

No. \_\_\_\_\_

IN THE  
SUPREME COURT OF THE UNITED STATES

Adib Eddie Ramez Makdessi, pro se — PETITIONER  
(Your Name)

vs.

Lt. Fields, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

From the Fourth Circuit Court of Appeals in Richmond, Virginia  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

pro se

Adib Eddie Ramez Makdessi, #1187926

(Your Name)

Red Onion State prison

P.O. Box 970

(Address)

10800 H Jack Rose Highway

Pound, VA 24279

(City, State, Zip Code)

Unknown

(Phone Number)

QUESTION(S) PRESENTED

1- The Fourth Circuit First opinion (Appendix D) Finding in Makdessi's Favor, is in serious Conflict with their second opinion (Appendix A) by overlooking so much of the evidence that was held in their First opinion.

2- Just because Makdessi is From Lebanon (Middle East) the Defendants called him "SAND NIGGER" and "BITCH" and "SNITCH" and deliberately tried to have him Killed, according to the many evidence addmited at trial that was overlooked in the second and Final opinion. pages 6,7 and 8.

3- The Fourth Circuit also overlooked the new evidence presented on remand, Doc. 199-1 and 199-3, that proves the Defendants deliberately, intentionally and knowingly tried to get Makdessi Killed. pages 6,7 and 8.

4- Makdessi spent 35 days in the prison infirmary with severe injuries "For wanting to teach the SAND NIGGER Makdessi a Leason" the Defendants said..... see pages 7 and 8

5- The Fourth Circuit Final opinion (Appendix A) is also in Conflict with this Supreme Court in Farmer V. Brennan, 511 U.S. 825 (1994). see page 5,  
[see also (page 28 of Appendix D) ruling correctly in their First opinion]

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Lt. Fields ; Sgt. King ; Capt. Gallihar.  
Defendants - Appellees.

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## INDEX TO APPENDICES

APPENDIX A *Final Opinion of the Fourth Circuit in the second appeal, 16 pages*

APPENDIX B *Opinion of District Judge adopting Report and Recomendation and Final order 11 pages*

APPENDIX C *Magistrate Judge Report and Recomendation 87 pages*

APPENDIX D *Opinion of the Fourth Circuit in the First appeal 44 pages*

APPENDIX E *ORDER on April 20, 2018 , denying properly Filed rehearing and denying Doc. 56 For order of protection From the Defendants whom had Makdassi set-up and assaulted by STAFF and severely injured his Knee on 8-3-2015 in retaliation. See Doc.56 and X-rays and Doc. 63 and X-rays and M.R.I. 2 pages*

## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

Brice v. Virginia Beach Corr. Ctr., 58 F.3d. 101 (4<sup>th</sup> Cir 1995) -- 5, and 8

Farmer v. Brennan, 511 U.S. 825 (1994) ----- 5, and 9

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### STATUTES AND RULES

### OTHER

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

*The opinion of the Magistrate Judge Report and Recommendation is at Appendix C*

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was Dec. 7, 2017.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: April 20, 2018, and a copy of the order denying rehearing appears at Appendix E.

An extension of time to file the petition for a writ of certiorari was granted to and including Sep. 17, 2018 (date) on June 29, 2018 (date) in Application No. 18 A 1.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

*8<sup>th</sup> Amendment, Cruel and Unusual punishments.*

*14<sup>th</sup> Amendment, Due process.*

## STATEMENT OF THE CASE

In the First Appeal, the Fourth Circuit on March 12, 2015 No. 13-7606 (Appendix D) Finding in Plaintiff Makdessi's Favor, and remanded the case, the Fourth Circuit held:

"Prison officials may not simply bury their heads in the sand and thereby skirt liability. Rather, they may be held accountable when a risk is so obvious that it had to have been known. Because we do not believe that the Court below appreciated this nuance, we vacate the dismissal of Makdessi's claim against Defendants Fields, King and Gallihar." (page 3 of Appendix D)

"From the first day Makdessi arrived at Wallence Ridge prison Defendant King, repeatedly called Makdessi names including 'SAND NIGGER' and 'BITCH' and 'SNITCH'" (page 4 of Appendix D)

"December 8, 2010 Smith beat and raped Makdessi, Makdessi tried to report this incident to Sgt. King, but King told him to 'get the hell away from him' and no investigation occurred" (page 5 of Appendix D)

"Makdessi also underscored that despite the multiple attacks and his telling Defendant Fields and others that he was in 'DANGER' and needed to be placed in protective custody, he remained unprotected in the cell with Smith" (page 5 of Appendix D)

"Makdessi told Defendant Fields on Dec. 20, 2010 that he feared for his life due to his cellmate Smith, a gang leader, and that he wanted to be placed in protective custody" (page 6 of Appendix D)

"The following day, Dec. 21, 2010, Smith attacked Makdessi, Smith punched and beat Makdessi, called him a 'snitch' and then raped Makdessi" (page 6 of Appendix D)

“Crucially, nearly all grievances express ongoing fear of physical harm or retaliations” (page 29-30 of Appendix D)

“Makdessi clearly suffered serious physical injuries and that the evidence admitted at trial ‘undoubtedly’ shows that Makdessi filed numerous grievances and complaints to various departments, and he wrote letters to the Assistant Warden and Director of [Virginia Department of Corrections] of being sexually assaulted on multiple occasions while incarcerated” (page 9 of Appendix D)

“Makdessi was left in the cell with Smith until his physical and mental injuries from the Dec. 21, 2010 attack sent him to the prison infirmary for a month and a half” (page 19 of Appendix D)

“Defendants offered no testimony or other evidence that they did not know that Makdessi and Smith were cellmates. And evidence in the records suggests that Defendants did indeed know of this<sup>(5)</sup>” (page 27 of Appendix D)

“Finally, the district court appears not to have considered the obvious risk in housing Makdessi with Smith in the context of Makdessi’s many grievances documenting prior physical and sexual assault at the prison. The district court properly recognized that knowledge of serious risk of harm could be inferred by demonstrating a ‘longstanding, pervasive, [and] well-documented’ risk, Farmer, 511 U.S. at 842. But the court discounted Makdessi’s evidence of exactly ‘well-documented’ risk for two, equally unpersuasive reasons.” (page 28 of Appendix D)

“A prison official cannot hide behind an excuse that he was unaware of a risk, no matter how obvious.” Brice, 58 F.3d. at 105. (page 14 of Appendix D)

## EVIDENCE AND FACTS NOT CONSIDERED IN VIOLATION OF DUE PROCESS

After the Fourth Circuit ordered remand in their First opinion (Appendix D), the District Court held another trial on Nov. 12, 2015, where new evidence was presented as Doc. 199-1 and 199-3, that was Not considered;  
Doc. 199-1 is inmate Locator Cards of Makdessi's prison records;  
Doc. 199-3 is a report and Facts of Makdessi's prison records at Wallens Ridge prison From the day he arrived until the day he Left to Keen Mountain prison protective Custody;

Quoting Doc. 199-3:

"Makdessi is well Known among staFF and inmates For being a 'SNITCH'"

"Due to his VULNERABILITY he was Placed in the SAM unit"

[SAM unit is c-2 unit, same protective Custody!] (according to Doc. 199-3)

Makdessi was placed in the SAM c-2 unit on 7-23-2010 (according to Doc. 199-1) From D-building, and should never be in D-building!

Doc. 199-1 and 199-3 was overlooked by the Fourth Circuit in their Final opinion (Appendix A) that proves 100% that all Defendants Knew Makdessi's Life is in danger in their D-building, especially after Makdessi Filed complaints (Doc. 147-7, 147-8 and 147-9) that were reviewed by all three Defendants in the presence of investigator McBride in D-building office whom investigated and concluded that [ "Makdessi is Known as a 'SNITCH' by all staFF and all inmates" ] in D-building (according to Doc. 199-3), and due to security issues, investigator McBride ordered all three Defendants in Makdessi's presence in D-building office that

Makdessi should be sent to the SAM C-2 unit, and McBride told Makdessi that he will never return to this D-building because his life is in danger for being known as a "SNITCH" by all inmates;

Makdessi was removed from the Defendants D-building on 7-23-2010 (according to Doc. 199-1) and "sent to (Sami protective custody) the SAM C-2 unit due to his 'Vulnerability'" for his protection (according to Doc. 199-3);

Then, the Defendants seen Makdessi in the chow hall and told him:

"we are planning to transfer your 'SAND NIGGER' ass back to our D-building and teach you to stop filing complaints";

Sure thing, the Defendants somehow [Planned and Arranged] for Makdessi's removal from (Sami protective custody) the SAM C-2 unit on 8-6-2010 (according to Doc. 199-1) and deliberately returned him back to their own D-building where they knew [his life is in danger] and deliberately and knowingly placed the known snitch and vulnerable Makdessi in cell D-142 with a known predator gangster desiple Smith, for Makdessi to be killed.

This is so obvious and deliberate and intentional and PLANNED, and proven 100% according to the above new evidence and facts that were overlooked by the lower court in (Appendix A) and Not Considered.

see Copies of Doc. 199-1 and 199-3 attached to this Certiorari.

Also, Makdessi Filed so Many Grievances and Complaints From cell D-142 that were all stamped received and then returned by the Defendants to Makdessi by hand (Doc. 147-14, 147-15, 147-16, 147-17, 147, 18, 147-19, 147-21, 147-22, and 147-23), and still, the Defendants Left Makdessi in the same cell D-142 with all the physical and sexual assaults by Smith.

In the First opinion (Appendix D) the Fourth Circuit correctly held :

"A prison official cannot hide behind an excuse that he was unaware of a risk, no matter how obvious. Brice, 58 F.3d 105" (page 14 of Appendix D)

In the second opinion (Appendix A) the Fourth Circuit decided to overlook all the above new evidence and Facts, and overlooked all their First ruling and evidence and Facts held in their First opinion (Appendix D), and allowed the Defendants to hide behind an excuse that they were unaware of a risk (by Suborn perjuries), when all the above evidence and Facts makes it Clear and Obvious that the Defendants PLANNED and deliberately tried to have Makdessi Killed;

"For wanting to teach the SAND NIGGER Makdessi a Lesson" they said.

See Copies of Doc. 199-1 and 199-3 attached to this Certiorari

The Defendants and their attorneys suggested that its O.K. For all the bad things that happened to Makdessi because he is serving two Life sentence. When Makdessi's INNOCENCE and Extrinsic Fraudulent Conviction is pending in Virginia Supreme Court Case No. 180607. And at the same time his initial direct appeal is also pending and reopened For Extrinsic Fraud Upon the initial Court of Appeals No. 0898-06-1 and For Concealments of So Much Exculpatory evidence.

## REASONS FOR GRANTING THE PETITION

The Fourth Circuit made their second opinion (Appendix A) in serious conflict with their First opinion (Appendix D) by serious errors;

By overlooking the new evidence presented on remand that proves 100% that the Defendants PLANNED and deliberately tried to have Makdessi Killed;

By also overlooking all the evidence, Facts and rulings they held in their First opinion (Appendix D).

And Violated Makdessi's 14<sup>th</sup> Amendment Due Process by not considering the new evidence Doc. 199-1 and 199-3 and all the Facts presented in this Certiorari.

The Fourth Circuit Final opinion (Appendix A) is also in conflict with this Supreme Court in Farmer v. Brennan, 511 U.S. 825 (1994). See page 5.  
[see also (page 28 of Appendix D) ruling correctly in their First opinion.]

The Lower Court did not consider the Medical records admitted at trial that proves Makdessi's [brain injured memory problems] and taking strong dosage of pain Medication that caused him [drowsiness and dizziness] during his testimony.

## CONCLUSION

I declare under penalty of perjury that the foregoing is true and correct.

The petition for a writ of certiorari should be granted. against all defendants.

Respectfully submitted,

Shlomo Kahn

Date: July 2nd, 2018