8/7/19

No. 19-188

In The

Supreme Court of the United States

IKECHUKWU HYGINUS OKORIE,
Medical Doctor,

Petitioner,

v.

VIRGINIA M. CRAWFORD, M.D.; CHARLES D. MILES, M.D.; RICKEY L. CHANCE, D.O.; CLAUDE D. BRUNSON, M.D.; JOHN C. CLAY, M.D.; S. RANDALL EASTERLING, M.D.; C. KENNETH LIPPINCOTT, M.D.; WILLIAM S. MAYO, D.O.; J. ANN REA, M.D.; H. VANN CRAIG, M.D.; JONATHAN DALTON; LESLIE ROSS,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

IKECHUKWU HYGINUS OKORIE
Petitioner Pro Se
107 Ralph Rawls Road
Hattiesburg, MS 39402
305-479-7945

QUESTIONS PRESENTED

A search of a medical clinic pursuant to an administrative search warrant that resulted in the doctor being detained for three to four hours under circumstances found by the district court to constitute an arrest. During that time, an investigator, who is a peace officer under state law with the power to make arrests without warrant for a crime committed in his presence, pushed the doctor down, drew his gun multiple times, and limited the doctor's movement and access to facilities such as the restroom.

The issues are (1) whether these allegations establish a clearly defined Fourth Amendment violation, namely an arrest made without probable cause and the intrusive detention, such that the investigator may not rely upon a qualified immunity defense; and (2) whether the Fifth Circuit violated the standard of review for a judgment on the pleadings and holding in *Tolan v. Cotton*, 572 U.S. 650, 660 (2014) (per curiam) "by weighing the evidence and reaching factual inferences contrary to [petitioner's] competent evidence" in determining whether the investigator's "actions violated clearly established law."

LIST OF PARTIES

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

RELATED CASES

Ikechukwu Okorie v. MS Board of Medical Licensure, 18-60312, United States Court of Appeals for the Fifth Circuit, Judgment Entered October 9, 2018.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page

FEDERAL CASES

TABLE OF AUTHORITIES – Continued

STATE CASES

TABLE OF AUTHORITIES – Continued

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

The Opinion of the United States Court of Appeals for the Fifth Circuit appears in the Appendix at A1 and is reported at 921 F.3d 430 (5th Cir. 2019).

The Opinions of the United States District Court for the Southern District of Mississippi have not been officially reported and are found in the Appendix at A21 and A34.

JURISDICTION

The Court of Appeals issued its decision on April 12, 2019. A timely petition for rehearing and rehearing en banc was denied on May 13, 2019. A copy of the order denying rehearing and rehearing en banc may be found in the Appendix at A36.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const., Amendment IV:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Miss. Stat. § 41-29-159(a):

(a) Any officer or employee of the Mississippi Bureau of Narcotics, investigative unit of the State Board of Pharmacy, investigative unit of the State Board of Medical Licensure, investigative unit of the State Board of Dental Examiners, investigative unit of the Mississippi Board of Nursing, investigative unit of the State Board of Optometry, any duly sworn peace officer of the State of Mississippi, any enforcement officer of the Mississippi Department of Transportation, or any highway patrolman, may, while engaged in the performance of his statutory duties:

(1) Carry firearms;

(2) Execute and serve search warrants, arrest warrants, subpoenas, and summonses issued under the authority of this state;

(3) Make arrests without warrant for any offense under this article committed in

his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a crime; and

(4) Make seizures of property pursuant to this article.

Miss Stat. § 45-6-11(3)(a):

No person shall be appointed or employed as a law enforcement officer or a part-time law enforcement officer unless that person has been certified as being qualified.

STATEMENT OF THE CASE

Petitioner, Dr. Okorie, filed this action pursuant to 42 U.S.C. § 1983 against the members of the Mississippi Board of Medical Licensure that conducted a hearing against him on November 12, 2015 and Board investigators Jonathon Dalton and Leslie Ross. ROA.8-ROA.36[1]. The defendants were sued only in their individual capacities. *Id.*

The complaint alleges that Defendants (1) violated his Fourteenth Amendment procedural due process rights by denying him sufficient notice and a fair opportunity to be heard; (2) violated his substantive due process rights by depriving him of his liberty interest in pursuing his occupation; and (3) falsely arrested him without probable cause in violation of the Fourth

[1] ROA refers to the electronic Record on Appeal.

Amendment. Dr. Okorie also asserts state law claims of false imprisonment and defamation. The complaint seeks monetary damages, including lost future profits, in an amount in excess of $12.5 million, in addition to costs, expenses, and attorneys' fees. ROA.8-ROA.36.

The action stems from Dr. Okorie's operation of a primary care facility out of his Hattiesburg clinic, the Inland Family Practice Center ("Inland"). ROA. 13. In 2007, the Mississippi State Board of Medical Licensure ("Board") first issued Dr. Okorie a certificate to prescribe opioids and other pain medications to patients. ROA.108, ROA.215. On October 28, 2010, Board investigators and a Drug Enforcement Agency ("DEA") officer visited Inland to investigate whether, based upon patient records, Dr. Okorie excessively prescribed medications. ROA.215. They were concerned that some patients were on a combination of opiates, benzodiazepines, and Carisprodol. ROA.215. They discussed the matter with Dr. Okorie, who said he would implement changes to insure that practice complied with the Board's regulations and state law. ROA.215.

On October 13, 2011, Board investigators returned to Inland to conduct a follow-up visit. ROA.215. They again found similar drug combinations in patient records. ROA.215. Still, four days later, the Board granted Dr. Okorie a pain certificate, which was the first year that the Board required such certificates and which allowed him to continue prescribing opioids and other pain medications to patients. ROA.15.

Dr. Okorie's certification expired on June 30, 2012, and he applied to renew it. ROA.15. The Board denied his application. ROA.215. Dr. Okorie resubmitted his application and appeared before the Board's Executive Committee on July 9, 2014. ROA.216. But the Board found Dr. Okorie unqualified to receive a pain certificate. ROA.216. The Board ordered him to immediately reduce his volume of chronic pain patients and refer them to certified physicians. ROA.216.

Following the completion of additional training in pain management, Dr. Okorie again appeared before the Committee on September 3, 2014. ROA.21. Following the meeting, the Committee temporarily granted Dr. Okorie a pain certificate – subject to the approval of the entire Board. ROA.21. After the full Board reviewed the Committee's recommendations, the Board decided that it wanted additional information regarding Dr. Okorie's application and requested that he appear at the next Board meeting on November 13, 2014. ROA.21-ROA.22.

Before the November 13th meeting took place, the Board executed an Administrative Inspection and Search Warrant at Inland to obtain patient records for review. ROA.22, ROA.379-ROA.388. On October 29, 2014, five Board investigators, a Mississippi Bureau of Narcotics agent, a Hattiesburg High Intensity Drug Trafficking Area agent, and two DEA investigators searched Inland and interviewed staff. ROA.22. During the search, an armed investigator detained Dr. Okorie in his office for some three to four hours. ROA.22-ROA.23.

Insofar as now pertinent, the district court dismissed the complaint against all defendants except for the two investigators, Ross and Dalton. ROA.355-ROA.363. It found that the Board members were entitled to absolute immunity and that the state law claims were barred by the failure to give timely notice of the claims. The Fourth Amendment false arrest claim was held to survive. *Id.*

The remaining defendants asserted the affirmative defense of qualified immunity and, in response to their request for a Rule 7(a) reply, on March 7, 2018, the Court ordered Dr. Okorie to file such a reply, and directed the remaining defendants to file a motion for judgment on the pleadings on the basis of qualified immunity. ROA.363-ROA.364.

The complaint and Rule 7(a) reply provide the following facts surrounding his detention. ROA.365-ROA.374. On October 29, 2014, Dalton and Ross, along with other investigators and officers, raided Dr. Okorie's Inland Family Practice Center ("Inland"). ROA.368. Upon entering Inland, Dalton brandished his gun and pushed the doctor into his office, Dalton served Dr. Okorie with an Administrative Inspection and Search Warrant, issued two days earlier by the Circuit Court of Forrest County, Mississippi. ROA.372, ROA.379-ROA.380. The warrant authorized investigators to obtain Dr. Okorie's patient records related to the purchase, use, administration, and prescribing of controlled substances. ROA.379-ROA.380.

In the supporting affidavit, Dalton provided that, based on a data analysis of prescriptions issued by Dr. Okorie from February 1, 2014, to September 15, 2014, Dr. Okorie overprescribed controlled substances to several patients. ROA.381-ROA.385.

After reviewing the warrant, Dr. Okorie attempted to leave his office to discuss it with his staff. Dalton, however, stopped Dr. Okorie, "put his hand on Dr. Okorie's shoulder, pushed him down, and said 'if you don't sit down I will put you down!'" ROA.372. Dalton, with his gun drawn, then escorted Dr. Okorie into the hallway. ROA.372. The doctor instructed his staff to fax the warrant to his lawyers and to print patient records. ROA.372.

While other investigators reviewed the records and interviewed staff, Dalton detained Dr. Okorie in his office. ROA.372. After two hours passed, Dr. Okorie asked to use the restroom. ROA.372. Another investigator replied no. ROA. 372. After Dr. Okorie pleaded with Dalton that "he couldn't sit down any more or he was going to urinate himself," Dalton escorted Dr. Okorie to the restroom "with his gun drawn." ROA.372-ROA.373. As Dr. Okorie was using the restroom, "Ms. Ross and the other investigators were all present while the door was open . . . as everyone watched." ROA.373. Dr. Okorie was escorted back to his office and detained for another one to two hours until the investigators completed the search. ROA.301, ROA.373.

The remaining defendants made the motion for judgment on the pleadings. ROA.375. The district court dismissed the remaining cause of action against the two investigators. ROA.425-ROA.434. As to Investigator Ross, the court said that "Ross must be dismissed because she was not personally involved in his detention." ROA.428.

With respect to Investigator Dalton, the court found that "[v]iewing the facts in the light most favorable to Dr. Okorie, a reasonable person in his position would believe that his 'freedom was restrained to a degree typically associated with arrest.' Dr. Okorie's freedom of movement was restricted for three to four hours. And during that time, Dalton prevented Dr. Okorie from speaking with his staff or using the restroom without an escort." (quoting *Freeman v. Gore*, 483 F.3d 404, 413 (5th Cir. 2007)). ROA.428-ROA.429. As to the arrest, however, the Court said, "In weighing the intrusion of the search against law enforcement interests, the Court finds that Dr. Okorie's detention was lawful. But even if Dr. Okorie's pleadings asserted a valid Fourth Amendment claim, the Court would find that Dalton is entitled to qualified immunity." ROA.433.

The panel affirmed, finding that, although there was a violation of Dr. Okorie's rights, the investigator was entitled to qualified immunity. Rehearing and rehearing en banc were denied.

REASONS WHY THE WRIT SHOULD ISSUE

A. Introduction

The analysis of the Fifth Circuit conflicts with *Tolan v. Cotton*, 572 U.S. 650 (2014), concerning disputed facts on motions for summary judgment relating to qualified immunity claims; the right to be free from arrest without probable cause, which was well-established prior to the incident at issue, and the right of an innocent citizen not to be assaulted by law enforcement without any provocation whatsoever, a right that the Seventh Circuit has held to be firmly established. It cannot be that these rights evaporate when a law enforcement agent acts pursuant to an administrative search warrant.

B. Analysis

It is basic that qualified immunity shields federal and state officials from money damages unless a plaintiff pleads facts showing (1) that the official violated a statutory or constitutional right, and (2) that the right was "clearly established" at the time of the challenged conduct. *Ashcroft v. al-Kidd*, 563 U.S. 731, 735(2011) (citing *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). "We do not require a case directly on point, but existing precedent must have placed the statutory or constitutional question beyond debate." *Ashcroft v. al-Kidd*, 563 U.S. at 741; *see also Kisela v. Hughes*, 138 S. Ct. 1148, 1152 (2018) (per curiam); *White v. Pauly*, 580 U.S. ___, ___, 137 S.Ct. 548, 551 (2017) (per curiam); *City and County of San Francisco v. Sheehan*,

575 U.S. ___, ___, 135 S.Ct. 1765, 1775-1776 (2015). If such a well-defined right is clearly established, the court must determine whether the officer's conduct is "objectively reasonable." *Scott v. Harris*, 550 U.S. 372, 380 (2007).

As explained by the Tenth Circuit, "qualified immunity requires four determinations: (1) what actually happened, (2) whether the plaintiff asserted a violation of a constitutional or statutory right, (3) whether the law had clearly established that right, and (4) whether an objectively reasonable defendant would have understood his conduct to violate that clearly established right. *Gonzales v. Duran*, 590 F.3d 855, 859 (10th Cir. 2009).

The constitutional right to be free from arrest without probable cause was well-established prior to the incident at issue. *See Baker v. McCollan*, 443 U.S. 137 (1979); *Gerstein v. Pugh*, 420 U.S. 103 (1975). Detaining Petitioner thus violated well-known and indisputable Fourth Amendment principles that should have been known to the investigator. Officers normally may not seize a person absent probable cause, except in a handful of well-defined situations. *See Skinner v. Railway Labor Execs. Ass'n*, 489 U.S. 602, 619-620 (1989). The type of seizure here has never been recognized as one of those well-defined situations. *See Ganwich v. Knapp*, 319 F.3d 1115 (9th Cir. 2003). It is also clearly established that "police officers do not have the right to shove, push, or otherwise assault innocent citizens without any provocation whatsoever." *Clash v.*

Beatty, 77 F.3d 1045, 1048 (7th Cir. 1996); *see Payne v. Pauley*, 337 F.3d 767, 780 (7th Cir. 2003)[2].

Investigator Dalton was no administrative bureaucrat. Under Mississippi law he is a peace officer and as such had the power to make arrests without warrant for a crime committed in his presence. *See* Miss. Stat. § 41-29-159(a). The investigator was also required to receive training and certification under the Mississippi Law Enforcement Training Program. Miss. Stat. § 45-6-11.

The district court found that Dalton's lengthy detention constituted an arrest, but the panel called it a detention. As to that question, the district court had it correct.

The Seventh Circuit has explained:

> The case law has developed three categories of police-citizen encounters. *United States v. Black*, 675 F.2d 129, 133 (7th Cir. 1982), cert. denied, 460 U.S. 1068, 103 S.Ct. 1520, 75 L.Ed.2d 945 (1983). "The first, an arrest, is characterized by highly intrusive or lengthy search or detention. . . ." Id. An arrest, which is considered a seizure, must be based on probable cause to believe that a person is committing or is about to commit a crime. *See id.*

---

[2] Under the common law, "an assault is committed by either a willful attempt to inflict injury upon the person of another, or by a threat to inflict injury upon the person of another which, when coupled with an apparent present ability, causes a reasonable apprehension of immediate bodily harm." *United States v. Dupree*, 544 F.2d 1050, 1051 (9th Cir. 1976) (per curiam).

> The second, an investigatory stop, is "limited to brief, non-intrusive detention during a frisk for weapons or preliminary questioning. . . ." *Id.* This second type of encounter is also considered a seizure, but since it is less intrusive than an arrest, it requires only that an officer have reasonable, articulable suspicion to believe that a person is committing or is about to commit a crime. *Id.* The third, a consensual encounter, "is that in which no restraint of the liberty of the citizen is implicated, but the voluntary cooperation of the citizen is elicited through non-coercive questioning. . . ." *Id.* This encounter is not considered a seizure and does not require either probable cause or reasonable suspicion to justify it. *See id.*

United States v. Teslim, 869 F.2d 316, 320-21 n. 6 (7th Cir. 1989). *See also Oliver v. Woods*, 209 F.3d 1179, 1185 (10th Cir. 2000) (An arrest is "characterized by highly intrusive or lengthy search or detention," and must therefore be supported by probable cause.); *Hatheway v. Thies*, 335 F.3d 1199, 1205 (10th Cir. 2003).

Professor Alexander in his treatise sets forth the following definition: "An 'arrest' is the detaining of a person, the obtaining of the actual physical control and custody of him, and retaining it against his will and without his consent, under some real or assumed authority." Alexander, The Law of Arrest, vol 1, at p. 353 (1949).

He notes that the word "arrest" is derived from the French word Arreter, which means to stop, to detain, to hinder, to obstruct (*id.*). He states: "A command to stop,

which is obeyed, is, of course, an arrest; but much depends on what follows, in order to constitute one entailing the responsibilities of criminal or civil false imprisonment, – as every mere command to stop may not be, nor intended to be, nor understood to be, a real 'arrest', in law or fact. Arrest includes the keeping under restraint of one so 'detained' until brought before the magistrate. EXAMPLES The following are arrests: – detaining, to examine or investigate one not yet accused of crime nor a material witness" (Id., at p. 358).

Professor Alexander's treatise has been recognized as authoritative by the Mississippi Supreme Court. *See Taylor v. State*, 396 So.2d 39, 42 (Miss. 1981); *Smith v. State*, 208 So.2d 746, 747 (Miss. 1968). These authorities make it quite plain that the Petitioner was, in fact, under arrest – he was detained for a lengthy period of time.

It is undisputed that there was no probable cause for an arrest, and the administrative warrant did not authorize an arrest. Further, there is no question that the seizure was willful. *See Brower v. County of Inyo*, 489 U.S. 593, 596-97 (1989).

Given the settled line of precedent, no reasonable officer could conclude that an arrest of the Petitioner without probable cause that he committed a crime was permissible. That alone defeats the claim of qualified immunity.

There was clearly a seizure under the Fourth Amendment because there was a restraint of liberty such that the person reasonably believes he is not free

to leave. *See United States v. Mendenhall*, 446 U.S. 544, 554 (1980). Consequently, whether analyzed from the prospective of administrative or criminal law, there can no question that the arrest needed to be supported by probable cause.

Moreover, that the contours of the seizure were not reasonable. Officer Dalton held the Petitioner at gunpoint. Petitioner's freedom of movement was restricted for three to four hours. Dalton "put his hand on Dr. Okorie's shoulder, pushed him down, and said 'if you don't sit down I will put you down!'" ROA.372. Dalton, *with his gun drawn*, then escorted Dr. Okorie into the hallway. ROA.372. And during that time, Dalton prevented Petitioner from speaking with his staff or using the restroom without an escort.

The Fifth Circuit relied upon *Michigan v. Summers*, 452 U.S. 692 (1981), for the proposition that a valid search warrant implicitly authorizes the detention of any occupant of the premises to be searched during the pendency of the search. Such reliance is misplaced. The holding in *Summers* was far more narrow.

In *Summers*, police obtained a valid search warrant to search a house for evidence of a crime, narcotics. The defendant, who in that case was trying to suppress evidence offered at his criminal trial, was observed leaving the house as officers arrived. Officers requested his assistance entering the house and detained him during the search.

Summers identified several factors important to its analysis that the intrusion in that case was not great. First, the Court stated that the restraint on liberty was minimal because, unless the respondent intended flight to avoid arrest, he would have little incentive to leave during a search. Second, the Court noted that the detention during the search of a residence is unlikely to be prolonged because police are seeking information from the search rather than the person. Finally, the Court stated that the stigma and inconvenience of the detention is likely to be less significant when the detention occurs in the person's home.

Summers also identified factors important to its conclusion that the intrusion in that case was justified by important police interests. First, the Court recognized the law enforcement interests in preventing flight and minimizing harm to officers. Second, the Court observed that an efficient search may be facilitated by the presence of the resident. Finally, the Court stated that the existence of the warrant based upon probable cause "gives the police officer an easily identifiable and certain basis for determining that suspicion of criminal activity justifies a detention of th[e] occupant."

The intrusion in this case was far more severe than in *Summers*. In *Summers*, the defendant was merely asked to remain at the home until the search was completed. Among other things, Petitioner was detained at gunpoint with his staff and was detained in

pain without a restroom break for more than two hours.

The nature of the detention renders this Court's general observations that detention at home may involve minimal restraint and that detention at home generally involves less stigma inapplicable to this case. The duration of Petitioner detention at his office renders this Court's final observation, that detention at home will rarely be prolonged, likewise inapplicable to this case. Thus, none of those factors that the Court used to explain why the detention in *Summers* was so minimally intrusive that the probable cause requirement could properly be excused apply in this case.

Other Circuits have not read *Summers* in this fashion. *See, e.g.*, *Onofre-Rojas v. Sessions*, 750 F. App'x 538, 539 (9th Cir. 2018) (per curiam) ("*Michigan v. Summers*, 452 U.S. 692 (1981), arose in the criminal context and that many of its justifications 'simply do not hold true when the underlying warrant is an administrative warrant rather than a criminal search warrant,'") (quoting *Alexander v. City & County of San Francisco*, 29 F.3d 1355, 1363 (9th Cir. 1994), abrogated on other grounds by *County of Los Angeles v. Mendez*, 137 S. Ct. 1539 (2017)); *Hamilton v. Lokuta*, 1993 WL 460784, at *4 (6th Cir. 1993) (per curiam) (holding that the *Summers* rationales did not justify a detention pursuant to an administrative search).

Contrary to the statements contained in the Fifth Circuit's opinion, other Circuits have a "robust" roster of cases disapproving the type of administrative

search conducted here. *See, e.g.*, *Bruce v. Beary*, 498 F. 3d 1232 (11th Cir. 2007); *Swint v. City of Wadley, Ala.*, 51 F.3d 988 (11th Cir. 1995); *Turner v. Dammon*, 848 F.2d 440, 446 (4th Cir. 1988) ("There is no question that the Fourth Amendment prohibition of unreasonable searches . . . applies to the performance of administrative searches of commercial property.").

In *Swint*, the Eleventh Circuit reviewed two raids, conducted by approximately 30-40 officers on two separate occasions at a nightclub. 51 F.3d at 992-93. During both raids, SWAT team officers participated, and some of the officers pointed their weapons at club employees and patrons. *Id.* Officers searched and detained employees and patrons until the raids, which lasted approximately one and one-half hours, were over. *Id.* Employees were refused permission to go to the restroom. *Id.*

In rejecting defendants' claim that they had merely conducted an administrative search, we held that the "massive show of force and excessive intrusion" evidenced in these raids was in marked contrast to other administrative inspections of the club, and that "[n]o reasonable officer in the defendants' position could have believed that these were lawful, warrantless administrative searches." *Id.* at 999. The Eleventh Circuit specifically recognized that "'prior cases have established that the Fourth Amendment's prohibition against unreasonable searches applies to administrative inspections of private commercial property.'" *Id.* at 998 (quoting *Donovan v. Dewey*, 452 U.S. 594, 598 (1981)).

As to "what actually happened" component, the rule in most jurisdictions is that a defendant is entitled to judgment on the pleadings only when, taking all the facts in the complaint as true, the plaintiff has no right to relief. *See Allah v. Al-Hafeez*, 226 F.3d 247, 249-50 (3d Cir. 2000); *Hawthorne v. Mac Adjustment, Inc.*, 140 F.3d 1367, 1370 (11th Cir. 1998) ("Judgment on the pleadings is appropriate when there are no material facts in dispute, and judgment may be rendered by considering the substance of the pleadings and any judicially noticed facts.").

This case was not resolved on a summary judgment motion, where evidence is presented on both sides, a circumstance that did not occur here. Even on a motion for summary judgment, however, this Court has held that a district court errs "by weighing the evidence and reaching factual inferences contrary to [petitioner's] competent evidence" in determining whether the investigators "actions violated clearly established law." *Tolan v. Cotton*, 572 U.S. 650, 660 (2014) (per curiam). Yet, that is precisely what the Fifth Circuit did in this instance.

The district court held that there was an arrest and, without much analysis, concluded that qualified immunity applied. The Fifth Circuit blurred any distinction between an arrest and detention. Both courts accepted the defendant's version of the facts.

Certainly, this approach cannot be sustained on the standard applied for judgment on the pleadings. The approach is also contrary to *Tolan* and the Seventh

Circuit's analysis of similar issues in *Clash v. Beatty*, 77 F.3d 1045 (7th Cir. 1996).

In sum, the lengthy detention, at gunpoint, the limitation on contact with members of the staff and attorneys and limitation on bathroom breaks, in the context of an administrative search, is objectively unreasonable and any peace officer would know that to be the case.

CONCLUSION

This case presents issues of exceptional importance concerning qualified immunity. The Fifth Circuit departed from applicable precedents of this Court and those of sister circuits by holding that a trained law enforcement officer is held to a lesser standard when acting in an administrative law context.

Certiorari should be granted.

Dated: August 7, 2019

Respectfully submitted,

IKECHUKWU HYGINUS OKORIE
Petitioner Pro Se
107 Ralph Rawls Road
Hattiesburg, MS 39402
305-479-7945