

Case No. 16-3014

**IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

ADLYNN K. HARTE, ET AL.,
PLAINTIFFS-APPELLANTS,

V.

THE BOARD OF COMMISSIONERS OF THE COUNTY OF JOHNSON,
KANSAS, ET AL.,
DEFENDANTS-APPELLEES,

AND

NATE DENTON, DEPUTY, IN HIS INDIVIDUAL CAPACITY,
DEFENDANT.

On Appeal from the United States District Court
for the District of Kansas, Judge John W. Lungstrum
No. 2:13-cv-02586

**MOTION OF THE CATO INSTITUTE
FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE***

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MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE*

Pursuant to F.R.A.P. 29.2(b), the Cato Institute moves for leave to file an *amicus curiae* brief supporting Plaintiffs-Appellants and reversal. The Plaintiffs-Appellants and the Defendants-Appellees represented by P. Benjamin Cox consented to Cato's filing, but the Defendants-Appellees represented by Lawrence Ferree III withheld consent.

The Cato Institute was established in 1977 as a nonpartisan public policy research foundation dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato's Center for Constitutional Studies was established in 1989 to promote the principles of limited constitutional government that are the foundation of liberty. Toward those ends, Cato has participated as *amicus curiae* in numerous cases before this court and others. Cato also works to defend individual rights through publications, lectures, conferences, public appearances, and other endeavors, including through its Project on Criminal Justice and the annual *Cato Supreme Court Review*. This case is of central concern to Cato because it implicates the safeguards that the Fourth Amendment provides against the use of military-style raids in criminal searches and seizures.

Amicus's brief will aid the court in resolving the legal issues that this case presents. Cato “possess[es] an adequate interest and present arguments that are useful to this court” regarding searches and seizures at common law, the Fourth Amendment’s original meaning, and “reasonableness” as applied to dynamic raids. *Hydro Res., Inc. v. United States EPA*, 608 F.3d 1131, 1143 n.7 (10th Cir. 2010). Its brief offers a detailed, factually focused explanation of the scope of the problem of paramilitary raids, its relation to Fourth Amendment doctrine, and the restriction that the common law places on the use of such force. More importantly, *amicus* offers analysis of the Tenth Circuit’s own precedent on dynamic raids, and how it may clarify its standards for the better protection of officers and civilians. The extensive discussion of the necessity of a nuanced response will help the Court by providing “useful” and unique arguments. *See id.* at 1143 n.7.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned, attorney of record for movant, hereby certifies that on April 14, 2016, an identical electronic copy of the foregoing was uploaded to the Court's CM/ECF system, which will automatically generate and send by electronic mail a Notice of Docket Activity to all registered attorneys participating in the case. Such notice constitutes service on those registered attorneys.

/s/ Ilya Shapiro

Dated: April 14, 2016

Attorney for *amicus curiae* Cato Institute