No. 20-585

IN THE

Supreme Court of the United States

OFFICER GREG VASQUEZ, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY; OFFICER ROBERT SANCHEZ, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY,
PETITIONERS,

v.

MARITZA AMADOR, INDIVIDUALLY AND AS REPRESENTATIVE OF THE ESTATE OF GILBERT FLORES AND AS NEXT FRIEND OF MINOR R.M.F.; VANESSA FLORES; MARISELA FLORES; CARMEN FLORES; ROGELIO FLORES, RESPONDENTS

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

BRIEF OF *AMICI CURIAE* NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, THE TEXAS MUNICIPAL LEAGUE, THE TEXAS CITY ATTORNEYS ASSOCIATION, THE TEXAS MUNICIPAL LEAGUE INTERGOVERNMENTAL RISK POOL, THE CITY OF GARLAND, TEXAS, WESTERN STATES SHERIFFS' ASSOCIATION, THE ASSOCIATION OF ARKANSAS COUNTIES, and THE ASSOCIATION OF ARKANSAS COUNTIES RISK MANAGEMENT FUND IN SUPPORT OF PETITIONERS

G. TODD BUTLER
Counsel of Record

MALLORY K. BLAND

Phelps Dunbar LLP
4270 I-55 North
Jackson, MS 39211-6391
todd.butler@phelps.com
(601) 352-2300
Counsel for Amici Curiae

CURRY & TAYLOR ♦ (202) 350-9073

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES ii

INTEREST OF AMICI CURIAE 1

SUMMARY OF ARGUMENT 3

ARGUMENT 5

I. The Fifth Circuit erred by applying a "snapshot" standard of review. 7

II. The Fifth Circuit further erred in its application of the clearly-established prong of the qualified-immunity analysis. 11

CONCLUSION 14

TABLE OF AUTHORITIES

Page

CASES

AMADOR V. VASQUEZ, 961 F.3D 721 (5TH CIR. 2020) 7, 9, 10
ASHCROFT V. AL–KIDD, 563 U.S. 731 (2011) 7
CARROLL V. CARMAN, 135 S. CT. 348 (2014) 7
CITY & COUNTY OF SAN FRANCISCO V. SHEEHAN, 135 S. CT. 1765 (2015) 7
CITY OF ESCONDIDO V. EMMONS, 139 S. CT. 500 (2019) 7
COLE V. CARSON, 935 F.3D 444 (5TH CIR. 2019) 5, 12, 13, 14
DISTRICT OF COLUMBIA V. WESBY, 138 S. CT. 577 (2018) 7
GRAHAM V. CONNOR, 490 U.S. 386 (1989) 5, 8
HUNTER V. BRYANT, 502 U.S. 224 (1991) (PER CURIAM) 11
JOHNSON V. ROGERS, 944 F.3D 966 (7TH CIR. 2019) 10
JOHNSON V. SCOTT, 576 F.3D 658 (7TH CIR. 2010) 9
KISELA V. HUGHES, 138 S. CT. 1148 (2018) 7, 14
LITTLE V. LIQUID AIR CORP., 37 F.3D 1069 (5TH CIR. 1994) (EN BANC) 10
LYTLE V. BEXAR COUNTY, 560 F.3D 404 (5TH CIR. 2009) 12, 13
MALLEY V. BRIGGS, 475 U.S. 335 (1986) 11
MESSERSCHMIDT V. MILLENDER, 132 S. CT. 1235 (2012) 7
MULLENIX V. LUNA, 577 U.S. 7 (2015) 7, 11, 12
PLUMHOFF V. RICKARD, 134 S. CT. 2012 (2014) 7
REICHLE V. HOWARDS, 566 U.S. 658 (2012) 7, 14
RYBURN V. HUFF, 132 S. CT. 987 (2012) 7
STANTON V. SIMS, 134 S. CT. 3 (2013) 7
TAYLOR V. BARKES, 135 S. CT. 2042 (2015) 7
TAYLOR V. RIOJAS, 141 S. CT. 52 (NOV. 2, 2020) 12
TOLAN V. COTTON, 572 U.S. 650 (2014) 10
WESBY V. DISTRICT OF COLUMBIA, 816 F.3D 96 (D.C. CIR. 2016) 7, 14
WHITE V. PAULY, 137 S. CT. 548 (2017) 7

WINZER V. KAUFMAN CTY., 916 F.3D 464 (5TH CIR. 2019) 5
WOOD V. MOSS, 134 S. CT. 2056 (2014) 7

STATUTES

Texas Government Code sec. 791.001 2

OTHER AUTHORITIES

2015 Crime in Texas, *Family Violence 5*, Texas Department of Public Safety, https://www.dps.texas.gov/crimereports/15/citCh5.pdf (last visited Jan. 25, 2021) 4

Family Violence Facts, Texas Attorney General, https://www2.texasattorneygeneral.gov/initiatives/family-violence/ #_edn5 (last visited Jan. 26, 2021). 4

Russell Falcon, "1 officer killed, another injured from shooting during Houston domestic dispute calls," KXAN News, https://www.kxan.com/news/texas/two-police-officers-shot-in-southwest-houston-hpd-chief-says/ (last visited Jan. 26, 2021 4

Update: Rochester police officer stabbed in face during domestic call," https://www.monroecopost.com/news/20191004/update-rochester-police-officer-stabbed-in-face-during-domestic-call (last visited Jan. 26, 2021). 5

INTEREST OF THE AMICI CURIAE

This case involves the test for evaluating excessive-force cases and the qualified immunity analysis. Because Amici Curiae represent the interests of law enforcement officers, they have a significant interest in the outcome of this case.[1]

The National Association of Police Organizations is a nationwide alliance of organizations committed to advancing the interests of law enforcement officers. Since NAPO's founding in 1978, it has become the strongest unified voice supporting law enforcement in the United States. The organization represents over 1,000 police units and associations and over 241,000 sworn officers mutually dedicated to fair and effective law enforcement.

The Texas Municipal League (TML) is a non-profit association of over 1,160 incorporated cities. TML provides legislative, legal, and educational services to its member cities. The Texas City Attorneys Association (TCAA), an affiliate of TML, is an organization of over 500 attorneys who represent Texas cities and city officials in the performance of their duties. TML and TCAA advocate for interests common to all Texas cities.

The Texas Municipal League Intergovernmental Risk Pool (TML-IRP) is a self-insurance risk pool

[1] Amici provided notice and obtained consent from the parties to file this *amici curiae* brief more than 10 days before its filing. No party or its counsel authored this brief in whole or in part. No party to this case or their counsel contributed to the cost of preparing and submitting this brief.

created by over 2,500 participating governmental entities in the State of Texas under the provisions of the Interlocal Cooperation Act, Texas Government Code sec. 791.001, et seq. These governmental entities include municipalities and a variety of other governmental entities, including transportation authorities, utility districts, water districts, conservations districts, emergency service districts, appraisal districts, housing authorities, hospital districts, and local mental health and mental retardation authorities.

The City of Garland is an incorporated municipality within the State of Texas. The City manages and operates a police department dedicated to serving and protecting its citizens. When necessary, the City defends its public officials, law enforcement included, against suits arising from the performance of their duties.

The Western States Sheriffs' Association ("WSSA") was formed in 1993 "to allow Sheriffs to assist each other in fulfilling their duties and obligations related to law enforcement in their respective counties." About the WSSA, available at https://www.westernsheriffs.org/about/ (last accessed Jan. 24, 2020). The WSSA is comprised of sheriffs and their affiliates from 17 Western states, including Washington, Wyoming, Oregon, Utah, Idaho, California, Arizona, Nevada, Nebraska, New Mexico, North Dakota, South Dakota, Colorado, Kansas, Montana, Texas, and Oklahoma. This extensive network allows Western Sheriffs to develop and maintain relationships with federal and state agencies to provide effective law-enforcement services in the

"wide open spaces and abundant public land" characterizing Western America.

The Association of Arkansas Counties ("AAC") was originally formed in 1968 to aid in the improvement of county government, and has all 75 counties in Arkansas as a member. It is the AAC's mission to provide a single source of cooperative support and information for all counties and county and district officials.

The Association of Arkansas Counties Risk Management Fund ("AACRMF") is a self-insurance risk pool, which all 75 counties in Arkansas participate in. The AACRMF exists to provide liability defense and protection to members, and their officials and employees, regarding certain legal claims, which include claims of excessive force brought against county law enforcement officers.

SUMMARY OF THE ARGUMENT

This Court should grant the Petition for Writ of Certiorari to address the Fifth Circuit's incorrect excessive-force analysis, which utilized a "snapshot" standard of review rather than the correct totality of the circumstances standard. This Court also should grant the Petition for Writ of Certiorari to address the Fifth Circuit's misapplication of qualified immunity.

According to statistics from the Texas Department of Public Safety, there were 194,872

occasions of domestic violence calls in Texas in 2015.[2] In the same year, 206 Texas law enforcement officers were assaulted while responding to domestic violence calls.[3] This case, which occurred on August 28, 2015, was one.

Below, the Fifth Circuit denied qualified immunity to Deputies Vasquez and Sanchez, holding that they acted unreasonably in shooting Gilbert Flores after a tense 12-minute standoff. According to the Fifth Circuit panel, the deputies' actions were unreasonable because Flores raised his hands mere seconds before the shooting. In so holding, the Fifth Circuit ignored the danger in which Flores placed the deputies and others throughout the ordeal.

The court doubled-down on this error by misapplying the clearly-established prong of the qualified-immunity analysis. Instead of identifying a case which "squarely governs" the facts in this case, the Fifth Circuit panel merely cited a case that loosely fit the Respondents' "surrender" narrative.

Amici join in support of the Petition for Certiorari because of the danger inherent in such calls for law enforcement,[4] and the concomitant need to

---

[2] *Family Violence Facts*, Texas Attorney General, https://www2.texasattorneygeneral.gov/initiatives/family-violence/#_edn5 (last visited Jan. 26, 2021).

[3] *2015 Crime in Texas*, *Family Violence 5*, Texas Department of Public Safety, https://www.dps.texas.gov/crimereports/15/citCh5.pdf (last visited Jan. 25, 2021). In total, 4,310 Texas law enforcement officers were assaulted in 2018. *Id.*

[4] Russell Falcon, "1 officer killed, another injured from shooting during Houston domestic dispute calls," KXAN News,

protect officers' ability to make discretionary decisions in situations that are tense, rapidly evolving, and require split-second decision making.

ARGUMENT

"Abandon all hope, all ye who enter Texas, Louisiana, or Mississippi as peace officers with only a few seconds to react to dangerous confrontations with threatening and well-armed potential killers." *Cole v. Carson*, 935 F.3d 444, 469 (5th Cir. 2019) (Smith, J. dissenting). Judge Smith's warning rings especially true in this case. Once again, the Fifth Circuit has "undermined officers' ability to trust their judgment during those split seconds when they must decide whether to use lethal force." *Id.* at n.3 (quoting *Winzer v. Kaufman Cty.*, 916 F.3d 464, 482 (5th Cir. 2019) (Clement, J. dissenting)).

The excessive-force standard of review is well-settled. Courts are to consider the totality of the circumstances in determining whether force is "excessive" or "unreasonable." *Graham v. Connor*, 490 U.S. 386, 396, (1989). Importantly, the reasonableness is to be judged from the perspective of the officers at the time the force was used, not from the comfort of judge's chambers. *See, e.g., id.*

---

https://www.kxan.com/news/texas/two-police-officers-shot-in-southwest-houston-hpd-chief-says/ (last visited Jan. 26, 2021); "Update: Rochester police officer stabbed in face during domestic call," https://www.monroecopost.com/news/20191004/update-rochester-police-officer-stabbed-in-face-during-domestic-call (last visited Jan. 26, 2021).

Notwithstanding this well-settled standard, the Fifth Circuit panel in this case engaged in Monday-morning quarterbacking with the added benefit of instant replay. The court highlighted eight encounters between Gilbert Flores and the deputies during a 12-minute altercation, but, in the final analysis, engaged in a "snapshot" standard of review, focusing only on the five seconds prior to the shooting. In doing so, the court neglected to consider the totality of the circumstances from the perspective of the deputies at the time.

Of course, in real-time—without the benefit of pause and rewind—the scene was not so easily and neatly broken down. The deputies did not have the luxury of separating the events into "encounters" divided easily into minutes and seconds. To be sure, the 12-minute altercation was tense, frightening, and rapidly evolving. Flores had already attacked his wife, 17-day-old child, and Officer Vasquez. The officers were afraid for their own lives as well as the lives of Flores' family.

This failure is enough to reverse, but the Fifth Circuit panel compounded its error by failing to correctly apply the clearly-established prong of the qualified-immunity analysis. The case cited by the panel is easily distinguishable. This Court has overturned 15 denials of qualified immunity in the past nine years, frequently through "strongly worded summary reversals" and has admonished courts again

and again on the correct identification of precedent.[5] It should do so again in this case.

Amici will begin by addressing the Fifth Circuit's erroneous application of the excessive-force analysis, particularly use of a "snapshot" standard rather than the totality of the circumstances standard. Amici will then address the Fifth Circuit panel's misapplication of the clearly-established prong of the qualified-immunity analysis.

I. The Fifth Circuit erred by applying a "snapshot" standard of review.

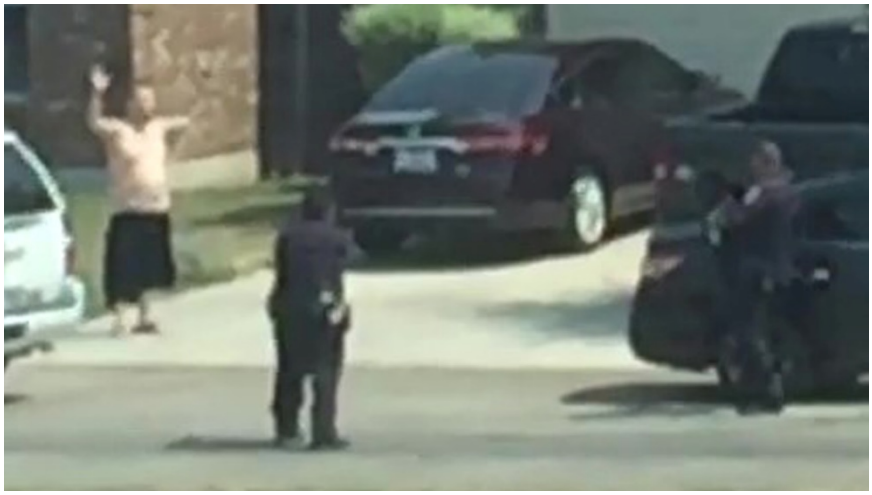
It is axiomatic that, when reviewing excessive-force cases under Section 1983, courts are to consider the totality of the circumstances in determining whether force is "excessive" or "unreasonable."

---

[5] *See City of Escondido v. Emmons*, 139 S. Ct. 500 (2019) (summary reversal); *Kisela v. Hughes*, 138 S. Ct. 1148 (2018) (summary reversal); *District of Columbia v. Wesby*, 138 S. Ct. 577 (2018); *White v. Pauly*, 137 S. Ct. 548 (2017) (summary reversal); *Mullenix v. Luna*, 577 U.S. 7 (2015)(summary reversal); *Taylor v. Barkes*, 135 S. Ct. 2042 (2015) (summary reversal); *City & County of San Francisco v. Sheehan*, 135 S. Ct. 1765 (2015); *Carroll v. Carman*, 135 S. Ct. 348 (2014) (summary reversal); *Plumhoff v. Rickard*, 134 S. Ct. 2012 (2014); *Wood v. Moss*, 134 S. Ct. 2056 (2014); *Stanton v. Sims*, 134 S. Ct. 3 (2013) (summary reversal); *Reichle v. Howards*, 566 U.S. 658 (2012); *Ryburn v. Huff*, 132 S. Ct. 987 (2012) (summary reversal); *Messerschmidt v. Millender*, 132 S. Ct. 1235 (2012); *Ashcroft v. al–Kidd*, 563 U.S. 731 (2011). In 2016, then-Judge Kavanugh made a similar point while dissenting from the D.C. Circuit's refusal to hear *Wesby* en banc, at which time the Supreme Court had "issued 11 decisions reversing federal courts of appeals in qualified immunity cases" "in just the past five years[.]" *See Wesby v. District of Columbia*, 816 F.3d 96 (D.C. Cir. 2016) (Kavanaugh, J., dissenting).

Graham, 490 U.S. at 396. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight." *Id.* This analysis makes allowances "for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation." *Id.* at 396-97.

While correctly citing this standard, the Fifth Circuit failed to apply it. Instead, the court divided the altercation into eight discrete incidents, ultimately pausing and zooming in on the "five-second" snapshot prior to the deputies' use of force.[6]



With unlimited time for review of this tragedy from the comfort of chambers, Judge Graves and the

[6] A review of the FBI-enhanced video shows the time frame between Flores putting his hands in the air and the first shot was actually 3 seconds.

panel refer to the above stance by Gilbert Flores as the "surrender position," suggesting it was not reasonable to fear Flores after he raised his hands above his head.[7] *Amador v. Vasquez*, 961 F.3d 721, 730 (5th Cir. 2020). But it should go without saying that an officer need not take an apparent surrender at face value. *See, e.g.*, *Johnson v. Scott*, 576 F.3d 658 (7th Cir. 2010) ("[N]ot all surrenders, however, are genuine, and the police are entitled to err on the side of caution when faced with an uncertain or threatening position."). This is especially so when the suspect refuses to relinquish his weapon.

To reach its decision, the Fifth Circuit necessarily discounted, dismissed, or minimized many undisputed facts. Suggesting that the deputies acted in haste dismisses the fact that they had followed classic crisis intervention training by repeatedly retreating from Flores and attempting to talk him down. The facts minimized or discounted include that Flores had engaged in a recent assault on his family, had assaulted Deputy Vasquez with the knife he later held in the "surrender position," had repeatedly told officers that they would not take him alive, and had refused to drop the knife despite repeated orders to do so.

What's more is that, at the time of the picture above, Deputy Vasquez estimated that Flores was six to eight feet away from him. Post-incident investigation determined that Flores was 20 to 23 feet away from the deputies, still well within striking distance if Flores had wished. Flores also was only a few feet away from Deputy Vasquez' unlocked cruiser

[7] The above picture was taken from the FBI-enhanced video at 7:36. http://www.ca5.uscourts.gov/opinions/pub/17/17-51001.mp4.

and the loaded assault rifle therein. While Amici acknowledge that it is disputed whether or not Flores actually opened the door of the vehicle, the video clearly shows that Flores was near the vehicle and could have seen the weapon, one of the deputies stated over the radio that Flores had tried to get into his vehicle, and the superior officer radioed back "stop him, stop him." In the video, the deputies' fear as Flores neared the police vehicle is tangible. It is only at this point that officers run towards Flores and draw their weapons. Seconds later the deputies fired.

While it is true that reasonable force can become unreasonable within a matter of seconds, *see, e.g.*, *Amador*, 961 F.3d at 730, that is not the case here. The panel's decision that Flores was surrendering at the time of the shooting overlooks the most important fact in the case—Flores did not drop the knife.

The panel's failure to take *all* the undisputed facts into account from the perspective of the deputies leaves officers open to impending danger.[8] In light of the Fifth Circuit's recent denials of qualified immunity,

---

[8] In determining whether the facts demonstrate a constitutional violation, courts are to construe the facts in the light most favorable to the plaintiff. *Tolan v. Cotton*, 572 U.S. 650 (2014). Taking the facts in the light most favorable to the plaintiff, however, does not alter the corollary principle that courts must consider all of the undisputed facts, not just those highlighted by a plaintiff hoping to avoid dismissal. *See, e.g.*, *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075-76 (5th Cir. 1994) (en banc). Take, for instance, *Johnson v. Rogers*, 944 F.3d 966 (7th Cir. 2019), in which the Seventh Circuit granted qualified immunity in a case where the video was inconclusive, but, even taking the facts in the light most favorable to the plaintiff, the officer was deemed not to have used excessive force.

officers will begin to second guess themselves in situations where a second guess is deadly. This is not what our law requires. This Court has, quite differently, explained that "the law does not require officers in a tense and dangerous situation to wait until the moment a suspect uses a deadly weapon to act to stop the suspect[.]" *Mullenix*, 577 U.S. at 17 (2015). Yet that is exactly what is now required of officers in Texas, Louisiana, and Mississippi.

Put simply, there was not a constitutional violation in this case. Flores was violent, armed, and posed a threat to officers and others at the time of his death. The officers were justified in the force used to stop Flores from inflicting more harm. Because there was no constitutional violation, it is not even necessary to address qualified immunity.

II. The Fifth Circuit further erred in its application of the clearly-established prong of the qualified-immunity analysis.

But if qualified immunity is reached, "[t]he qualified immunity standard 'gives ample room for mistaken judgments' by protecting 'all but the plainly incompetent or those who knowingly violate the law.'" *Hunter v. Bryant*, 502 U.S. 224, 229 (1991) (per curiam) (quoting *Malley v. Briggs*, 475 U.S. 335, 343 (1986). The Fifth Circuit has once again ignored this Court's warning that qualified immunity applies unless existing caselaw has put the constitutionality of the conduct in question "beyond debate." *Mullenix*, 577 U.S at 12. In the excessive-force context, "the result depends very much on the facts of each case[.]" *Id.* at 13. Therefore,

"specificity is especially important" because "the Court has recognized that '[i]t is sometimes difficult for an officer to determine how the relevant legal doctrine, here excessive force, will apply to the factual situation the officer confronts.'" *Id.* at 12. Qualified immunity will apply unless a case is identified which "squarely governs" the conduct in issue, *id.*, such that "no reasonable officer could believe the act was lawful[,]" *Darden*, 880 F.3d at 727. The officer must have had "fair notice" "that his *particular* conduct was unlawful." *Cole*, 935 F.3d at 474 (Ho, J. dissenting).[9]

Although the Fifth Circuit cited *Lytle v. Bexar County*, 560 F.3d 404, 409 (5th Cir. 2009) as creating clearly established law, such that "every reasonable official would have understood that what [the officers did] violate[d] that right[,]" *Lytle*'s facts are distinguishable and do not come close to "squarely governing" the conduct in issue here. In *Lytle*, a police officer shot at a vehicle that was traveling away from the officer and was approximately three to four houses away from the officer at the time of the shooting. At that point, the threat of harm toward the officer had clearly diminished.

---

[9] Earlier term, this Court reversed a *grant* of qualified immunity. *Taylor v. Riojas*, 141 S. Ct. 52 (Nov. 2, 2020). It did so on the basis that the case was an "obvious" one. *Taylor* did not disturb the general need for a factually similar case. *Taylor* merely gave teeth to the "obviousness" standard. This Court has never identified an "obvious" case in the excessive-force context, and this certainly is not one.

By contrast, Flores had already attacked his wife and newborn baby, repeatedly stated that he would die before he was taken back to jail, attacked Deputy Vasquez, refused to drop his knife throughout the entire encounter, and repeatedly moved near an unlocked police vehicle with a loaded AR-15 inside. With Flores' continued refusal to drop his knife while standing mere feet from the deputies and the patrol vehicle, the threat had not clearly dissipated. Additionally, the deputies were instructed by superiors to "do what they needed to do," and, above all else, make sure Flores did not go back in the house. Finally, perhaps the most important distinction is that the suspect in *Lytle* never declared an intention to never be taken alive by officers.

Borrowing from Judge Duncan's conversational analysis in *Cole*, imagine a conversation between an officer and a lawyer regarding *Lytle*:

> Officer: What does the Fifth Circuit's opinion in Lytle tell me I should or shouldn't do in the field?
>
> Lawyer: *Lytle* says you lose qualified immunity if you shoot someone in a stolen car that is driving away from you and is currently not a threat to anyone.
>
> Officer: What do I do then, if the person is standing feet away from me holding a knife that he has already attacked me with, refuses to drop it, and has stated that he will not be taken alive.

> Lawyer: *Lytle* does not speak to that situation. *Lytle* dealt with completely different facts.

See, e.g., *Cole*, 935 F.3d at 485 (Duncan, J. dissenting).[10]

In a more factually analogous case, this Court held that the law was not clearly established in a case in which an officer shot a woman wielding a knife, where the woman was standing within six feet of a bystander and failed to acknowledge at least two commands to drop the knife. *See Kisela v. Hughes*, 138 S. Ct. 1148 (2018). Reversing the Ninth Circuit's denial of qualified immunity, this Court found that "[t]his [was] far from an obvious case in which any competent officer would have known that shooting [the decedent] . . . would violate the Fourth Amendment." *Id.* at 1153. If the law was not clearly established in 2018, it could not have been beyond debate in 2015. This case should be added to "the mountain" of reversals of qualified-immunity denials. *Cole*, 935 F.3d at 476 (Ho, J. dissenting).

CONCLUSION

This Court should grant the Petition for Writ of Certiorari to confirm the standard of review in

---

[10] It is also worth noting that it is not yet settled if circuit precedent can be considered as "authoritative" precedent. This Court has never said what precedents, other than its own, count as "authoritative." In two different cases, this Court acknowledged that the question is unresolved. *See Wesby*, 138 S. Ct. at 591 n.8 (explaining that "[w]e have not yet decided what precedents – other than our own – qualify as controlling authority for purposes of qualified immunity[,]" and [w]e express no view on that question here"); *Reichle*, 566 U.S. at 665 (same). The Fifth Circuit's failure to identify precedent from this Court is further reason to reverse.

excessive force cases, remind lower courts that they may not engage in Monday-morning quarterbacking, and reinforce the importance of specificity in defining clearly established law. In doing so, this Court will reaffirm the protections of qualified immunity and shield officers from litigation in cases in which they are forced to make split-second decisions in the midst of frightening and dangerous circumstances.

Respectfully submitted,

G. Todd Butler
Counsel of Record
Mallory K. Bland
PHELPS DUNBAR LLP
4270 I-55 North
Jackson, MS 39211-6391
(601) 352-2300
todd.butler@phelps.com
Counsel for Amicus Curiae