

United States Court of Appeals
for the Fifth Circuit

No. 25-51061

United States Court of Appeals
Fifth Circuit

FILED

October 8, 2026

Thomas B. Plunkett, III
Clerk

DEBBIE NAVEJAS, *as Representative of* THE ESTATE OF ARMANDO
NAVEJAS, *deceased*,

Plaintiff—Appellant,

versus

CITY OF EL PASO; S. JASO, *Officer*,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 3:22-CV-225

Before JONES, SOUTHWICK, and DUNCAN, *Circuit Judges*.

STUART KYLE DUNCAN, *Circuit Judge*:

Responding to a domestic-violence call, El Paso Police Officer Steven Jaso encountered seventy-year-old Armando Navejas outside his home. While the parties dispute certain aspects of the encounter, it is undisputed that Armando repeatedly ignored Jaso's commands, picked up and threw objects at him, and struck Jaso with one of them. Jaso deployed his taser once, causing Armando to fall. Tragically, after being taken to the hospital, Armando died.

No. 25-51061

Navejas's daughter, Debbie, sued Jaso under 42 U.S.C. § 1983 for excessive force and sued the City of El Paso under *Monell v. Department of Social Services*, 436 U.S. 658 (1978). The district court granted both defendants summary judgment. As to Jaso, the court concluded he was entitled to qualified immunity because his single taser use to subdue Armando violated no clearly established law. The court also concluded that no evidence showed the City was deliberately indifferent.

We affirm. We need not decide whether Jaso's using the taser violated the Fourth Amendment. Even resolving any genuine factual disputes in the plaintiff's favor, no precedent clearly forbade Jaso from deploying his taser once against the erratic, actively resisting suspect he confronted. As to the City, even assuming a Fourth Amendment violation, there was no evidence from which a jury could find the City deliberately indifferent to a known or obvious risk of that violation.

AFFIRMED.

I

A

Armando Navejas, a seventy-year-old man, suffered from dementia and Alzheimer's disease, conditions causing confusion, disorientation, and memory loss. His family had previously sought help from the El Paso Police Department ("EPPD") when he wandered from his residence. Most recently, Armando went missing on the evening of October 23, 2021, after which officers found him and returned him home.

About six hours later, at about 2:14 a.m. on October 24, Armando's wife, Josephine, called the police. She reported that, when she tried to give Armando his medicine, he became violent and tried to strangle her, and she was concerned he might hit her again. The call was classified as "Family

No. 25-51061

Violence” and dispatched as an assault in progress. The dispatcher also recorded that Armando had no access to weapons, that no medical attention was needed, and that his wife was not then in immediate danger. Jaso was dispatched to the residence.

According to Jaso, when he arrived he saw Armando running from the residence into a neighboring yard. Jaso ordered Armando to stop and speak with him, but Armando ignored him. Armando then reached down, picked up an object, charged Jaso, and threw the object, striking Jaso in the shin. Jaso continued ordering Armando to stop picking up objects. Armando did not comply. Jaso says Armando then picked up another object, held it above his head, and threw it toward him, barely missing. Jaso believed Armando had thrown a “broken half brick” at him. When Armando turned away, Jaso deployed his taser.

Certain details of Jaso’s account are disputed. The later-filed complaint claims Armando was “slowly and gingerly walking,” rather than charging Jaso, and disputes Jaso’s characterization of the objects as bricks. The complaint points to surveillance video and other evidence suggesting at least one object was a lightweight piece of shrub or wood. It also emphasizes that Armando was seventy years old, weighed about 130 pounds, suffered from dementia and Alzheimer’s, and appeared confused.

The surveillance video submitted to the district court (from a camera mounted on the house across the street) shows Armando walking through the neighboring property, bending down and picking up an “unidentifiable object,” and then walking toward the front of the driveway. At one point Armando raises his arm and lowers it in a throwing motion. A few seconds later, he steps toward Jaso while holding a “significantly larger object” with two hands, apparently a potted plant. Armando heaves the object toward Jaso but it lands on the hood of a parked car. Within a matter of seconds, Jaso runs

No. 25-51061

around the car and tases Armando once in the back. Armando falls forward. The parties agree Armando was knocked unconscious by the fall and was handcuffed by assisting officers.

Armando was hospitalized and later died.

B

Debbie Navejas, representing her father's estate, sued Jaso and the City (from this point, references to "Navejas" are to the plaintiff). As relevant here, she alleged Jaso's taser use constituted excessive force under the Fourth Amendment and that the City was liable under *Monell* based principally on inadequate training and supervision.

Jaso and the City moved for summary judgment. The district court granted both motions.

The court held the estate failed to overcome qualified immunity because the law did not clearly establish that Jaso's conduct was unconstitutional. The court emphasized that, notwithstanding disputes about the precise objects Armando threw and his manner of movement, the video and undisputed evidence showed Armando failed to comply with commands, threw multiple objects at Jaso, and remained unsecured when Jaso used the taser.

As to the City, the court concluded Navejas had failed to establish the elements of municipal liability, in particular deliberate indifference.

Navejas timely appealed.

II

"We review a summary judgment *de novo*, applying the same standards as the district court." *Arenas v. Calhoun*, 922 F.3d 616, 620 (5th Cir. 2019). Summary judgment is warranted "if the movant shows that there

No. 25-51061

is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” FED. R. CIV. P. 56(a).

Qualified immunity alters the usual summary judgment burden, however, “shifting [the burden] to the plaintiff to show that the defense is not available.” *Cloud v. Stone*, 993 F.3d 379, 383 (5th Cir. 2021) (citation omitted). “We still draw all inferences in the plaintiff’s favor.” *Ibid.*

To overcome qualified immunity, a plaintiff must show (1) the officer violated a federal statutory or constitutional right and (2) “the unlawfulness of the conduct was ‘clearly established at the time.’” *Id.* at 383 (citation omitted). “We can analyze the prongs in either order or resolve the case on a single prong.” *Ibid.*; see *Pearson v. Callahan*, 555 U.S. 223, 236 (2009).

III

We first consider whether the district court correctly granted summary judgment dismissing the excessive force claim against Jaso on the basis of qualified immunity.

A

Navejas initially argues that factual disputes precluded summary judgment. She contends the district court improperly credited Jaso’s testimony that Armando was charging him and throwing bricks, notwithstanding evidence from which a jury could disbelieve that account.

We disagree. As Jaso points out, the district court acknowledged the parties’ differing versions of the encounter. Nonetheless, the court based its qualified immunity ruling on the “uncontroverted” facts as corroborated by the surveillance video—specifically, that Armando “threw at least two, possibl[y] more, objects at [Jaso]”; that Armando failed to comply with Jaso’s “multiple verbal commands”; and that Jaso tased Armando when he was “walking ... towards ... other officers” and in the direction of his

No. 25-51061

residence “where Mrs. Navejas—who had just accused her husband of assaulting her—was located.”

In sum, the district court correctly focused its ruling on the undisputed facts material to the qualified immunity analysis. *See, e.g., Joseph ex rel. Estate of Joseph v. Bartlett*, 981 F.3d 319, 331 (5th Cir. 2020).

B

Navejas next argues that the district court erred by granting Jaso qualified immunity because his tasing Armando constituted excessive force and violated clearly established law. She emphasizes the relatively minor threat she claims Armando posed, his age and mental condition, the availability of de-escalation techniques, the disputed nature of the objects he threw, and evidence that he was moving away from Jaso. She further argues Jaso should have given Armando additional time to comply before resorting to the taser.

Jaso responds that the undisputed facts show Armando’s active resistance, not passive noncompliance. He stresses that he was responding to a reported assault and that Armando ignored repeated commands, threw objects at him, struck him with one, and remained uncontrolled. He also argues the Fourth Amendment does not require officers to delay responding to a potentially serious threat merely because a suspect suffers from mental illness.

We resolve this question, as the district court did, based on the second prong of qualified immunity. *See Pearson*, 555 U.S. at 236. We therefore assume *arguendo* that the tasing violated the Fourth Amendment. Even so, Navejas still must show that, on October 24, 2021, then-controlling precedent made the unlawfulness of that conduct sufficiently clear that every reasonable officer in Jaso’s position would have understood he was violating

No. 25-51061

the Fourth Amendment. As explained below, she has failed to make that showing.

“The clearly established inquiry is demanding, especially in claims for excessive force.” *Harmon v. City of Arlington*, 16 F.4th 1159, 1167 (5th Cir. 2021) (citing *Morrow v. Meachum*, 917 F.3d 870, 874 (5th Cir. 2019)). A plaintiff must identify precedent that “squarely governs” the specific facts confronting the officer. *Kisela v. Hughes*, 584 U.S. 100, 104 (2018) (citation omitted). Courts must therefore “frame the constitutional question with specificity and granularity,” *Morrow*, 917 F.3d at 874–75, rather than “at a high level of generality,” *Ashcroft v. al-Kidd*, 563 U.S. 731, 742 (2011). The “violative nature of particular conduct” must have been clearly established “in light of the specific context of the case.” *Mullenix v. Luna*, 577 U.S. 7, 12 (2015) (per curiam) (citation omitted). In short, controlling precedent must have placed the constitutional question “beyond debate.” *al-Kidd*, 563 U.S. at 741.

1

To argue that Jaso violated clearly established law, Navejas relies on our precedents teaching that officers may not abruptly resort to a taser against someone who poses no immediate threat and is not actively resisting. She focuses principally on *Hanks v. Rogers*, 853 F.3d 738 (5th Cir. 2017), *Newman v. Guedry*, 703 F.3d 757 (5th Cir. 2012), *Ramirez v. Martinez*, 716 F.3d 369 (5th Cir. 2013). Jaso responds that these cases are materially different: unlike the situation he faced, they involved suspects who posed no threat, offered only minimal or “passive” resistance, or had already been brought under control. We agree with Jaso.

The cases Navejas cites involved officers’ gratuitous use of force against non-resisting or already-restrained suspects. In *Newman v. Guedry*, for instance, officers repeatedly beat and tased a man merely for making a

No. 25-51061

suggestive comment during a traffic stop. 703 F.3d at 760. The man “posed no threat to anyone’s safety ... and did not resist the officers or fail to comply with a command.” *Id.* at 763–64. Similarly, in *Ramirez v. Martinez*, officers tased a man after he was subdued. 716 F.3d at 372–73, 379. Despite “pos[ing] no threat to the officers,” the man was “tased twice, including once after he was handcuffed and subdued while lying face down on the ground.” *Id.* at 379. Or again, in *Hanks v. Rogers*, an officer violently struck an otherwise compliant suspect during a stop solely because he “passive[ly]” resisted the officer’s command to kneel for twenty seconds. 853 F.3d at 746–47.

Those cases are quite a ways from this one. Here it was undisputed that (1) Armando was the subject of a domestic violence call reporting he had tried to strangle his wife; (2) Jaso gave repeated commands that Armando ignored; (3) Armando threw objects at Jaso, one of which struck him; and (4) Jaso deployed his taser only once in order to subdue a noncompliant suspect.

In short, none of these decisions “squarely governs” the particular situation confronted by Jaso.

2

That conclusion gains force in light of our cases discussing when officers may resort to a taser to subdue non-compliant suspects.

In *Cloud v. Stone*, we explained that “a suspect’s active resistance to arrest may justify” a taser. 993 F.3d at 384. True, tasing may be excessive when an arrestee merely “pull[ed] his arm out of the officer’s grasp” or when he had not “attempted flight ... or disobeyed any commands.” *Id.* at 385. On the other hand, tasing may be reasonable where a suspect “resists arrest or fails to follow police orders.” *Ibid.*

No. 25-51061

Ramirez v. Escajeda reinforces that point. *See* 44 F.4th 287 (5th Cir. 2022). There, another El Paso officer responded alone to an ongoing suicide and found a man hanging from a basketball hoop. *Id.* at 289. It was dark, the man did not respond to commands, and the officer feared he might be armed. So the officer tased him once. *Id.* at 292. We held that the officer was entitled to qualified immunity at prong two. Even assuming the perceived threat was groundless—and the tasing might have been excessive—no case clearly established the officer’s conduct was unlawful. *Id.* at 293–94.

True, *Escajeda* was decided in 2022 and could not have informed Jaso’s 2021 conduct one way or the other. But the decision is instructive because it considered the same authorities Navejas relies on here. Aside from *Newman* and *Martinez*, already discussed, the *Escajeda* plaintiffs cited *Bush v. Strain*, 513 F.3d 492 (5th Cir. 2008), which involved a police officer violently slamming a woman into a car window after she had been handcuffed and submitted to arrest. *Bush*, 513 F.3d at 496. We explained that all three cases involved plaintiffs already under police control—either handcuffed or submitting to a frisk—who were nonetheless subjected to gratuitous force. *See Escajeda*, 44 F.4th at 293–94. The cases did not concern officers confronting an uncontrolled person in a “tense, uncertain, and rapidly evolving” situation. *Id.* at 294 (citation omitted).

And finally, we confronted similar arguments in another taser case, *Betts v. Brennan*, 22 F.4th 577 (5th Cir. 2022). In *Betts*, the suspect was tased after he, among other things, repeatedly resisted an order to walk behind his car and batted the officer’s hand away, which was enough to distinguish the situation from *Hanks*. *Betts*, 22 F.4th at 584. Here, Armando not only resisted Jaso’s orders but offered more significant force against Jaso than batting his hand away: he threw objects at him. When it comes to assessing qualified immunity, “these multiple factual distinctions matter.” *Id.* at 586.

No. 25-51061

In sum, these decisions confirm that Jaso violated no clearly established law by using his taser in this situation. Contrary to Navejas's argument, there was nothing "passive" about Armando's erratic behavior. Nor was he under any restraint when he was tased. To the contrary, he had repeatedly disregarded commands and thrown objects at Jaso. And, finally, Jaso tased Armando "only once," which "shows a reasonable relationship between the need for force and the amount of force used." *Betts v. Brennan*, 22 F.4th 577, 584 (5th Cir. 2022) (quoting *Bartlett*, 981 F.3d at 332) (internal quotation omitted).¹

In sum, the district court correctly granted summary judgment dismissing the excessive force claim against Officer Jaso.

IV

Navejas also challenges the summary judgment in favor of the City. She asserted five theories of municipal liability: (1) failure to train or supervise officers dealing with persons suffering mental-health crises; (2) failure to discipline officers who use excessive deadly or intermediate force generally; (3) failure to discipline officers who use excessive force against persons experiencing mental-health crises; (4) failure to deploy the Crisis Intervention Team ("CIT"); and (5) ratification.

On appeal, Navejas principally challenges the district court's conclusion that she lacked evidence of deliberate indifference. She also relies

¹ Navejas argues that *Samples v. Vadzemnieks*, 900 F.3d 655 (5th Cir. 2018), shows that police may not tase someone merely for not following instructions. *Samples* does not help her case, however. There, it was disputed whether the suspect was merely wandering or actively resisting before being tased. *See id.* at 661-62. *Samples* does not support the notion that the conduct present here—repeated noncompliance coupled with throwing objects at an officer—should be treated as mere "passive" resistance.

No. 25-51061

on incidents discussed in two other district court decisions to supply the preexisting pattern the district court found missing. Alternatively, she asks us to remand for additional discovery. None of those arguments warrants reversal.

A

We begin with Navejas’s failure-to-train and failure-to-supervise theory.

To establish such a claim, Navejas must show “1) the [City] failed to train or supervise the officers involved; 2) there is a causal connection between the alleged failure to supervise or train and the alleged violation of the plaintiff’s rights; and 3) the failure to train or supervise constituted deliberate indifference to the plaintiff’s constitutional rights.” *Thompson v. Upshur County, TX*, 245 F.3d 447, 459 (5th Cir. 2001). A municipal liability claim “is at its most tenuous where [it] turns on a failure to train.” *Connick v. Thompson*, 563 U.S. 51, 61 (2011).

The district court resolved this claim on the third element. It recognized that Navejas’s expert, Scott DeFoe, opined that EPPD inadequately trained Jaso in crisis intervention, de-escalation, verbal strategies, situational awareness, and less-lethal force. And it assumed DeFoe’s report raised a fact issue concerning the sufficiency of Jaso’s training. Even so, Navejas still had to show that the asserted deficiency reflected deliberate indifference.

Ordinarily, that requires “[a] pattern of similar constitutional violations by untrained employees.” *Connick*, 563 U.S. at 62. The requirement serves an important purpose. “Without notice that a course of training is deficient in a particular respect,” policymakers “can hardly be said to have deliberately chosen a training program that will cause violations of constitutional rights.” *Ibid.*

No. 25-51061

The evidence Navejas presented below did not supply that notice.

In opposing summary judgment, Navejas relied on two incidents involving EPPD and mentally impaired people. One involved the fatal shooting of Martin Herrera; the other involved the tasing of sixteen-year-old Julian Pino. But both occurred years after Jaso tased Armando in October 2021. Although subsequent incidents may sometimes contribute to proof of a pattern, Navejas identified no similar EPPD incident predating the alleged violation here. The district court therefore concluded that “without any evidence of prior similar incidents of constitutional violations by untrained officers, Plaintiff cannot establish deliberate indifference.”²

While that should end the matter, Navejas now attempts to offer different pattern evidence for the first time on appeal.

For instance, she relies on *Sanchez v. Gomez*, No. EP-17-CV-133-PRM, 2020 WL 1036046 (W.D. Tex. Mar. 3, 2020), and the district court decision in *Ramirez v. Escajeda*, No. EP-17-CV-00193-DCG, 2021 WL 3713064 (W.D. Tex. Aug. 20, 2021). She contends those decisions discuss several pre-2021 EPPD encounters involving mentally impaired people and therefore fill the temporal gap identified by the district court. In her view, those cases show that judges in the El Paso Division had already recognized a “pattern of excessive force against the mentally disturbed” before Jaso encountered Navejas.

The City responds that Navejas never presented that evidence or argument below. Instead, her summary judgment response relied on Herrera

² Navejas also submitted an article describing police encounters with elderly people suffering from dementia. But, apart from Armando himself, none of the incidents described in the article involved EPPD.

No. 25-51061

and Pino and separately invoked *Connick*'s single-incident exception. The City therefore contends the new pattern argument is waived. We agree.

True, as Navejas points out in reply, she did not altogether omit a pattern theory below. Her summary judgment response asserted that "there are multiple factually [similar] claims where CIT has failed to correctly handle an incident" and identified Herrera and Pino. The district court accordingly considered a pattern theory.

But that does not preserve different evidence of the supposed pattern that Navejas never presented to the district court. "This Court does not 'consider arguments or evidence that was not presented to the district court.'" *Davis v. Davis*, 826 F.3d 258, 270 n.6 (5th Cir. 2016) (citation omitted); see *Provident Life & Accident Insurance Co. v. Goel*, 274 F.3d 984, 990 n.11 (5th Cir. 2001) ("As a general rule, arguments and evidence not presented in the district court in connection with a summary judgment motion are waived on appeal.").

That rule fits this case precisely. The district court decided whether the evidence Navejas presented—Herrera, Pino, the DeFoe report, and the article—showed deliberate indifference. The court was never asked to determine whether the incidents discussed in *Sanchez* and *Ramirez* were constitutional violations, sufficiently similar to Navejas's case, attributable to the asserted training deficiency, or otherwise sufficient to notify the relevant policymaker. We will not undertake that record-dependent inquiry for the first time on appeal.³

³ The City points out an additional difficulty: the incidents discussed there predated EPPD's formation of its CIT and initiation of CIT training for cadets in October 2018. Whether those older incidents could establish deliberate indifference concerning the different training regime in place in 2021 was not developed below. We need not resolve

No. 25-51061

On the record properly before us, the district court correctly found no pattern establishing deliberate indifference.

B

The single-incident theory fares no better.

As she did below, Navejas argues that a pattern was unnecessary because the need for additional training was sufficiently obvious to establish deliberate indifference from this incident alone. She relies principally on DeFoe’s criticisms of EPPD’s training.

The single-incident exception is “rare.” *Connick*, 563 U.S. at 64. It generally applies where a policymaker provides “no training whatsoever with respect to the relevant constitutional duty, as opposed to training that is inadequate only as to the particular conduct that gave rise to the plaintiff’s injury.” *Littell v. Houston Independent School District*, 894 F.3d 616, 625 n.5 (5th Cir. 2018) (internal quotation and citation omitted). The exception has no application here.

The summary judgment record showed that EPPD provided officers training in use of force, less-lethal force, and interactions with persons experiencing mental-health crises. Jaso completed seven general use-of-force classes at the police academy and another twenty-five hours of less-lethal-force training. He also completed forty-four hours of mental-health training at the academy and three seven-hour mental-health refresher courses—in December 2019, December 2020, and January 2021.

that question because Navejas did not preserve the evidence on which the argument depends.

No. 25-51061

Those facts foreclose the narrow single-incident exception. Whatever the merits of DeFoe’s criticism that Jaso should have received better or different training, this is not a case in which the City provided no training concerning the relevant constitutional duty. *See Littell*, 894 F.3d at 625 n.5. The district court correctly granted summary judgment on this theory.

C

The failure-to-discipline theory fails for similar reasons.

A plaintiff pursuing that theory must establish a municipal policy of failing to discipline officers, which may be shown through a “persistent, widespread practice” sufficiently common and well settled to constitute municipal custom. *Piotrowski v. City of Houston*, 237 F.3d 567, 579 (5th Cir. 2001). That custom must have been maintained with deliberate indifference and must have caused the constitutional violation. *Id.* at 579–80.

Navejas produced no evidence of such a custom. Her expert opined that EPPD should have disciplined Jaso and that its failure to do so “endorsed, ratified[,] and perpetuated” his conduct. But whether EPPD should have disciplined Jaso tells us nothing about a preexisting pattern of failing to discipline other officers.

Indeed, the district court found “no evidence in the record” that the City had a policy of failing to discipline officers who used excessive force. Navejas did not identify even “a single prior incident” in which EPPD failed to discipline an officer for excessive force, much less the “sufficiently numerous prior incidents” necessary to establish a widespread practice. And the record did not even disclose whether the officers involved in Herrera and Pino were disciplined.

Summary judgment was therefore proper on the failure-to-discipline claim.

No. 25-51061

D

Next is the claim based on EPPD's overnight CIT schedule.

The record establishes that, as of 2020, EPPD divided its CIT into two overlapping shifts. The result was that two CIT shifts were available between 2:00 p.m. and 6:00 p.m., but none between midnight and 8:00 a.m. Navejas argues this known overnight "gap in services" itself demonstrates "systemic indifference." We disagree.

The failure to deploy a CIT officer is not itself a constitutional violation. *Valle v. City of Houston*, 613 F.3d 536, 548 (5th Cir. 2010). Because the scheduling policy is facially lawful, Navejas must show that EPPD adopted it "with deliberate indifference" to its "known or obvious consequences." *James v. Harris County*, 577 F.3d 612, 617 (5th Cir. 2009).

The record shows the opposite. EPPD tracked when and where CIT services were most needed and determined that most CIT calls occurred between 2:00 p.m. and 6:00 p.m., while the fewest occurred overnight. It therefore overlapped two shifts during peak demand to "focus on the most effective use of its resources." And Navejas produced no evidence of a prior constitutional violation resulting from the absence of an overnight CIT shift.

That evidence does not permit a reasonable jury to find deliberate indifference. *See Valle*, 613 F.3d at 548.

Nor does the single-incident exception save this theory. There is no evidence that excessive force was a "highly predictable" consequence of not staffing a specialized CIT overnight. All EPPD officers received some CIT training, and Jaso had obtained a mental-health-officer certification and completed three seven-hour mental-health refresher courses during the three years preceding the incident. *Ibid.* Cf. *Valle*, 613 F.3d at 549–50.

No. 25-51061

The district court therefore correctly granted summary judgment on the CIT claim.

E

The ratification theory also fails.

Navejas contends EPPD's Disciplinary Review Board ratified unconstitutional conduct by exonerating Jaso despite video evidence she says contradicted his account of an imminent threat. But our cases limit ratification liability to "extreme factual situations." *Peterson v. City of Fort Worth*, 588 F.3d 838, 848 (5th Cir. 2009). "[U]nless the subordinate's actions are sufficiently extreme—for instance, an obvious violation of clearly established law—a policymaker's ratification or defense of his subordinate's actions is insufficient to establish an official policy or custom." *World Wide Street Preachers Fellowship v. Town of Columbia*, 591 F.3d 747, 754 (5th Cir. 2009).

This is not such a case. As the district court explained, Jaso tased Armando after Armando "threw at least two objects at him, refused to comply with verbal commands, and walked towards other officers and the location of the complaining witness." Whatever else may be said about Jaso's decision, those circumstances do not resemble the "extreme factual situations" in which our cases recognize ratification. *See Peterson*, 588 F.3d at 848.

More fundamentally, we have already held that Jaso did not violate clearly established law. *See supra* Part III. His conduct was therefore not the sort of "obvious violation of clearly established law" capable of supporting ratification under our precedent. *World Wide*, 591 F.3d at 754. The district court correctly rejected this theory.

No. 25-51061

In sum, the district court correctly granted summary judgment dismissing the municipal liability claim against the City.

V

Finally, Navejas asks us to remand for additional discovery if we conclude her existing pattern evidence is insufficient. We decline.

The parties jointly sought an additional discovery period below. After unsuccessfully mediating in January 2025, they moved on February 10, 2025, for a 120-day extension of the scheduling-order deadlines, explaining that they had deferred substantial discovery while pursuing mediation. The next day, the district court granted that request in part. It extended the discovery deadline to April 29, 2025—78 days—and warned the parties to proceed diligently because further extensions would require exceptional circumstances.

Navejas argues the shorter extension was inadequate, particularly given the discovery necessary to develop municipal liability evidence. She contends the abbreviated schedule prevented her from adequately developing the prior incidents discussed in *Sanchez* and *Escajeda*.

The City responds that Navejas never sought another extension after the February order and, critically, did not invoke Rule 56(d) or otherwise tell the district court when opposing summary judgment that she lacked discovery necessary to respond. The City also points out that Navejas does not identify what discovery she diligently pursued during the extended period, what specific discovery she could not complete, or what evidence that discovery would likely have produced.

We see no abuse of discretion.

No. 25-51061

A scheduling order “may be modified only for good cause and with the judge’s consent.” FED. R. CIV. P. 16(b)(4). Good cause turns importantly on the party’s diligence in attempting to meet the existing deadlines. *See S&W Enterprises, L.L.C. v. SouthTrust Bank of Alabama, N.A.*, 315 F.3d 533, 535–36 (5th Cir. 2003).

The district court did not refuse to extend discovery. It granted the parties an additional 78 days. Navejas identifies no later request for additional time that the district court denied. More importantly, when the City moved for summary judgment, Navejas did not invoke Rule 56(d) or tell the district court she could not adequately respond without additional discovery. She instead opposed summary judgment on the record then available, relying on Herrera, Pino, the DeFoe report, and other materials.

On appeal, moreover, Navejas does not explain with the necessary specificity what discovery she diligently pursued during the extension, what particular discovery the shorter extension prevented her from obtaining, or how that discovery would have supplied the evidence necessary to defeat summary judgment. On this record, she has not shown that giving the parties 78 additional days instead of the requested 120 was an abuse of discretion.

Navejas separately invokes 28 U.S.C. § 2106, pointing to events arising after judgment that she says warrant reopening discovery. But the new material consists of allegations and developments that were not part of the summary judgment record. Our review asks whether the district court erred on the record before it. *See Davis*, 826 F.3d at 270 n.6; *Provident Life*, 274 F.3d at 990 n.11. Section 2106 does not furnish a party appealing a grant of summary judgment a general opportunity to reopen discovery whenever later allegations suggest additional evidence might exist.

No. 25-51061

In sum, the request for remand is denied.⁴

VI

The district court's judgment is AFFIRMED.

⁴ The district court also dismissed Navejas's Texas common law claims for negligent hiring, training, and retention based on governmental immunity. Because she does not challenge that ruling in her opening brief, she has abandoned those claims.