so." *Id.*, at 406.

The exception surely would be satisfied on the facts as Villarreal alleged them. Villarreal engaged in protected speech (her reporting) that she contends is generally unpopular with local officials. Journalists, including those whose reporting efforts are likely more popular with those officials, presumably ask about nonpublic information all the time. Yet, according to Villarreal, she was the first and only person in Webb County to be arrested for allegedly violating

§39.06(c) in the statute's then 23-year history by asking about nonpublic information. In these circumstances, probable cause, even assuming that it was present, should pose no bar to Villarreal's retaliation claim.

Villarreal's arrest occurred before *Nieves*, however, so the Fifth Circuit found the case easy in the other direction. It pointed to *Reichle* v. *Howards*, 566 U. S. 658 (2012), in which this Court observed that it "has never recognized a First Amendment right to be free from a retaliatory arrest that is supported by probable cause." *Id.*, at 664–665. According to the Fifth Circuit, because Villarreal's arrest was apparently supported by probable cause, the officials were entitled to qualified immunity for her retaliation claim.

That conclusion is wrong for two reasons. First, as explained, there was no legitimate probable cause barring Villarreal's retaliation claim. See *supra*, at 8–11. In the typical retaliation claim, including the one that *Reichle* confronted, an officer arrests an individual for unlawful conduct not protected by the First Amendment in retaliation for the individual previously exercising her First Amendment rights. *Id.*, at 660–662. Here, by contrast, the basis for Villarreal's arrest was also protected conduct.

Second, even if that distinction were not enough, Villarreal pleaded that any probable-cause determination was tainted because the officers misled the Magistrate Judge. See *supra*, at 3–4. Under longstanding Circuit precedent, that taint meant that the officials could not rely on arguable probable cause to defeat Villarreal's retaliation claim. See *Hand* v. *Gary*, 838 F. 2d 1420, 1427–1428 (CA5 1988). I agree with Judge Higginson's dissent below that, at the motion-to-dismiss stage, Villarreal was entitled to further fact-finding to prove the veracity of those allegations. 94 F. 4th, at 401–404. Because of the Court's decision not to grant review today, however, she will never have the opportunity.

* * *

The First Amendment prohibits "abridging the freedom . . . of the press." In our constitutional order, "the press serves and was designed to serve as a powerful antidote to any abuses of power by government officials." *Mills* v. *Alabama*, 384 U. S. 214, 219 (1966). Tolerating retaliation against journalists, or efforts to criminalize routine reporting practices, threatens to silence "one of the very agencies the Framers of our Constitution thoughtfully and deliberately selected to improve our society and keep it free." *Ibid.*

By denying Villarreal's petition, the Court leaves standing a clear attack on the First Amendment's role in protecting our democracy. Because this petition should have been granted, and the Fifth Circuit's decision should have been vacated, I respectfully dissent.