No. 23-50

IN THE
Supreme Court of the United States

JASCHA CHIAVERINI, *et al.*,
Petitioners,
v.
CITY OF NAPOLEON, OHIO, *et al.*,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

BRIEF *AMICI CURIAE* STATES OF IOWA ALABAMA, ARKANSAS, FLORIDA, GEORGIA, KANSAS, IDAHO, INDIANA, KENTUCKY, LOUISIANA, MONTANA, NEBRASKA, OHIO, OKLAHOMA, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, TEXAS, AND UTAH SUPPORT OF RESPONDENTS

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QUESTION PRESENTED

In a Fourth Amendment malicious prosecution claim, must a court presume that every charged offense changes the nature or duration of the plaintiff's prosecutorial seizure, or may a court require the plaintiff to show that any charge unsupported by probable cause changed the nature or duration of the plaintiff's seizure?

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INTEREST OF AMICUS CURIAE

Amici curiae States of Iowa, Alabama, Arkansas, Florida, Georgia, Kansas, Idaho, Indiana, Kentucky, Louisiana, Montana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, and Utah ("amici States") submit this brief in support of respondents City of Napolean, Robert Weitzel, Jamie Mendez, David Steward, and Nicholas Evanoff, to urge this Court to affirm the decision of the U.S. Court of Appeals for the Sixth Circuit. That decision denied Petitioner's Fourth Amendment claim for malicious prosecution because probable cause supported two of his three charges.

Amici States have a strong interest in the outcome of this case. First, 42 U.S.C. § 1983 was enacted to provide a federal cause of action to those whose constitutional rights are violated by a state actor. So the Court's resolution of the question presented will affect such Fourth Amendment suits against state law enforcement officers. Amici States have a substantial interest whenever state officers can be sued for violating the Fourth Amendment.

Second, amici States bring criminal charges and detain suspects pending trial on those charges. Our States have a substantial interest in the scope of constitutional rights relating to criminal prosecution and pretrial detention.

Third, almost all States allow common law tort actions alleging malicious prosecution.[1] Those

[1] Resp. Br. 37 n.4 (collecting rules in all 50 states).

remedies may give relief to plaintiffs who face false charges—but those plaintiffs may not *also* be deprived of a constitutional right for relief under 42 U.S.C. § 1983. More troubling, States that interpret their common law tort claims coextensively with federal law may be impacted by this Court's decision.

SUMMARY OF ARGUMENT

Section 1983 gives plaintiffs whose constitutional rights have been violated a remedy. If a plaintiff cannot meet the burden of proving that the defendant violated his rights, he is not entitled to relief.

In the context of a Fourth Amendment malicious prosecution claim, that burden requires a plaintiff to prove at least two key elements. First, the plaintiff must show that the defendant charged him with a crime not supported by probable cause *and*, second, that the invalid crime resulted in an unreasonable search or seizure.

The Sixth Circuit's length-of-detention rule is most consistent with Section 1983 and the Fourth Amendment. Under that rule, to prove malicious prosecution a plaintiff must prove that the invalid charges changed the nature of the plaintiff's seizure or prolonged the plaintiff's detention.

The length-of-detention rule should prevail over Petitioner's proposed charge-specific rule. The charge-specific rule only requires that plaintiffs prove that a charge lacked probable cause to find malicious prosecution. From there, courts must presume that

the invalid charge caused an unreasonable search or seizure. But an invalid charge alone is not a Fourth Amendment violation. Therefore, the charge-specific rule removes the burden of proving an unreasonable search or seizure from the plaintiff.

The Sixth Circuit appropriately applied its length-of-duration rule here. In its decision, the Sixth Circuit thoroughly analyzed two of Petitioner's charges. The court concluded that probable cause supported those charges and justified the search, arrest, and prosecution of Petitioner. The court declined to analyze Petitioner's third charge because it did not change the nature of Petitioner's seizure, nor did Petitioner argue as much. This Court should affirm the decision below.

This Court should also decline to adopt Petitioner's broader arguments. These include the arguments that a violation of the Warrant Clause can serve as the basis for a Fourth Amendment malicious prosecution claim, that an arrest warrant violates the Warrant clause whenever the warrant contains a falsified charge, and that the need to show causation of a seizure pertains only to damages.

ARGUMENT

I. THE SIXTH CIRCUIT DID NOT ERR IN DENYING PETITIONER'S FOURTH AMENDMENT CLAIM FOR MALICIOUS PROSECUTION.

1. Section 1983 and the Fourth Amendment require an unreasonable search or seizure to establish a malicious prosecution claim.

If a law enforcement officer does not violate someone's Fourth Amendment rights, then they have no malicious-prosecution cause of action under Section 1983. That is because Section 1983 gives a federal remedy only to people whose constitutional rights have been violated by state officials. 42 U.S.C. § 1983. Under Section 1983:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, *subjects or causes to be subjected*, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

42 U.S.C. § 1983 (emphasis added). Section 1983 thus imposes liability on a state actor only if he either (1) "subjects" someone to the denial of a federal right or (2) "causes" someone "to be subjected" to such a denial. *Id.*

To maintain a malicious-prosecution claim under Section 1983, a plaintiff must establish a Fourth Amendment violation. *Thompson* v. *Clark*, 596 U.S. 36, 43 (2022). And the Fourth Amendment, which prohibits "unreasonable searches and seizures," requires a plaintiff to prove that the invalid criminal charge resulted in an unreasonable search or seizure. *See id.* at 43.

An invalid criminal charge alone does not create a Fourth Amendment violation. Rather, a plaintiff may contend that an invalid charge led to an arrest and detention that otherwise would not have happened. If an officer's invalid charge led to that unlawful detention, a plaintiff could seek damages under Section 1983. *Id.* at 42.

That interpretation of Section 1983 reflects underlying common-law principles and this Court's precedent. At common law, a person who filed a wrongful criminal complaint, thereby causing wrongful arrest and detention, could be held liable for that injury through a tort claim for malicious prosecution. *See Malley* v. *Briggs*, 475 U.S. 335, 340-341 (1986).

Calling a tort "malicious prosecution" should not obscure that the Fourth Amendment prohibits only the alleged unreasonable seizure, not the prosecution. Because "the common law recognized the causal link between the submission of a complaint and an ensuing arrest," this Court has "read § 1983 as recognizing the same causal link." *Id.* at 345 n.7. This Court has referred to a claim based on that theory as a "Fourth

Amendment claim under § 1983 for malicious prosecution." *Thompson*, 596 U.S. at 39; *see also Venckus* v. *City of Iowa City*, 990 N.W.2d 800, 807–09 (Iowa 2023) (tying liability of malicious prosecution to an arrest).

Without an unlawful seizure there cannot be a claim for malicious prosecution. This Court's decision in *Thompson* confirms that. *Thompson* accepted that a Fourth Amendment malicious-prosecution claim is also known as "a claim for unreasonable seizure pursuant to legal process"—showing that the claim requires proof of an unreasonable seizure. *Thompson*, 596 U.S. at 42. The Court added that "[b]ecause this claim is housed in the Fourth Amendment, the plaintiff also has to prove that the malicious prosecution resulted in a seizure of the plaintiff." *Id.* at 43 n.2.

Probable cause justifies a seizure so if probable cause exists there is not an unlawful seizure. *See*, *e.g.*, *Venckus*, 990 N.W.2d at 809 (collecting cases). Ongoing existence of probable cause is thus "fatal" to claims that rely on an unlawful seizure—because the seizure is justified, and lawful, so long as probable cause exists to justify it. *Id.* Without the unlawful seizure there is no Section 1983 claim.

In sum, a person who faces both valid and invalid criminal charges may bring a claim for malicious prosecution so long as the invalid charge "cause[d]" him "to be subjected" to an unreasonable seizure. 42 U.S.C. § 1983.

2. The Sixth Circuit's rule properly places the burden of establishing a constitutional violation on the plaintiff.

This Court should adopt the Sixth Circuit's rule, which follows both Section 1983 and the Fourth Amendment. To get around that simple syllogism, Petitioner alleges that the Sixth Circuit adopted an "any crime" rule. By Petitioner's definition, an "any crime" rule allows probable cause supporting "any crime" charged to automatically negate a claim of malicious prosecution. But that type of rule differs from the Sixth Circuit's discussion of the role probable cause plays in a malicious prosecution claim.

1. *Howse* v. *Hodous*, shows how the Sixth Circuit's approach works in practice. 953 F.3d 402 (6th Cir. 2020). In *Howse*, the Sixth Circuit acknowledged that a Fourth Amendment claim for malicious prosecution is "really a claim for an 'unreasonable prosecutorial seizure' governed by Fourth Amendment principles." 953 F.3d at 408–409 (citation omitted); *see Thompson*, 596 U.S. at 49 (Section 1983 malicious prosecution claims arise under the Fourth Amendment).

The Sixth Circuit analogized that "prosecutorial seizure" to a Fourth Amendment claim for false arrest. In a Fourth Amendment false-arrest claim, courts look to whether probable cause existed for the arrest. Where an arrest is based on multiple charges, it is not relevant whether probable cause existed for each charge so long as probable cause existed for the arrest. 953 F.3d at 409. "What matters is the validity of the *arrest* (the seizure) and not the validity of every *charge* (the potential justifications for the seizure)" because

as long as "the facts known to the officers support probable cause in any form, then an individual may lawfully be arrested." *Id*. at 409.

The Sixth Circuit then applied the same principle to a claim of malicious prosecution: "[J]ust like in the context of false arrests, a person is no more seized when he's detained to await prosecution for several charges than if he were seized for just one valid charge." *Id*. So where an individual is detained on multiple charges, so long as probable cause supports one of the charges, a Fourth Amendment malicious prosecution claim will fail. *Id*.

But the discussion does not stop there. *Howse* then notes that adding a meritless charge "does not change the nature of the seizure," but "[i]f *hypothetically it were to change the length of detention*, that would be a different issue." *Id*. at 409, n.3 (emphasis added). In *Howse*, "the plaintiff [did] not present[] any evidence that the additional assault charges caused Howse to suffer longer detention," and so it was sufficient that the plaintiff's detention was supported by probable cause as to one charge. *Id*.

The Sixth Circuit's rule does not excuse an unlawful seizure following a capacious "any crime" rule. Instead, it is a length-of-detention rule based on the injury a malicious-prosecution plaintiff claims to have sustained. If probable cause exists for only one of the multiple charges, a plaintiff generally cannot prove malicious prosecution *unless* the invalid charges changed the nature of the plaintiff's seizure or prolonged the plaintiff's detention.

2. That rule is the most consistent with the text, history, and tradition of Section 1983 and the Fourth Amendment. Usually a plaintiff suing under Section 1983 has the burden to show that the defendant violated a constitutional right. *Joseph on behalf of Est. of Joseph* v. *Bartlett*, 981 F.3d 319, 329 (5th Cir. 2020); *see also Thompson*, 596 U.S. at 43 n.2 ("Because this claim is housed in the Fourth Amendment, the plaintiff [] has to prove that the malicious prosecution resulted in a seizure."). Because an invalid charge alone cannot show a Fourth Amendment violation, a plaintiff must also demonstrate that the charge caused an unreasonable search or seizure. The Sixth Circuit's rule maintains this burden.

The charge-specific rule Petitioner argues for washes away plaintiffs' burden. Under that approach, there is a presumption that the presence of an invalid charge necessarily changes the nature of a seizure or prolongs a detention. *See Williams* v. *Aguirre*, 965 F.3d 1147, 1161 (11th Cir. 2020) (holding that all charges "meaningfully affect the existence and duration of [a] seizure"). As such, a plaintiff proceeding under that rule must only show that a charge lacked probable cause to establish a Fourth Amendment violation. Thus a plaintiff that is rightfully detained due to probable cause as to one count may be able to bring a later claim for malicious prosecution if any other count lacks probable cause. That cannot be the right approach.

But under this Court's precedents interpreting the Fourth Amendment there are two elements a plaintiff must prove to succeed on a malicious

prosecution claim. A plaintiff must prove that a charge lacked probable cause *and* that the charge led to an unreasonable seizure. Under the charge-specific rule, the plaintiff must establish only the first element, then the court presumes the second.

That approach does not require a plaintiff to establish a constitutional violation, as required by Section 1983, because an invalid charge alone does not violate the Fourth Amendment. The second element is where the plaintiff establishes the Fourth Amendment violation. *Thompson*, 596 U.S. at 43 n2. Just because an invalid charge *could* cause an unreasonable seizure does not mean that it *did*. And of course, it is not enough for a court to imagine how an injury could occur; a plaintiff burdened to produce evidence of an injury must do so. *See Brown* v. *CACH, LLC*, No. 23-1308, ---F.4th---, 2024 WL 851025, at *1 (7th Cir. Feb. 29, 2024).

3. The Sixth Circuit properly denied Petitioner's claim for malicious prosecution.

Petitioner did not meet his burden here—nor could he. The Sixth Circuit thoroughly analyzed Petitioner's charges for receiving stolen property and violating license requirements under Ohio law. That court concluded that probable cause supported those claims and justified the "search, arrest, and prosecution" of Petitioner. *Chiaverini* v. *City of Napoleon, Ohio*, No. 21-3996, 2023 WL 152477, at *4 (6th Cir. Jan. 11, 2023).

The Sixth Circuit did not consider whether probable cause supported Petitioner's money-laundering claim because the answer to that question would not have changed the outcome as to malicious prosecution. Indeed, while Petitioner argued that the money-laundering claim lacked probable cause, he did not argue that the lack of probable cause resulted in an unreasonable search or seizure. Thus, Petitioner failed to plead the second requisite element of a Fourth Amendment malicious-prosecution claim.

So even if the Sixth Circuit had concluded that the money-laundering claim lacked probable cause, Petitioner presented no evidence or argument that the charge caused an unreasonable search or seizure. And without that evidence, Petitioner could not have established a Fourth Amendment violation as required by Section 1983.

But even if Petitioner had made that argument, his claim for malicious prosecution still fails. In Ohio, misdemeanors committed in the presence of an officer are subject to arrest, *See State* v. *Hipsher*, 226 N.E.3d 533, 542–43 (Ohio App. 12th Dist. 2023), and Petitioner's misdemeanors here (receipt of stolen property committed by retention and improper licensure) were committed in the presence of an officer.

The duration of Petitioner's arrest and detention would have been unchanged on these charges regardless of the extra money laundering charge.

4. The charge-specific rule may cause unwarranted Section 1983 suits.

The charge-specific rule may cause unwarranted and excessive Section 1983 suits. If the lack of probable cause for one charge is enough to succeed on a malicious prosecution claim, plaintiffs are more likely to sue, regardless of whether they believe any of their other charges lack probable cause.

More, this creates a set of perverse incentives. Sometimes a prosecuting authority will drop charges or remove them before trial. Even if some jurisdictions take that as an admission that the charges were impermissibly brought that could create a non-frivolous ground for a Section 1983 claim. There are many ways in which this rule could lead to flooding the courts with claims that will lose on the merits but will bring about a significant waste of judicial and party resources in the interim.

II. THIS COURT SHOULD NOT ADOPT PETITIONER'S OVERLY BROAD APPROACH.

This Court should adopt the Sixth Circuit's length-of-detention rule. Should the Court instead adopt Petitioner's charge-specific rule, it should reject Petitioner's broader arguments about Fourth Amendment malicious prosecution claims.

1. Petitioner's contentions concerning the Warrant Clause and the seizure of their effects are not properly before this Court.

Petitioner argues that a plaintiff may bring a Fourth Amendment malicious prosecution claim when

a police officer's baseless charge causes "a harm 'housed in the Fourth Amendment.'" Pet. Br. 17 (quoting *Thompson*, 596 U.S. at 43 n.2). Petitioner understands that phrase to apply beyond malicious prosecution claims. Indeed, Petitioner submits that rule applies to not only claims for unreasonable seizures of a person, but also claims for violating the Fourth Amendment's Warrant Clause and for unreasonable seizures of personal effects. *Id.* at 11. But Petitioner's contentions concerning warrants and seizures of effects are not properly before this Court.

The question presented raises the elements of a "Fourth Amendment malicious prosecution claim." Pet. i. The "'specific constitutional right' at issue" in such a claim is the "right of the people to be secure *in their persons* against unreasonable seizures." *Manuel* v. *City of Joliet, Ill.*, 580 U.S. 357, 364, 370 (2017) (cleaned up). This Court has explained that a plaintiff who brings such a claim "has to prove that the malicious prosecution resulted in a seizure *of the plaintiff*." *Thompson*, 596 U.S. at 43 n.2 (emphasis added).

Amalgamating claims involving seizures of persons, tainted warrants, and seizures of effects into a single omnibus tort risks causing significant confusion. The elements of a Section 1983 claim depend on "pinpointing" the precise constitutional provision that the defendant is charged with violating. *Manuel*, 580 U.S. at 370. But the Warrant Clause and the Reasonableness Clause are different sections. One governs a neutral magistrate's act of issuing the warrant; the other governs a police officer's act of

conducting a search or seizure. Combining both interpretive frameworks into one constitutional tort risks blurring their distinct texts and distinct requirements.

Similarly, the difference between seizures of effects and seizures of persons carries meaningful legal weight. Detaining a person ordinarily requires "probable cause to believe the suspect has committed a crime." *Gerstein*, 420 U.S. at 120. Yet seizing property ordinarily requires probable cause to believe that the property is "contraband or *evidence* of a crime." *United States* v. *Place*, 462 U.S. 696, 701 (1983) (emphasis added). Sometimes, a police officer will have probable cause to search and seize property, but not to detain a person. *See* 2 Wayne R. LaFave, *Search and Seizure: A Treatise on the Fourth Amendment* § 3.1(b), at 13 (6th ed. 2020). Combining a claim for an unreasonable seizure of the person with one for unreasonable seizure of effects risks muddying such distinctions.

Relatedly, in determining the elements of a Section 1983 claim for a constitutional violation, a court should consider "the elements of the most analogous tort." *Thompson*, 596 U.S. at 43. It is not obvious that the most analogous tort for a claim involving the seizure of effects is a form of malicious prosecution rather than trespass. Nor is it obvious that malicious prosecution's favorable-termination element applies to a property-seizure claim. *See Haring* v. *Prosise*, 462 U.S. 306, 317–323 (1983) (permitting a Section 1983 claim for unreasonable

seizure of effects despite the plaintiff 's guilty plea and conviction).

To the extent this Court adopts Petitioner's capacious approach to malicious prosecution, it should limit its decision to the right against unreasonable seizures of the person and should not consider petitioner's arguments about the Warrant Clause and the seizure of personal effects.

2. An arrest warrant does not violate the Warrant Clause when the warrant affidavit contains a false charge.

Petitioner contends that an arrest warrant violates the Warrant Clause whenever a warrant affidavit includes a falsified charge. That is wrong.

The Warrant Clause explains that "no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. Amend. IV. In *Franks* v. *Delaware*, 438 U.S. 154 (1978), this Court read that Clause to require "a truthful showing" of probable cause. *Id.* at 164–165 (citation omitted). But that "does not mean 'truthful' in the sense that every fact recited in the warrant affidavit is necessarily correct" *Id.* at 165. It does mean that the probable-cause showing may not rest on "a deliberately or recklessly false statement." *Id.*

A falsehood in the affidavit invalidates a warrant only if the statement was "necessary to the finding of probable cause." *Id.* at 156. Thus, if a

criminal defendant files a suppression motion challenging the affidavit's veracity, the court should "set to one side" the "material that is the subject of the alleged falsity." *Id.* at 171–172. If "there remains sufficient content in the warrant affidavit to support a finding of probable cause," the challenge to the warrant fails. *Id.* at 172; *see* 2 LaFave § 4.4(c), at 684 ("[W]hen the *Franks* defect is inclusion in the affidavit of recklessly or knowingly false information, that information must be deleted and the affidavit judged on the basis of the remaining information.").

Under *Franks*, the alleged falsehoods do not invalidate Petitioner's arrest warrant. An arrest warrant requires "probable cause to believe the suspect has committed a crime." *Gerstein*, 420 U.S. at 120. The warrant here rested on a finding of probable cause that Petitioner had committed three crimes: retaining stolen property, acting as a precious-metals dealer without a license, and money laundering. *See* D. Ct. Doc. 27-8.

Petitioner contends that falsehoods in the warrant affidavit undermined the probable-cause finding on the money-laundering charge. Pet. Br. 7. But even if those alleged falsehoods were "set to one side," there is still enough "content in the warrant affidavit" to support finding probable cause on the other charges. That means the warrant's content is constitutionally enough to support its issuance. *Franks*, 438 U.S. at 172; see Pet. App. 11a–16a.

Petitioner's contrary arguments are incorrect. Petitioner argues that the inclusion of a falsified

charge in a warrant affidavit violates the Warrant Clause's particularity requirement: "no Warrants shall issue, but * * * particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. amend. IV. But that requirement concerns the content of the warrant, not the content of the affidavit. *See Groh* v. *Ramirez*, 540 U.S. 551, 560–561 (2004). And it requires a description only of "the place to be searched" and "the persons or things to be seized," U.S. Const. amend. IV. It does not require a particular description of the crimes with which the person is charged. This Court has rejected efforts to require particularity about additional points not specified in the Warrant Clause's text. *See United States* v. *Grubbs*, 547 U.S. 90, 97–98 (2006) (conditions precedent to the warrant's execution); *Dalia* v. *United States*, 441 U.S. 238, 257 (1979) (specification of the manner of the warrant's execution).

Petitioner also argues that a falsehood in a warrant application could "slander the victim" even when it does not affect the warrant's authorization of a search or seizure. Pet. Br. 29. But the Fourth Amendment protects "persons, houses, papers, and effects" from "unreasonable searches and seizures." U.S. Const. amend. IV. The Fourth Amendment does not protect names from slander. A falsehood in a warrant affidavit, no matter how defamatory, does not violate a person's Fourth Amendment rights if the affidavit's remaining content authorizes the search or seizure at issue. *See Franks*, 438 U.S. at 172. A person who wants to seek a remedy for defamation may look to state statutes or tort law, rather than the

Constitution, for redress. *Cf. Paul* v. *Davis*, 424 U.S. 693, 710–712 (1976).

Finally, Petitioner argues that, at the Founding, an arrest warrant's validity "depended on the precise charges against the arrestee." Pet. Br. 34. Petitioner contends that the common law distinguished between arrests for treason, felony, and breach of the peace and other types of arrests. But as this Court has recognized, the phrase "treason, felony, and breach of the peace" covers all crimes. *See Gravel* v. *United States*, 408 U.S. 606, 614 (1972). The common law used that phrase only to exclude arrests in civil cases, which were common at the Founding but are now obsolete. *See id.* Petitioner's evidence thus shows, at most, that the common law distinguished between criminal arrest warrants and civil arrest warrants—not that it distinguished among criminal arrest warrants based on the precise charges at issue.

3. Petitioner errs to the extent he suggests that the need to show causation of a seizure pertains only to damages.

Petitioner's proposed test wrongly removes the causal link from the elements of malicious prosecution. In one of the principal cases that Petitioner cites, the Eleventh Circuit reasoned that a causal link between a baseless charge and an unreasonable seizure is relevant only to compensatory damages and is not an element of the plaintiff 's claim. *See Williams*, 965 F.3d at 1161–1162. That means that a plaintiff who faced a baseless charge and was arrested could then sue under Section 1983. That

plaintiff could recover nominal damages, punitive damages, and attorney's fees, but not actual damages, even if the baseless charge had no causal connection to a seizure of the plaintiff. *See id*. It is unlikely such an odd remedy has been hiding in Section 1983 and the Fourth Amendment.

The Fourth Amendment prohibits unreasonable seizures, not unreasonable criminal charges. A charge that lacks a causal connection to a seizure thus cannot support a Fourth Amendment malicious-prosecution claim. Indeed, this Court has recognized that "[b]ecause this claim is housed in the Fourth Amendment, the plaintiff also has to prove that the malicious prosecution resulted in a seizure of the plaintiff." *Thompson*, 596 U.S. at 43 n.2.

The Eleventh Circuit's view also conflicts with Section 1983's text. Section 1983 expressly requires proof that the defendant "cause[d]" the plaintiff "to be subjected" to the denial of a federal right. 42 U.S.C. § 1983. That text makes causation an element of the claim, not simply a fact that affects the calculation of damages.

Although the Fourth Amendment does not support relief in the absence of an unreasonable seizure, other sources of law may. This Court has left open whether the Due Process Clause supports a "malicious prosecution claim" against a police officer who initiated baseless criminal charges. *Thompson*, 596 U.S. at 43 n.2. "If so, the plaintiff presumably would not have to prove that he was seized as a result of the malicious prosecution." *Id.* Relatedly, the Court

has left open whether the Due Process Clause supports a "fabricated-evidence claim" in a case where the fabrication of evidence resulted in a deprivation of liberty. *McDonough* v. *Smith*, 139 S. Ct. 2149, 2155 (2019). Finally, victims of false accusations could seek relief under state law—including through a traditional tort claim for malicious prosecution. See *Cordova* v. *City of Albuquerque*, 816 F.3d 645, 662 (10th Cir. 2016) (Gorsuch, J., concurring in the judgment).

CONCLUSION

This Court should affirm the judgment of the U.S. Court of Appeals for the Sixth Circuit and adopt its length-of-detention rule.

Respectfully submitted,

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