No. 26-365

In The Supreme Court of the United States

GARY BETTS AND EARL BETTS,
PETITIONERS,
V.
BOONE COUNTY, ILLINOIS, ET AL.,
RESPONDENTS.

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

BRIEF OF THE CATO INSTITUTE, DUE PROCESS INSTITUTE, PUBLIC ACCOUNTABILITY, AND THE RUTHERFORD INSTITUTE AS *AMICI CURIAE* IN SUPPORT OF PETITIONERS

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QUESTION PRESENTED

In *Monell v. Department of Social Services of the City of New York*, this Court held that a municipality may be held liable under 42 U.S.C. § 1983 when the municipality itself—through officials' execution of a municipal "policy or custom"—causes a deprivation of rights protected by the Constitution. 436 U.S. 658, 694 (1978). This Court subsequently made clear that unconstitutional actions taken by a municipality's "final decisionmaker" constitute acts of municipal policy giving rise to municipal liability. *Pembaur v. City of Cincinnati*, 475 U.S. 469, 485 (1986).

In the decision below, a divided Seventh Circuit panel held that a municipal official's unconstitutional actions cannot establish official municipal policy if those actions also violated state or local law. Under this rule, such a violation operates as a categorical shield to *Monell* liability, insulating municipalities from responsibility for even the most blatant constitutional violations. As Judge Hamilton noted in dissent, that rule cements an acknowledged circuit split and warrants review by this Court.

The question presented is whether municipal liability under Section 1983 is categorically unavailable for unconstitutional actions that also violate state or local law.

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INTEREST OF *AMICI CURIAE*[1]

The Cato Institute is a nonpartisan public-policy research foundation established in 1977 and dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato's Project on Criminal Justice was founded in 1999 and focuses in particular on the scope of substantive criminal liability, the proper and effective role of police in their communities, the protection of constitutional and statutory safeguards for criminal suspects and defendants, citizen participation in the criminal justice system, and accountability for law enforcement officers.

Due Process Institute is a nonprofit, bipartisan, public interest organization that works to honor, preserve, and restore procedural fairness in the U.S. criminal legal system. Founded in 2018, it is guided by a bipartisan Board of Directors and supported by bipartisan staff. Due Process Institute creates and supports achievable bipartisan solutions for challenging criminal legal policy concerns through advocacy, litigation, and education. The Due Process Institute has strong interest in ensuring that 42 U.S.C. § 1983 remains an effective means of vindicating constitutional rights and holding government officials accountable.

Public Accountability is a nonpartisan, nonprofit organization that promotes access to civil

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[1] Pursuant to this Court's Rule 37.2 and 37.6, *amici* affirm that all counsel of record received timely notice of their intent to file this brief, this brief was not authored in whole or in part by counsel for any party, and no entity or person, aside from the *amici* and their counsel, made a monetary contribution intended to fund the brief's preparation or submission.

justice for people harmed by the government. As part of its mission, Public Accountability has developed deep expertise in immunity doctrines and related gatekeeping mechanisms for civil-rights claims. Public Accountability uses its expertise to help individuals, to inform lawmakers, to educate the public, and—through briefs like this one—to advise the courts. Because this petition challenges a decision that would dramatically expand immunity for municipalities, Public Accountability offers a perspective that will help inform the Court's decision.

The Rutherford Institute is a nonprofit civil liberties organization headquartered in Charlottesville, Virginia. Founded in 1982 by its President, John W. Whitehead, the Institute provides legal assistance at no charge to individuals whose constitutional rights have been threatened or violated and educates the public about constitutional and human rights issues affecting their freedoms. The Rutherford Institute works tirelessly to resist tyranny and threats to freedom by seeking to ensure that the government abides by the rule of law and is held accountable when it infringes on the rights guaranteed by the Constitution and laws of the United States.

SUMMARY OF ARGUMENT

The Seventh Circuit's decision in this case exacerbates a circuit conflict concerning the interpretation of this Court's decisions in *Monell v. New York City Dept. of Social Servs.*, 436 U.S. 658 (1978), and *City of St. Louis v. Praprotnik*, 485 U.S. 112, 124 (1988). Absent this Court's intervention, the decision below would create a giant loophole through

which local government actors are shielded from accountability for shocking and abhorrent behavior. This Court should grant certiorari to resolve the circuit conflict and hold that municipalities may be held accountable for the unconstitutional acts of local officials who simultaneously violate state or local law.

Monell and *Praprotnik* together establish that municipalities, like states, may be liable for constitutional torts committed by local officials whenever those officials act with "final policymaking authority." *Praprotnik*, 485 U.S. at 124. The Seventh Circuit's decision in this case undermines that principle and exacerbates a significant circuit conflict.

This Court should grant certiorari and reject the Seventh Circuit's approach, to preserve Section 1983 as a meaningful tool for holding municipalities accountable for violations of constitutional rights.

ARGUMENT

I. THE SEVENTH CIRCUIT'S DECISION DEEPENS A CIRCUIT SPLIT AND CANNOT BE RECONCILED WITH THIS COURT'S PRECEDENTS

Congress enacted Section 1983 in 1871 to provide a federal cause of action to persons whose federal rights have been violated by a person acting "under color of" state law. 42 U.S.C. § 1983. Liability under Section 1983 lies "against those who carry a badge of authority of a State and represent it in some capacity, whether they act in accordance with their authority or misuse it." *Monroe v. Pape*, 365 U.S. 167, 172 (1961). Section 1983's text contains no limitations precluding liability for actions that violate state law. Thus, liability extends to "abuses of state authority

that are forbidden by the State's statutes or Constitution or are torts under the State's common law." *Zinermon v. Burch*, 494 U.S. 113, 124 (1990).

In *Monell v. Department of Social Services of the City of New York*, this Court recognized that because municipalities are "person[s]" under the statute, they can be held liable if "action[s] pursuant to official municipal policy of some nature caused a constitutional tort." 436 U.S. 658, 691 (1978). Injuries can be "caused" by official policy if the challenged actions were sanctioned by local law or if they may otherwise "be said to represent official policy." *Id.* at 694. While "'official policy' often refers to formal rules," it can also encompass an isolated "course of action [that] is properly made by th[e] government's authorized decisionmakers." *Pembaur v. City of Cincinnati*, 475 U.S. 469, 480–81 (1986) ("[W]here action is directed by those who establish governmental policy, the municipality is equally responsible whether that action is to be taken only once or to be taken repeatedly.").

City of St. Louis v. Praprotnik clarified that municipal liability extends to actions taken by officials who have "final policymaking authority" in the particular area of the city's business in which the action was taken. 485 U.S. 112, 124 (1988). And whether an official has "final policymaking authority" is a question of state law. *Id.* The Court also recognized and rejected the possibility that municipalities might attempt to insulate themselves from *Monell* liability by pointing to state and local prohibitions on the officer's unconstitutional actions. *Id.* at 130–31 ("We nowhere say or imply, for example, that a municipal charter's precatory admonition

against discrimination . . . insulates the municipality from liability based on acts inconsistent with that policy.") (internal quotations omitted). To the contrary, Justice O'Connor's plurality opinion recognized that a local official's "[r]efusal[] to carry out stated policies could obviously help to show that a municipality's *actual policies were different from the ones that had been announced*." *Id.* at 131 (emphasis added).

A. The Seventh Circuit's Decision Deepened a Lopsided Circuit Conflict.

Following this Court's precedents, several Courts of Appeals have held that municipalities may be held liable under *Monell* for the unconstitutional actions of final policymakers, notwithstanding whether such actions also violate state or local law. The Third, Fourth, Fifth, Sixth, Tenth, and Eleventh Circuits take this position. *See, e.g., Hill v. Borough of Kutztown*, 455 F.3d 225, 245–46 (3d Cir. 2006) (permitting *Monell* liability even when the final policymaker's actions violated local law); *Hunter v. Town of Mocksville*, 897 F.3d 538, 544–45 (4th Cir. 2018) (same); *Bennett v. Pippin*, 74 F.3d 578, 586 (5th Cir. 1996), *cert. denied*, 519 U.S. 817 (1996) ("When a final policy maker makes the relevant decision . . . 'the existence of a well-established, officially-adopted policy will not insulate the municipality from liability.'") (quoting *Gonzalez v. Ysleta Indep. Sch. Dist.*, 996 F.2d 745, 754 (5th Cir. 1993)); *Lipman v. Budish*, 974 F.3d 726, 747–48 (6th Cir. 2020) (permitting municipal liability when caseworkers had taken actions that "the formal policy of [the county]

and state regulations required caseworkers to avoid"); *Simmons v. Uintah Health Care Special District*, 506 F.3d 1281, 2383 (10th Cir. 2007) (Gorsuch, J.) ("Municipalities are equally answerable for actions undertaken by their final policymakers, whether or not those actions conform to their own preexisting rules."); *Wetzel v. Hoffman*, 928 F.2d 376, 378 (11th Cir. 1991) (permitting municipal liability "[e]ven assuming that the particular policy followed by [the mayor] was in violation of some . . . municipal ordinance or other law").

This approach is distinct from a theory of *respondeat superior* because "[a]ctions taken by a municipality's final policymakers, even in contravention of their own written policies, are fairly attributable to the municipality." *Simmons*, 506 F.3d at 1284, 1287 (Gorsuch, J.) (distinguishing the 10th Circuit's approach from *respondeat superior*). By limiting the class of officials that can incur liability on behalf of the municipality to final policymakers, these courts satisfy *Monell*'s demand that Section 1983 liability attach only when sufficient causation exists. A "policymaker *is* the municipality" when exercising final policymaking authority, "so it is fair to impose liability on [the municipality] for that action." *Whitson v. Board of County Comm'rs of County of Sedgwick*, 106 F.4th 1063, 1067 (10th Cir. 2024). This Court has recognized this "narrow basis of liability outside of respondeat superior" pursuant to principles of agency law in the employment setting. *Id.* at 1072 ("[A]n employer can be liable 'even where employees commit torts outside the scope of employment,' when the employee's 'high rank in the company makes him or her the employer's alter ego.'") (quoting *Burlington*

Industries, Inc. v. Ellerth, 524 U.S. 742, 758 (1998)). By vesting final policymakers with "unilateral" and "unreviewable" decision-making authority, municipalities allow these officials to become the municipality within the scope of such authority. *Id.* at 1069 (quoting *Felts v. Green*, 91 F.4th 938, 944 (8th Cir. 2024)).

These Courts of Appeals recognize that the Seventh Circuit's contrary approach would create a substantial accountability gap for municipalities. The Seventh Circuit's approach would shut the door to municipal liability for individuals whenever the action that caused their constitutional injury also violated state law. As Judge Hamilton pointed out in dissent, "[p]olitical speech, freedom of religion, and racial equality are protected by every state constitution." Pet. App. 22a (Hamilton, J., dissenting). As a result, under the Seventh Circuit's approach, no municipality could ever be held liable for a final policymaker's action which violates such civil liberties, no matter how egregious. As then-Judge Gorsuch recognized, this scheme would generate perverse incentives for local officials that would "undermine" Section 1983's purpose. *Simmons*, 506 F.3d at 1285 ("Policymakers . . . would have little reason to abide by their own mandates . . . and indeed an incentive to adopt and then proceed to deliberately ignore them.").

The Seventh Circuit admittedly deepened a lopsided circuit split by departing from this long-standing consensus and concluding that actions taken by a "final policymaker" nevertheless "do[] not establish policy when violating" state law. Pet. App. 20a; *see also* Pet. App. 19a (acknowledging that

Seventh Circuit precedent "may conflict with" the approach in other circuits). This approach "invite[s] irrational results." *Simmons*, 506 F.3d at 1285 (Gorsuch, J.).

B. The Seventh Circuit's Rule Cannot Be Reconciled with This Court's Precedents.

Under *Monell* and its progeny, municipalities may be held liable under Section 1983 for constitutional deprivations caused by the "decisions of a government's lawmakers, the acts of its policymaking officials, and practices so persistent and widespread as to practically have the force of law." *Connick v. Thompson*, 563 U.S. 51, 61 (2011). This case involves the second category—acts that are "directed by those who establish governmental policy." *Pembaur v. City of Cincinnati*, 475 U.S. 469, 481 (1986).

Section 1983 plaintiffs need only show that the challenged action was taken by "the official or officials responsible under state law for making policy in *that area* of the city's business." *City of St. Louis v. Praprotnik*, 485 U.S. 112, 123 (1988). State law comes into play only to determine whether the official who caused the constitutional deprivation had "final policymaking authority" in the relevant area. *Id.*

The Seventh Circuit added an additional requirement: even if the constitutional deprivation was caused by a "final policymaker," the municipality is nevertheless not liable if the official was acting contrary to state law. Pet. App. 15a, 20a. "This additional requirement" is a "judge-made doctrine[]" that "distort[s] the underlying statutory text" of Section 1983. *Ames v. Ohio Dep't of Youth Servs.*, 605

U.S. 303, 314 (2025) (Thomas, J., joined by Gorsuch, J., concurring).

Section 1983's extension of liability to those who act "under color of" state law incorporated a "longstanding legal term that encompasses false claims of legal authority." William Baude, *Is Qualified Immunity Unlawful?*, 106 CALIF. L. REV. 45, 64 (2018). In other words, the text of Section 1983 does not limit liability to actions that are consistent with state law, and plaintiffs do not need to show that the challenged action was expressly sanctioned by state law. *Id.*; s*ee also* Steven L. Winter, *The Meaning of "Under Color Of" law*, 91 MICH. L. REV. 323, 381 (1992) ("[S]ection 1983 intended to cover actions that violated *both* state and federal law."). The Seventh Circuit's additional requirement flouts this Court's precedents recognizing that Section 1983 liability lies "whether [officials] act in accordance with their authority or misuse it." *Monroe v. Pape*, 365 U.S. 167, 172 (1961).

This Court has on several occasions unanimously rejected attempts by the Courts of Appeals to append additional requirements to this Court's precedents. *E.g., Barnes v. Felix*, 605 U.S. 73, 79 (2025) (rejecting the Fifth Circuit's "moment-of-threat" test as "inconsistent with this Court's" excessive force precedents); *Ames*, 605 U.S. at 313 (rejecting the Sixth Circuit's imposition of a "background circumstances" rule on the Court's *McDonnell Douglas* framework); *Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colorado*, 605 U.S. 168, 173–74 (2025) (rejecting the D.C. Circuit's imposition of additional substantive requirements in NEPA cases). The Seventh Circuit's concocted rule precluding municipal

liability for unconstitutional acts that contravene local law is similarly a "product of improper judicial lawmaking" that warrants this Court's review. *Ames*, 605 U.S. at 314 (Thomas, J., joined by Gorsuch, J., concurring).

As Judge Hamilton's dissenting opinion noted, the Seventh Circuit's rule regarding state law prohibitions on unconstitutional actions is at odds with this Court's precedents. Pet. App. 35a (Hamilton, J., dissenting); *e.g., Owen v. City of Independence*, 445 U.S. 622, 627–30 (1980) (sustaining a *Monell* claim when the city council's actions violated Missouri's Constitution and the Missouri Administrative Procedure Act). Thus, this Court should grant certiorari to correct the Seventh Circuit's departure from Section 1983 precedent.

II. THIS COURT SHOULD GRANT CERTIORARI TO CLARIFY THE AVAILABILITY OF *MONELL* LIABILITY WHERE LOCAL OFFICIALS VIOLATE LOCAL LAW WHILE COMMITTING UNCONSTITUTIONAL ACTS

A. The Seventh Circuit's Rule Undermines Section 1983's Remedial Function and Eviscerates *Monell* by Enabling a *De Facto* Qualified Immunity Regime.

The Seventh Circuit's rule "emboldens government officials, like the [Boone County Coroner], to act with impunity" by relying on state and local prohibitions on unconstitutional actions as a shield against liability. *Smith v. Kind*, 146 S. Ct. 2346, 2351 (2026) (Sotomayor, J., joined by Kagan

and Jackson, JJ., dissenting from the denial of certiorari); *see also Simmons*, 506 F.3d at 1285 (Gorsuch, J.) ("Holding municipalities immune from liability whenever their final policymakers disregard their own written policies . . . [would create] an incentive to adopt and then proceed deliberately to ignore [policies].").

Section 1983 was passed against a backdrop of states that purported to protect certain rights but violated them in practice. The statute was passed precisely to provide a federal cause of action when state and local decision-makers violate federal constitutional rights—nominal state and local protections notwithstanding. The Seventh Circuit's rule would thus "leave Section 1983 powerless to address the precise sort of rights violations that first inspired it." Matthew Cavedon, *Court Shields County in Coroner Trophy-Skull Case—Merits Supreme Court Review*, Cato At Liberty (June 23, 2026), https://www.cato.org/blog/coroner-kept-murder-victims-skull-trophy-court-says-county-isnt-liable-because-act-was-illegal.

In *Owen v. City of Independence*, this Court held that local governments are not protected by qualified immunity. 445 U.S. 622, 650 (1980). "[M]unicipalities—like private corporations—were [historically] treated as natural persons" for purposes of constitutional torts, and thus "there is no tradition of immunity for municipal corporations." *Id.* at 638–39; *see also* T. Shearman & A. Redfield, A Treatise on the Law of Negligence § 120, at 139 (1869) ("There is nothing in the character of a municipal corporation which entitles it to an immunity from liability for

such malfeasances as private corporations or individuals would be liable for in a civil action.").

Under the Seventh Circuit's rule, however, the municipal causation requirement enables a regime of de facto local sovereign immunity. *Cf.* Joanna Schwartz, *Municipal Liability*, 109 VA. L. REV. 1181, 1230–32 (2023) (describing stringent *Monell* rules imposed by the Courts of Appeals that create "backdoor municipal immunity"). As explained in Part II.B, this Court's qualified immunity precedents already foreclose recovery from the individual officers. The Seventh Circuit's rule invents a quasi-immunity for the municipality too—one which turns on the existence of an unenforced protection in state or local law. Under the guise of the "final policymaker" requirement, the Seventh Circuit's approach functionally "render[s] specific classes of government defendants insusceptible to suit, even when there is a determination that a government's agent has violated constitutional rights. That is what immunity is." Fred Smith, *Local Sovereign Immunity*, 116 COLUM. L. REV. 409, 416 (2016).

Monell's official policy requirement reflects the understanding that "taxpayers should be liable only for the choices of" policymaking officials "because their policy decisions can be imputed more directly to the taxpayers who 'chose' them." George D. Brown, *Municipal Liability Under Section 1983 and the Ambiguities of Burger Court Federalism: A Comment on* City of Oklahoma City v. Tuttle *and* Pembaur v. City of Cincinnati—*The "Official Policy" Cases*, 27 B.C. L. REV. 883, 897 (1986). However, declining to find that the actions of municipal actors constitute official policy when they contravene state law

eviscerates the accountability of municipal governments for the conduct of even these high-ranking officials.

Monell's causation requirement—as articulated by this Court's precedents—is already a high bar for accessing municipal liability. *See generally* Schwartz, *Municipal Liability*, *supra*, at 1200–13 (surveying 1,183 cases involving *Monell* claims). The Seventh Circuit's added requirement effectively renders *Monell* and Section 1983 a dead letter by functionally immunizing municipalities by dint of unenforced "parchment guarantees" in state law. Antonin Scalia, *Foreword: The Importance of Structure in Constitutional Interpretation*, 83 NOTRE DAME L. REV. 1417, 1418 (2008).

B. Municipal Officers Have an Outsized Impact at the Local Level, so Municipal Liability Under *Monell* is an Essential Tool for Protecting Constitutional Rights.

Preserving liability for municipalities is a critical function of Section 1983 because "[l]ocal government . . . is the layer of government that is often closest to our daily lives." Fred Smith, *Local Sovereign Immunity*, 116 COLUM. L. REV. 409 (2016). It is unsurprising, therefore, that this Court has a long history of adjudicating disputes between municipal governments and their citizens. *E.g., Gelpcke v. City of Dubuque*, 68 U.S. (1 Wall.) 175 (1864); *Von Hoffman v. City of Quincy*, 71 U.S. (4 Wall.) 535 (1867); *Riggs v. Johnson County*, 73 U.S. (6 Wall.) 166 (1868); *McDonald v. City of* Chicago, 561 U.S. 742 (2010); *Fulton v. City of Philadelphia*, 593 U.S. 522

(2021); *Olivier v. City of Brandon*, 607 U.S. 552 (2026).

The Seventh Circuit's rule effectively endorses a regime of backdoor municipal immunity where "both officers and governments [a]re entitled to qualified immunity," leaving many individuals remediless from municipal harm. Joanna C. Schwartz, *Backdoor Municipal Immunity*, 132 YALE L. J. F. 136, 154 (2022). "Although [Section 1983] made no mention of defenses or immunities," judge-made immunity doctrines have effectively foreclosed the ability for plaintiffs to obtain damages from state governments and state- and local-officials. *Ziglar v. Abbasi*, 582 U.S. 120, 157 (2017) (Thomas, J., concurring in part and concurring in the judgment). Specifically, in *Edelman v. Jordan* and *Will v. Michigan Department of State Police*, this Court closed the door on Section 1983 damages actions against state governments. 415 U.S. 651, 676–77 (1974); 491 U.S. 58, 64 (1989). And the qualified immunity regime developed in *Harlow v. Fitzgerald* and its progeny effectively immunizes state and local officials for unconstitutional actions—even though "[l]eading treatises from the second half of the 19th century and case law until the 1980s contain no support" for the modern "clearly established law" test. 457 U.S. 800 (1982); *Baxter v. Bracey*, 590 U.S. 1011, 1013–14 (2020) (Thomas, J., dissenting from the denial of certiorari).

Monell preserved a sliver of redress under Section 1983 by holding local governments strictly liable for constitutional deprivations caused by the municipality. Because the local officer will often be protected by qualified immunity, *Monell*'s "final policymaking authority" rule is the "gateway to the

only liability rule under which many plaintiffs can recover." John C. Jeffries, *The Liability Rule for Constitutional Torts*, 99 VA. L. REV. 207, 233 (2013). The Seventh Circuit's rule eviscerates *Monell*'s functionality by turning unenforced state law into a form of backdoor qualified immunity.

"[I]t is a general and indisputable rule, that where there is a legal right, there is also a legal remedy, by suit or action at law, whenever that right is invaded." 3 W. Blackstone, Commentaries at *23 (1768). But the Seventh Circuit's distortion of *Monell*'s "final policymaker" inquiry functionally closes the door on remedies for constitutional violations by local officials. And "if the laws furnish no remedy for the violation of a vested legal right," the United States will "cease" to be a "government of laws, and not of men." *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 163 (1803).

C. This Case is an Ideal Vehicle through which to Clarify *Monell* Liability.

"One of this Court's primary functions is to resolve 'important matter[s]' on which the courts of appeals are 'in conflict.'" *Gee v. Planned Parenthood of Gulf Coast, Inc.*, 568 U.S. 1057, 1057 (2018) (Thomas, J., joined by Alito and Gorsuch, JJ., dissenting from the denial of certiorari) (quoting Sup. Ct. Rule 10(a)). As Judge Hamilton's dissent noted, the entrenched circuit split will likely not be resolved if this Court does not intervene to clarify whether "an unconstitutional action by a truly local policymaker can establish local policy even if the action also violates state or local law." Pet. App. 25a.

The minority of circuits that adhere to the Seventh Circuit's approach have made a conscious decision to engraft an additional requirement for *Monell* cases. *E.g., Roe v. City of Waterbury*, 542 F.3d 31, 41 (2d Cir. 2008) ("[W]e decline to follow the Fifth Circuit's reasoning [in *Bennett v. Pippin*] with respect to municipal liability under § 1983."); Pet. App. 18a (acknowledging that the Seventh Circuit's approach departs from the Fifth Circuit's). Most circuits have adopted a clear stance on the issue, so additional percolation is not warranted.

If the Betts family lived in the Third, Fourth, Fifth, Sixth, Tenth, or Eleventh Circuits, they would be able to recover from their local government under Section 1983. But because they live in the Seventh Circuit, they cannot. Compensation—under federal statute—for violations of federal constitutional rights should not vary by state. The Federalist, No. 80 (recognizing the "necessity of uniformity in the interpretation of the national laws") (A. Hamilton). This Court "should settle the conflict among the lower courts so that the fundamental protections set forth in our Constitution are applied equally to all citizens." *Rogers v. Grewal*, 590 U.S. 996, 1010 (2020) (Thomas, J., joined by Kavanaugh, J., dissenting from the denial of certiorari); *see also Beck v. United States*, 146 S. Ct. 405, 410 (2025) (Thomas, J., dissenting from the denial of certiorari) ("[W]hen lower courts report confusion and are in disarray, this Court grants certiorari to 'resolve the circuits' disagreement and address our lower court colleagues' calls for clarification.'") (quoting *Medina v. Planned Parenthood S. Atl.*, 606 U.S. 357, 367 (2025)).

Without this Court's review, the Betts family will be left without a remedy. Because the responsible County Coroner had passed away by the time the Betts family learned that he had kept Louise's skull, municipal liability is the only vehicle for remedying Petitioner's injury. Pet. App. 1a. Indeed, the district court acknowledged that its "decision leaves the Betts family with no federal recourse, unable to proceed against the deceased coroner or Boone County . . . ." Pet. App. 44a.

And this case is an appropriate vehicle for resolving the circuit split. The Seventh Circuit acknowledged that the coroner had violated the Bettses' Fourteenth Amendment Due Process rights by depriving them of Louise Betts' remains without due process because Illinois law recognizes a property right in a next of kin's remains. Pet. App. 3a, 4a. So the only question in determining the availability of Section 1983 liability is whether the coroner's actions constitute official policy.

The Boone County Coroner is an independently elected official and is the only person who may authorize the release of a body after an autopsy. 55 ILCS 5/3-3002; 55 ILCS 5/3-2019; *see also* 55 ILCS 5/3-3003 ("The county coroner shall control the internal operations of his office."). The Seventh Circuit thus acknowledged that state law could make the Coroner a "final policymaker." Pet. App. 20a. The only remaining question is whether the state's prohibition on keeping bodily remains nullifies his status as a final policymaker because he engaged in such conduct. Pet. App. 14a, 20a. A ruling in favor of Petitioners on that point would give them the relief they seek.

CONCLUSION

The petition for certiorari should be granted, and the Seventh Circuit's decision should be reversed.

Respectfully submitted,

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