No. 19-1021

In the Supreme Court of the United States

MICAH JESSOP & BRITTAN ASHJIAN,
Petitioners

v.

CITY OF FRESNO, DERIK KUMAGAI,
CURT CHASTAIN & TOMAS CANTU,
Respondents.

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

MOTION FOR LEAVE TO FILE AND BRIEF OF THE NEW CIVIL LIBERTIES ALLIANCE AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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MOTION FOR LEAVE TO FILE BRIEF OF THE NEW CIVIL LIBERTIES ALLIANCE AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

Pursuant to Rule 37.2 of the Rules of this Court, the New Civil Liberties Alliance (NCLA) respectfully moves for leave to file the attached brief as *amicus curiae* in support of Petitioners. Faithful to the meaning and purpose of the role of an *amicus curiae*, NCLA hopes to assist the Court by expounding on novel aspects of the law about which NCLA has special interest and knowledge. Petitioners consented to NCLA's request to file as *amicus*, but NCLA moves for leave to file because Respondents refused consent.

The New Civil Liberties Alliance (NCLA) is a nonprofit and nonpartisan civil rights organization and public-interest law firm devoted to defending constitutional freedoms against systemic threats, including attacks by state and federal administrative agencies on due process, jury rights, and freedom of speech. NCLA also opposes judicial abdication of courts' independent judgment through conventions of deference, avoidance, and other impediments to the application and development of constitutional law. We uphold these constitutional rights on behalf of all Americans, of all backgrounds and beliefs, and we do this through original litigation, *amicus curiae* briefs, and other advocacy.

The "new civil liberties" of the organization's name include rights at least as old as the United States Constitution itself, such as the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. These selfsame civil rights are also "new"—and in dire need of renewed vindication—precisely because judicially

created immunities impermissibly shield the unconstitutional actions of state actors from § 1983 liability. Whenever courts are unwilling to hold government actors accountable for their constitutional transgressions against citizens, the vitality of every American's civil liberties diminishes.

NCLA is particularly disturbed that the Ninth Circuit Court of Appeals has willfully opted out of deciding a matter as simple—but gravely consequential—as whether it is unconstitutional for a police officer to use the cover of a search warrant to steal from a suspect. By choosing not to decide the issue, the panel granted immunity not only to the Fresno police, but to all police officers throughout the Ninth Circuit who are accused of theft in the future, and who now may continue to assert that a citizen's constitutional protections from theft are not "clearly established." Thus, NCLA's principal interest in this litigation is to vindicate the § 1983 statutory scheme Congress enacted to ensure that states cannot deprive any person of life, liberty, or property without due process of law.

Respectfully submitted,

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Dated: March 11, 2020

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QUESTIONS PRESENTED

1. Whether it is clearly established that the Fourth Amendment prohibits police officers from stealing property listed in a search warrant.

2. Whether *Pearson* should be clarified or modified to require courts to determine whether constitutional rights have been violated to avoid creating precedents that specific constitutional harms are not "clearly established" prospectively.

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BRIEF OF THE NEW CIVIL LIBERTIES ALLIANCE AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

INTEREST OF *AMICUS CURIAE*[1]

The New Civil Liberties Alliance (NCLA) is a nonprofit, nonpartisan civil rights organization and public-interest law firm devoted to defending constitutional freedoms against systemic threats, including attacks by state and federal administrative agencies, on due process, jury rights, and freedom of speech. NCLA also opposes judicial abdication of courts' independent judgment through conventions of deference,

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[1] All parties were timely notified as to the filing of this brief. The Respondents—despite having waived a response in this matter—have not consented to NCLA's proceeding as *amicus curiae*. Thus, NCLA offers this brief pending the Court's ruling on NCLA's Motion for Leave to File. No counsel for a party authored any part of this brief. No one other than the *amicus curiae*, its members, or its counsel financed the preparation or submission of this brief.

avoidance, and other impediments to the application and development of constitutional law. We uphold these constitutional rights on behalf of all Americans, of all backgrounds and beliefs, and we do this through original litigation, *amicus curiae* briefs, and other advocacy.

The "new civil liberties" of the organization's name include rights at least as old as the United States Constitution itself, such as the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. These selfsame civil rights are also "new"—and in dire need of renewed vindication—precisely because judicially created immunities impermissibly shield the unconstitutional actions of state actors from § 1983 liability. Whenever courts are unwilling to hold government actors accountable for their constitutional transgressions against citizens, the vitality of every American's civil liberties diminishes.

NCLA is particularly disturbed that the Ninth Circuit Court of Appeals has willfully opted out of deciding a matter as simple—but gravely consequential—as whether it is unconstitutional for a police officer to use the cover of a search warrant to steal from a suspect. By choosing not to decide the issue, the panel granted immunity not only to the Fresno police, but to all police officers throughout the Ninth Circuit who are accused of theft in the future, and who now may continue to assert that a citizen's constitutional protections from theft are not "clearly established." Thus, NCLA's principal interest in this litigation is to vindicate the § 1983 statutory scheme Congress enacted to ensure that states cannot deprive any person of life, liberty, or property without due process of law.

SUMMARY OF THE ARGUMENT

The Court should issue a writ of certiorari in this case to ensure justice for the Petitioners and the development of constitutional law. Alternatively, the Court should summarily reverse the Ninth Circuit's *Jessop* decision and direct the court to apply the proper standard for consideration of qualified immunity defenses, which includes deciding whether the Fresno police violated the Petitioners' Fourth Amendment rights.

The Ninth Circuit mishandled this case by holding that it is not clearly established that the Petitioners have a Fourth Amendment right to be free from theft by police acting under the guise of a search warrant, and by subsequently refusing to resolve whether the theft of property seized pursuant to a warrant is an unreasonable seizure under the Fourth Amendment.

In choosing not to decide whether police theft violates the Constitution, the Ninth Circuit transformed qualified immunity into absolute impunity from constitutional liability. *See* Pet. for Writ of Cert. at 17 (Feb. 14, 2020). The Petitioners correctly assert that the Fourth Amendment most certainly prohibits police officers from using a search warrant as an artifice for personally enriching themselves through the theft of a suspect's property. *See id.* at 1-2. Moreover, if the Ninth Circuit's decision remains unchanged, police officers will be immune from constitutional liability for blatant thievery at least in the Ninth Circuit, if not in other jurisdictions as well. This ruling is not a faithful application of the Supreme Court's modification of the qualified immunity deliberative process set forth in *Pearson v. Callahan*, 555 U.S. 223 (2009).

Qualified immunity is a flawed, court-invented regime inconsistent in its current form with the letter

and spirit of § 1983. *See generally* William Baude, Is Qualified Immunity Unlawful?, 106 Cal. L. Rev. 45, 48–49 (2018). Even if a plaintiff proves that a state actor violated his or her constitutional rights, the victim will not recover damages if the state actor did not violate "clearly established law." *See Pearson*, 555 U.S. at 232.

This Court has justified such harsh results by explaining that qualified immunity is designed to "provide[] ample protection to all but the plainly incompetent or those who knowingly violate the law." *Malley v. Briggs*, 475 U.S. 335, 341 (1986). Moreover, in those circumstances where constitutional law had not been previously clearly established—at least until *Pearson*—courts had subsequently clearly established the law to at least prospectively prevent uncertainty among state actors. *See Pearson*, 555 U.S. at 227.

In 2009, though, the *Pearson* Court weakened § 1983's liberty-vindicating utility by permitting courts to skip the first step in their qualified immunity analyses. *See id.* *Pearson* held that if it "will best facilitate the fair and efficient disposition" of a case, courts are not required to decide whether the plaintiff has alleged a constitutional right in the first instance, in rare circumstances. *See id.* at 242.

Even so, the Ninth Circuit has obliterated the Supreme Court's *Malley* line in *Jessop*, by allowing police officers to assert qualified immunity even when they knowingly violate the law by stealing someone's property. *Compare Jessop v. City of Fresno*, 936 F.3d 937, 943 (9th Cir. 2019) (subst. op. for *Jessop v. City of Fresno*, 918 F.3d 1031 (9th Cir. 2019) *with Malley*, 475 U.S. at 341. Instead of constitutional protection and vindication, the Respondents merely received the Ninth Circuit's sympathy. *Jessop*, 936 F.3d at 943.

This peculiar decision undermines—if it does not completely destroy—the effectiveness of § 1983 in deterring deprivations of federal constitutional and statutory rights. Qualified immunity, after all, is meant to protect frontline government employees who make split-second decisions where it may not be clear in the moment whether they are acting permissibly. *Graham v. Connor*, 490 U.S. 386, 396-397 (1989) (explaining that the reasonableness of police behavior must be determined in the context of the split-second judgments in the situation). In *Jessop*, the police did not make a split-second decision. They acted deliberately, fully aware of the difference between a lawful and unlawful seizure and that they were committing theft. In fact, some of the Respondents returned to the site of the "search" a second time to steal more of the Petitioners' property. The *Jessop* decision is not only bad for the Petitioners. Granting the police free rein to commit grand larceny gives qualified immunity a bad name, as well.

The consequence of skipping the determination as to whether a constitutional right exists creates a precedent paradox which stands the doctrine of *stare decisis* on its head by allowing a "not-clearly established" right to potentially remain that way, indefinitely. The court below failed to recognize that current qualified-immunity jurisprudence—including *Pearson*—requires it to determine whether the plaintiffs had alleged a violation of their constitutional rights prior to considering whether the right was "clearly established." Courts must not skip steps in their qualified immunity analyses where a case would not be best served by skipping or where constitutional law may require elaboration. Such an outcome in this case would shield police officers from being held accountable for stealing from suspects.

ARGUMENT

I. THE NINTH CIRCUIT DID NOT PROPERLY APPLY *PEARSON*

The Supreme Court's *Pearson* decision did not alter qualified immunity's two analytical steps. It merely allowed trial judges to exercise a degree of discretion in rare circumstances not present in this case. The Ninth Circuit's misapplication of *Pearson* underscores the need to clarify or modify *Pearson*'s approach to qualified immunity.

A. *Pearson* Does Not Permit Step-Skipping Where, as Here, Constitutional Rights Require Elaboration

Contrary to the Ninth Circuit's understanding of the controlling precedent for analyzing qualified immunity, courts do not have *carte blanche* to ignore either step in their deliberation. In determining whether a police officer or other state actor is entitled to qualified immunity, courts consider (1) whether the defendant violated the plaintiff's constitutional right; and (2) whether that constitutional right was clearly established at the time of the officer's misconduct. *See Pearson*, 555 U.S. at 232 (citing *Saucier v. Katz*, 533 U.S. 194, 201 (2001)). In *Saucier v. Katz*, the Supreme Court required judges first to consider a threshold question when ruling on a qualified immunity defense: "do the facts alleged show the officer's conduct violated a constitutional right?" *Saucier*, 533 U.S. at 201 (modified in part by *Pearson*, 555 U.S. at 227). In establishing the first step in the then-mandatory sequence of analysis, the *Saucier* Court indicated that such determinations are "the process for the law's elaboration from case to case[.]" *Id.* The Court em-

phasized that its instruction to inferior courts "to concentrate at the outset on the definition of the constitutional right and to determine whether … a constitutional violation could be found is important." *Id.* at 207.

Eight years later, the Supreme Court altered the *Saucier* protocol. *See Pearson*, 555 U.S. at 234. The *Pearson* Court examined "a considerable body of new experience … regarding the consequences of requiring adherence to this inflexible procedure." *Id.* The Court believed that the judiciary wasted resources in cases where (1) it was unclear whether in fact a constitutional right existed in the first place, but (2) the alleged right was *obviously* not clearly established at the time of the misconduct. *See id.* at 237. The *Pearson* Court was also concerned that parties should not be forced "to endure additional burdens of suit—such as the costs of litigating constitutional questions and delays attributable to resolving them[.]" *See id.* (internal quotations and citations omitted).

In changing course regarding the *Saucier* protocol, however, the *Pearson* Court did not overrule *Saucier*. The Court could not have been more clear:

> Our decision does not prevent the lower courts from following the *Saucier* procedure; it simply recognizes that those courts should have the discretion to decide whether that procedure is worthwhile in particular cases.

Id. at 242. Indeed, the *Pearson* Court endorsed *Saucier*'s analysis regarding the importance of determining whether the act complained of violated a constitutional right:

> [T]he *Saucier* Court was *certainly correct* in noting that the two-step procedure promotes the development of constitutional precedent and *is especially valuable with respect to questions that do not frequently arise in cases in which a qualified immunity defense is unavailable*.

Id. at 236 (emphasis added).

Although holding that the two-step *Saucier* procedure is not always the best formula, the Court said that the protocol is "often … advantageous[.]" *Id.* at 242. The *Pearson* Court stood by the principle that the first step "is necessary to support the Constitution's elaboration from case to case[.]" *See id.* at 232 (quoting *Saucier*, 533 U.S. at 201) (internal quotations omitted). It quoted *Saucier* favorably for articulating the concept that without the first step, "[t]he law might be deprived of this explanation were a court simply to skip ahead[.]" *Ibid.* Thus, while no longer requiring a rigid sequential analysis in every qualified-immunity decision, the *Pearson* Court reaffirmed that *Saucier*'s sequence "is often appropriate" and "often beneficial." *Id.* at 236.

The Ninth Circuit should not have skipped the first step in this case. The only context in which a court could clearly establish whether stealing under the guise of a search warrant is unconstitutional is in § 1983 litigation. Stolen evidence cannot be the subject of constitutional adjudication in any other setting. If "[t]he law might be deprived of [constitutional] explanation[,]" the *Pearson* Court said, a court should engage in a first-step analysis to determine whether a state actor violated a constitutional right in the first place. *See id.* at 232. Since the Fourth

Amendment question presented here "do[es] not frequently arise in cases in which a qualified immunity defense is unavailable[,]" the panel should have first determined whether the plaintiff had suffered a constitutional injury. *See id.* The Supreme Court should hear this matter to resolve the question whether police stealing property listed in a search warrant is a clearly established violation of the Fourth Amendment.

B. *Pearson* Sanctions Step-Skipping Only in Special Circumstances Not Present Here

As noted above, the Supreme Court has ruled that "courts should have the discretion to decide whether [the *Saucier*] procedure is worthwhile in particular cases." *Pearson*, 555 U.S. at 242. The *Pearson* Court indicated that this will depend on the facts of each case, but step-skipping may be permissible where a case will not make a meaningful contribution to constitutional precedent, *id.* at 237; where it appears that the constitutional question will soon be answered by a higher court, *id.* at 237-38; where constitutional rights depend on a federal court's "uncertain assumptions" about state law, *id.* at 238; or where "a kaleidoscope of facts" at the pleadings stage has not been fully developed, *id.* at 238-39. These exceptions to the *Saucier* protocol are not at all applicable to the qualified-immunity question presented here.

The Ninth Circuit, however, claimed that step-skipping was

> especially appropriate where 'a court will rather quickly and easily decide that there was no violation of clearly established law.' [*Pearson*, 555 U.S.] at 239. This is one of those cases.

Jessop, 936 F.3d at 940. But "quickly and easily" is not the standard for determining whether step-skipping may be used to decide qualified immunity. Moreover, a conclusory statement such as this, without any analysis, does not sufficiently establish that this is "one of those cases."

The lower court should not have asked whether it could decide the case more "quickly and easily" by applying one step instead of two. Proper application of *Pearson* required the panel to ask what analytical framework "will best facilitate [its] fair and efficient disposition[,]" given the unique facts and circumstances surrounding the alleged constitutional violation giving rise to the § 1983 action. *See Pearson*, 555 U.S. at 242, 236. The Ninth Circuit should have either scrutinized step one—whether the police violated a constitutional right—or else explained why engaging in a step-one analysis would not have advanced *Saucier*'s goal of developing important constitutional precedent. *See id.* at 242. As the court did not undertake either of these lines of inquiry, the Supreme Court should hear this matter to conclusively establish the proper protocol for analyzing qualified immunity.

II. Where a Constitutional Right Is Not Clearly Established, Courts Should Decide Whether the Right Exists for Future Application

The Court should revisit *Pearson* and clarify or modify it to require federal courts either to decide whether a plaintiff has alleged a deprivation of his or her civil rights regardless of whether the deprivation was "clearly established," or to identify one of the stipulated *Pearson* exceptions to deciding whether a deprivation has occurred.

A. Failing to Decide Whether a Constitutional Right Is Clearly Established Creates a Troubling "Anti-Precedent"

The *Jessop* decision shows that once a constitutional right is deemed not clearly established, it may become a constitutional right not clearly established indefinitely, standing the doctrine of *stare decisis* on its head. That is, instead of a thing once decided remaining decided, here a right whose existence is left *un*decided is likely to remain *not* decided for a very long time (and, therefore, not to exist for § 1983 purposes).

The doctrine of *stare decisis* "is of fundamental importance to the rule of law." *Hilton v. South Carolina Pub. Rys. Comm'n*, 502 U.S. 197, 202 (1991). Respect for precedent is fundamental because it "promotes stability, predictability, and respect for judicial authority." *Allied-Signal, Inc. v. Dir., Div. of Taxation*, 504 U.S. 768, 783 (1992) (internal quotations and citations omitted).

The *Jessop* decision, however, does just the opposite. The Ninth Circuit affirmed *Jessop*'s holding that the police enjoyed the benefits of qualified immunity on the basis of a negative—because, according to the Court, it is *not* "clearly established" that the Petitioners have a "right to be free from the theft of property seized pursuant to a warrant[.]" *See Jessop*, 936 F.3d at 943. In other words, the court did not settle "an applicable rule of law." *See Knick v. Twp. of Scott*, 139 S. Ct. 2162, 2177 (2019) (citing *Agostini v. Felton*, 521 U.S. 203, 235 (1997)). Thus, the scope and nature of the Fourth Amendment remains an unanswered question, at least in the Ninth Circuit and in circuits persuaded by the Ninth Circuit's logic.

The ruling below is particularly troubling because theft is a *malum in se* offense. That is, the police knew that theft was wrong without any court having to tell them so. There is no fine line at issue here. Indeed, the Ninth Circuit was clear "that theft is morally wrong." *Jessop*, 936 F.3d at 941. Qualified immunity may have a place in protecting state actors when their conduct is borderline and in service of public benefit. Here, in contrast, the officers' conduct was not borderline and was done solely for personal enrichment.

Leaving the constitutional question explicitly unanswered means the next time a police officer steals from a suspect while executing a search warrant, he or she will be able to cite *Jessop* to show that there is *no clearly established precedent* regarding whether his or her theft violated a constitutional right. In other words, by immediately jumping to a decision that the constitutional violation was not clearly established, while simultaneously *refusing to establish* whether a constitutional right existed at all, the panel created a precedent paradox—an "anti-precedent," if you will—that could hamstring the courts from ever answering the constitutional question in the future.

B. This Anti-Precedent Could Prevent a Future Court from Deciding Whether the Constitutional Right Is Clearly Established

Since qualified immunity is immunity from suit, a district court will not try a case where the defendant's immunity from suit is clear. So, while the anti-precedent lacks decisional authority under *stare decisis*, it nevertheless exerts the preclusive power of a thing decided, under these factual circumstances.

There is now a precedent in the Ninth Circuit stating that police officer theft in the course of executing search warrants is not a clearly established constitutional violation. There are at least four negative consequences that logically flow from this fact:

- First, the precedent creates an incentive for a dishonest police officer to commit theft, knowing that qualified immunity will obtain unless and until a future case clearly establishes that theft in the execution of a search warrant violates the Constitution. *Even if* a subsequent court declares such theft to be a violation of the suspect's Constitutional rights, the new decision will not be applied retroactively.
- Second, there is little incentive for a would-be plaintiff to bring a § 1983 lawsuit, because a well-counseled plaintiff will know that such a lawsuit will be futile, as it will run up against the defendant's qualified immunity. As a result, few future cases (if any) will be brought to expound on the constitutionality of search warrant thefts.
- Third, for the next similar case that comes along, the district court will know that the defendant enjoys qualified immunity and will therefore be less likely to bother developing the facts of the case to distinguish it from *Jessop*.
- Finally, and following this thread to its logical conclusion, when the next case gets to the Ninth Circuit, and even if the court does not want to step-skip, and even if it faithfully follows *Pearson*, such case will have insufficient factual development in the record from the district court to enable the appellate court to clearly establish at that time that police theft

> in the course of executing a search warrant violates the Constitution.

Thus, the anti-precedent transforms careful consideration of whether a state actor may be entitled to qualified immunity into a rubber stamp of absolute impunity—for the foreseeable future, if not in perpetuity.

For instance, take the constitutional right that was not "clearly established" in *Pearson* itself, "consent-once-removed." *Pearson*, 555 U.S. at 244-45. More than a decade after the *Pearson* Court's decision, the doctrine appears still not to be clearly established, at least in certain circuits. Indeed, the Eleventh Circuit has commented that it has not

> addressed the 'consent-once-removed' doctrine after the Supreme Court's 2009 decision in *Pearson*. Therefore, *the doctrine is no more settled today than it was in 2009*. Thus, if the Deputies were entitled to rely upon the doctrine in *Pearson*, they also were entitled to rely upon it here.

Fish v. Brown, 838 F.3d 1153, 1165 (11th Cir. 2016) (emphasis added). Whether the issue is consent-once-removed in the Eleventh Circuit or police theft in the Ninth, the void of clearly established constitutional rights ironically ensures that these rights, if they exist, will linger in an eternal purgatory of being not clearly established and hence not enforceable.

To resolve this paradox, the Supreme Court should clarify or modify *Pearson* and require courts to consider both steps in their qualified immunity analyses. Where a court permissibly determines that it "will best facilitate the fair and efficient disposition" of a

case by initially considering whether the alleged constitutional violation is "clearly established," the court should still be required to determine whether in fact the constitutional right claimed by the plaintiff exists, for its prospective application. Exceptions to this rule should be limited to the rare cases expressly exempted by the *Pearson* Court: (1) cases that will not make a meaningful contribution to constitutional precedent; (2) cases in which the constitutional question will soon be answered by a higher court; (3) cases in which constitutional rights depend on a federal court's "uncertain assumptions" about state law; or (4) cases lacking full factual development at the pleadings stage. *Pearson*, 555 U.S. at 237-39.

III. THE SUPREME COURT SHOULD SUMMARILY REVERSE TO ERASE ALL DOUBT THAT THE THEFT OF PROPERTY COVERED BY THE TERMS OF A SEARCH WARRANT, AND SEIZED PURSUANT TO THAT WARRANT, VIOLATES THE FOURTH AMENDMENT

The Respondents have always known that the police may not use a search warrant as an artifice for personally enriching themselves through the theft of a suspect's property.[2] The police are trained to acquire search warrants, to execute searches, and to document seizure of evidence. They are also trained to identify and stop theft. It is preposterous to suggest that it is not clear to the Fresno police that theft of a suspect's property—and theft of evidence of a suspected crime—is, *ipso facto*, an unreasonable seizure.

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[2] It is worth noting that the police officers' theft of Jessop's rare coin collection did not occur when the police executed the search warrant. Pet. for Writ of Cert. at 6. The police did not seize the rare coin collection until later that day during a second visit, without applying for a new search warrant. *Ibid.*

The Fourth Amendment prohibits "unreasonable searches and seizures[.]" U.S. Const. amend. IV. The threshold question as to whether a seizure is reasonable is whether the seizure advances a governmental interest. *Tennessee v. Garner*, 471 U.S. 1, 8 (1985). Theft is the "taking of property or an exercise of control over property … *with the criminal intent* to deprive the owner of rights[.]" *Gonzales v. Duenas-Alvarez*, 549 U.S. 183, 189 (2007) (providing the "generic definition of theft" as adopted by the Ninth Circuit) (emphasis added). Since a theft—by definition—can *never* advance a governmental interest, a state actor's seizure of property with the criminal intent to deprive the rightful owner of his or her possessory rights is *always* unreasonable under the Fourth Amendment.

In the now-vacated Ninth Circuit *Jessop* opinion, the court incorrectly stated that there was a circuit "split in authority" regarding whether it is obvious that the police violated the Petitioners' constitutional rights. *See Jessop*, 918 F.3d at 1036. In the superseding Ninth Circuit *Jessop* opinion, the court stated that the Ninth Circuit has "never addressed whether the theft of property covered by the terms of a search warrant, and seized pursuant to that warrant, violates the Fourth Amendment." *Jessop*, 936 F.3d at 941. Regardless of whether there is a circuit split or whether the Ninth Circuit never before contemplated the issue, this Court should summarily reverse because police-theft is, by definition, an unreasonable seizure.

CONCLUSION

The Supreme Court should either issue a writ of certiorari or else summarily reverse to remove all doubt and misunderstanding that the actions of the Respondents violated the Petitioners' Fourth Amendment right to be free from unreasonable seizures.

Respectfully submitted,

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Dated: March 11, 2020