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**LDF Submits Amicus Brief Urging Supreme Court to Reaffirm
Constitutional Protections for Citizens Shot by Police Officers**

Today, the NAACP Legal Defense and Educational Fund, Inc. (LDF) submitted an amicus brief in *Torres v. Madrid*, a Supreme Court case that will determine whether the Fourth Amendment’s protection against unreasonable seizures applies to a significant number of police shootings. The Tenth Circuit Court of Appeals held that there is no “seizure” under the Fourth Amendment, even when police officers shoot at, and strike, a person, if the person is ultimately able to flee. That view is inconsistent with Supreme Court precedent making clear that a police shooting is a paradigm example of a “seizure,” which must be subject to scrutiny under the Fourth Amendment. Under the Tenth Circuit’s view that no seizure occurred in those circumstances, victims of police brutality, the majority of whom are Black or other people of color, will be far more limited in their ability to take legal action against police officers who employed excessive force against them.

“Police accountability needs to be enhanced, not reduced,” said LDF Assistant Counsel Kevin E. Jason. “Unfortunately, police shootings — both fatal and nonfatal — are still too common, especially within Black communities. Abandoning the Supreme Court’s longstanding, common-sense interpretation of ‘seizure’ under the Fourth Amendment will allow some of the most unjustified police shootings to escape review by the courts.”

On July 15, 2014, two New Mexico State Police officers approached plaintiff Roxanne Torres in an apartment complex garage while looking for another individual. Torres, believing the officers were carjackers, entered her vehicle and started to drive away. The officers fired a total of 13 bullets at her, ultimately striking her twice in the back. Torres filed a complaint alleging excessive force. The District Court granted summary judgment to the officers, and the Tenth Circuit affirmed, finding that the shooting did not constitute a “seizure” and, thus, did not trigger Fourth Amendment protections because Ms. Torres was able to drive away.

LDF’s amicus brief argues that the Tenth Circuit’s ruling will leave many innocent victims of police shootings without a remedy. To uphold the lower court’s decision would go against Supreme Court precedent, which has previously decided that a Fourth Amendment “seizure” occurs when police either apply physical force to a person or take action that would make a reasonable person feel as though they are not free to leave an interaction.

The brief also argues that Black people’s lived experiences demonstrate the need to guarantee their Fourth Amendment rights, as they are the most vulnerable to police abuse. The lower court’s ruling undermines these constitutional protections — and, if affirmed by

the Supreme Court, will place even more Black Americans at risk of experiencing abusive and violent policing.

“African Americans have borne the brunt of police brutality throughout our nation’s history until the present day,” said LDF Assistant Counsel Ashok Chandran. “Unduly narrowing the Fourth Amendment to exclude obvious forms of police uses of force from constitutional scrutiny will further endanger the lives of many Black individuals and deprive them of relief in even the most egregious cases.”

Read the amicus brief [here](#).

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Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation’s first civil and human rights law organization. LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF’s Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF.

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