No. 24-473

In The
Supreme Court of the United States

KAREN JIMERSON, ET AL.,

Petitioners,

v.

MIKE LEWIS,

Respondent.

On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

REPLY BRIEF FOR PETITIONERS

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REPLY ARGUMENT

Lieutenant Lewis's opposition rests (BIO 4–8) on the false premise that the Fifth Circuit applied this Court's decision in *Maryland* v. *Garrison*, 480 U.S. 79 (1987), to hold that Lewis acted reasonably under the Fourth Amendment. It did not. Because it could not.

On appeal, Lewis conceded that his wrong-house raid was unconstitutional and, thus, unreasonable. Pet. App. 9a, *Jimerson v. Lewis*, 94 F.4th 423, 428 (5th Cir. 2024) ("As to the merits, Lewis does not challenge the district court's analysis of whether defendants violated plaintiffs' rights under federal law."); Pet. App. 17a (Dennis, J., dissenting) ("[I]t is undisputed that Lewis violated the Jimersons' Fourth Amendment rights in executing a SWAT-style entry into their home without a warrant[.]"). As a result, the opinion below turned exclusively on whether *Garrison* clearly establishes the law for wrong-house raids.

The Fifth Circuit held that *Garrison* does not; it provides only a "general principle." Pet. App. 11a. In dissent, Judge Dennis observed that the Fifth Circuit's opinion created a circuit split. *Id.* at 18a–21a. Thus, as we explained (Pet. 13–20), while *Garrison* does not clearly establish the law in the Fifth Circuit, it does in the Eighth, Ninth, and Eleventh Circuits. *Dawkins* v. *Graham*, 50 F.3d 532, 534 (8th Cir. 1995); *Navarro* v. *Barthel*, 952 F.2d 331, 333 (9th Cir. 1991) (per curiam); *Hartsfield* v. *Lemacks*, 50 F.3d 950, 955 (11th Cir. 1995).

Lewis nowhere addresses the Eighth Circuit's decision in *Dawkins* or the Ninth Circuit's decision in *Navarro*. He contends only (BIO 4) that there is no circuit split because the Fifth Circuit's decision "is consistent

with" *Garrison*. While that's incorrect, see, *e.g.*, Pet. 17–19, it's also irrelevant to the existence of the split. This is clear from the decision below, which never compares *Garrison* to this case. See Pet. App. 11a. It's also clear from the BIO, which notes (BIO 7) that the Fifth Circuit held *Hartsfield* was not "indicative of clearly established law," despite the Eleventh Circuit's reliance on the law "as dictated by *Garrison*." 50 F.3d at 955.

We contend—and other circuits agree—that *Garrison* supplied all that's needed to clearly establish the law in wrong-house raid cases. The circuits are split over this important question, and the resolution of the split will determine the outcome of this case. It will also help address the apparent problem of unaccountable wrong-house raids in this country. See also *Martin* v. *United States*, petition for cert. pending, No. 24-362 (FTCA claims barred by Supremacy Clause).

CONCLUSION

The Court should grant the petition. If it does not, it should summarily reverse the decision below.

Respectfully submitted on December 20, 2024,

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