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Advocates From Left and Right Ask Supreme Court to Revisit Immunity Defense

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An array of criminal justice advocates — civil libertarians, a law enforcement organization, even a group run by the industrialist Koch brothers — has joined forces to ask the Supreme Court to reconsider the contentious doctrine of qualified immunity, which permits the authorities to avoid being sued for misconduct even when they violate the law.

In a submission to the high court on Wednesday, the group of advocates cited the now-familiar litany of fatal shootings by police across the country and said that qualified immunity had time and again denied relief to the victims of abuse and had eroded trust in law enforcement officers.

"Official accountability is in crisis," it said.

In recent years, a broad, bipartisan consensus on many criminal justice issues has started to emerge both in Washington and in many state capitals, but even so, Jay Schweikert, a lawyer for the Cato Institute who helped assemble the coalition behind the petition to the court, said he had never seen a brief as "ideologically diverse" as the one filed Wednesday. Its signatories included the American Civil Liberties Union, the Law Enforcement Action Partnership, the Second Amendment Foundation, and Americans for Prosperity, a political advocacy group run by the Koch brothers.

Twice since 2015, the Supreme Court has issued rulings widely expanding the scope of qualified immunity and paring back on the public's power to sue the police or other law enforcement officials for misconduct and abuse. The decisions have been criticized by criminal justice activists and, on rare occasions, by other judges. Last month, a federal judge in Brooklyn, Jack B. Weinstein, took an unusual swipe at the court's recent rulings in an order he issued denying immunity to four New York police officers.

In their brief to high court, the criminal justice advocates asked the justices to rethink their rulings on qualified immunity, saying that the broadened doctrine has already had damaging repercussions.

"Qualified immunity denies justice to victims of unconstitutional misconduct," they wrote. "It imposes cost prohibitive burdens on civil-rights litigants. And it harms the very public officials it seeks to protect. In short, our nation's experience with qualified immunity has made the court's earlier error all the more egregious and harmful."

The request to the high court came in the case of a Connecticut man named Almighty Supreme Born Allah who was arrested on drug charges in 2010 and was held in solitary confinement for nearly a year before his trial. Mr. Allah suffered harsh conditions: He was locked in his cell for 23 hours a day, placed in leg irons and handcuffs whenever he went out and permitted only three brief showers a week. In 2011, he sued officials at the prison, the Northern Correctional Institution, claiming they had violated his constitutional rights because they never gave a valid reason for holding him under such severe terms.

In 2015, a federal judge agreed with Mr. Allah at a bench trial and awarded him damages of $62,650. When the prison officials appealed the verdict to a federal appeals court in New York, the appellate judges sided with the lower court that Mr. Allah's rights had been violated. But they also tossed out the monetary judgment, ruling that the officials should never have been sued because of qualified immunity.

The use of qualified immunity as a defense against lawsuits was first permitted by the Supreme Court in a ruling in 1967 designed to shield the police from financial liability: The court decided that if officers were not immune, they might be disinclined to carry out their official duties.

The Cato Institute, a libertarian think tank, had for some time been looking for a case that it could offer the Supreme Court to challenge the immunity defense, and it chose Mr. Allah's case, Mr. Schweikert said, because it vividly exposed how the doctrine permitted law enforcement officers to evade accountability even in a matter where everyone involved agreed that wrongs had been committed. Mr. Schweikert made an initial petition to the high court in May. When the court asked for additional submissions, he reached out to Somil Trivedi, a staff attorney at the A.C.L.U., who helped him gather partners for the brief filed Wednesday.

In that brief, the advocates mentioned other cases in which federal courts, following the high court's lead, had let law enforcement officials off the hook. Last year, for example, a federal appeals court in Denver granted qualified immunity to a group of deputy sheriffs who detained a family with young children for two and a half hours during "a SWAT-style raid," which they conducted after finding tea leaves in the family's trash that allegedly tested positive as marijuana. That same year, a federal appeals court in New Orleans offered similar protection to a police officer who held a woman in custody for nearly seven hours — without probable cause — immediately after a SWAT team killed her father during a standoff.

"Every single day, we're inundated with stories of people being shot, killed or otherwise aggrieved by law enforcement, and qualified immunity stops them from getting relief," Mr. Trivedi said. "It also affects the good officers, the ones who obey the law, stripping them of the credibility they need to do their job."