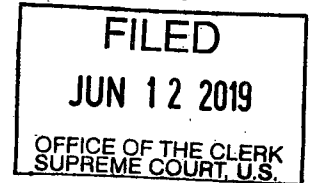
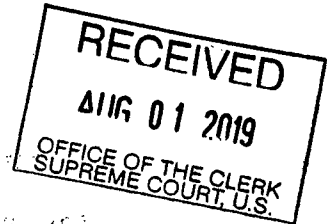


ORIGINAL

19-5558

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



IN THE  
SUPREME COURT OF THE UNITED STATES

Frank Johnson — PETITIONER  
(Your Name)

vs.

Correct Care Solution et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Fourth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Frank Johnson #50451  
(Your Name)

201 John Mark Dial Dr.  
(Address)

Columbia S.C. 29209  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

## QUESTION(S) PRESENTED

Petition For Writ Of Certiorari: For adjudication on the merits,  
And Judgment By this Court for Monetary Damage 3,000,000  
Petitioner addresses this honorable Supreme Court with a concise  
Statement of this case containing the Material facts to the consideration  
of the questions relevant facts presented, Was the defendants conduct  
deliberately, purposely, knowingly and objectively unreasonable in  
Respect to violating Johnson Constitutional Rights Fourteenth Amendment  
and eighth Amendment. These merits in this case has not been decided  
on in the lower Courts. Therefore, I Respectfully ask this court to Please  
take these merits and Material facts in consideration to decided this  
CASE for a final decision. [First Question] "Was the defendants  
deliberate indifference to Johnson serious medical needs?"  
[Second Question] "Did the defendants Subject Johnson to a form  
of punishment when they put him in the lock-up unit shu for his  
medical Conditions with other detainees who are being punish  
on lock-up for behavior problems in the facility. Rather than put  
Johnson in a medical unit for his conditions?" [Third Question]  
"Was the defendants Conduct deliberately, purposely, knowingly  
and objectively unreasonable?" [Fourth Question] "Did the  
defendants Violates Johnson Constitutional Right Fourteenth  
Amendment and Eighth Amendment?"

### 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:

CORRECT CARE SOLUTIONS;  
Administer Mrs. M. Gaskins  
Director R.N. Shannon  
Dr. Randolph  
Mrs. Nurse Mclean  
Mrs. Nurse Melissa

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## INDEX TO APPENDICES

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# TABLE OF AUTHORITIES CITED

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| <u>Helling V. McKinney</u> , 509 U.S. 25, 36 (1993)                |             |
| <u>Bell v. Wolfish</u> 441 U.S. 520, 535 <del>8</del> n.16 (1979)  |             |
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| <u>Brown V. Harris</u> , 240 F.3d 383, 388 (4th Cir 2001)          |             |
| quoting <u>Belcher V. Oliver</u> , 898 F.2d 32, 34 (4th Cir, 1990) |             |
| <u>Farmer V. Brennan</u> , 511 U.S. 825, 834 (1994)                |             |
| <u>Williams V. Benjamin</u> 77 F.3d 756, 761 (4th Cir 1996),       |             |
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| STATUTES AND RULES                                                 |             |
| <u>Kingsley V. Hendrickson</u> 135 S.Ct 2466, 2472 (2015)          |             |

OTHER

### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Frank S. Johnson

Date: July 22, 2019

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 D to the petition and is

☒ reported at USCA-4; 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 District Court

☒ reported at Dismissed Without Prejudice; or,  
☐ has been designated for publication but is not yet reported; or,  
☐ is unpublished.

☐ 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 April 10, 2019.

☐ 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: May 13, 2019, 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 Mandate (date) on ~~April 10, 2019~~ (date) in Application No. 41(A) Federal Rules, May 21, 2019

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

The U.S. Court of Appeals for the Fourth Circuit has held that standard for determining whether detention center officials have violated a pretrial detainee's right to due process is deliberate Indifference, See Hill, 979 F.2d at 991. Although these claims are analyzed under the Fourteenth Amendment, case law interpreting the standard of "deliberate indifference" under the Eighth Amendment is instructive. See e.g., Brown v. Harris, 240 F.3d 383, 388, (4th Cir 2001) (stating that whether the plaintiff is a pretrial detainee or a convicted prisoner, the "standard in either case is the same - that is, whether a government official has been 'deliberately Indifference to any [of his] serious medical needs'") quoting Belcher v. Oliver 898 F.2d 32, 34 (4th Cir 1990). Generally, to establish a claim base on alleged deliberate, an inmate must establish two Requirements: (1) objectively, deprivation suffered or injury inflicted was "sufficiently serious," and (2) subjectively, the prison officials acted with a "sufficiently culpable state of mind." Farmer v. Brennan 511 U.S. 825, 834 (1994); Williams v. Benjamin 77 F.3d 756, 761 (4th Cir 1996) "What must be established with regard to each component varies according to the nature of the alleged Constitutional Violation." Williams 77 F.3d at 761 (quoting Hudson v. McMillians 503 U.S. 1, 5 (1992). Objectively, the court must assess "whether society considers the risk that the prisoner complains of to be so grave that it violates contemporary ~~stand~~ standards of decency to expose anyone unwillingly to such a risk. In other words, the prisoner must show that the risk of which he complains is not one that today's society chooses to tolerate." Helling v. McKinney, 509 U.S. 25, 36 (1993) See Attachment

Attachment: The Petitioner observes the U.S. Supreme Court has held that for a pretrial detainee to establish an excessive force claim under the Fourteenth Amendment, he need not show that the officer was subjectively aware that the use of force was excessive, rather, he need only show that the force purposely, knowingly, or possibly recklessly used against him was objectively unreasonable [Kingsley v. Hendrickson] 135 S.Ct. 2466, 2472 (2015). However, Kingsley did not address whether this standard applies to other claims by pretrial detainees pursuant to the Fourteenth Amendment, and, to date, the Fourth Circuit has not considered this issue. Cf. Darnell v. Pinaro 849 F.3d 17, 35 (2d Cir 2017) (extending Kingsley to conditions of confinement claims by pretrial detainees pursuant to the Fourteenth Amendment); Castro v. City of Los Angeles, 833 F.3d 1060, 1070 (9th Cir 2016) (en banc) (extending Kingsley to failure-to-protect claims by pretrial detainees pursuant to the Fourteenth Amendment). See also Richmond v. Hug, 885 F.3d 928, 938 n 3 (6th Cir. 2018) (noting a split among the circuit courts of appeal and collecting cases). Here, however, the Petitioner claim can address whether Kingsley's standard extends to a pretrial detainees Fourteenth Amendment claim asserting deliberate indifference to a serious need as the Petitioner claim can be addressed with consideration of the objective or subjective prong in shining the light on Kingsley Fourteenth Amendment claim.

# Constitutional And Statutory Provisions

Involved:

Claims of pretrial detainees against detention center officials regarding conditions of confinement are evaluated under the Due Process Clause of the Fourteenth Amendment rather than under the Eighth Amendment's proscription against cruel and unusual punishment. See Bell v. Wolfish 441 U.S. 520, 535 & n.16 (1979) Martin v. Gentile 849 F.2d 863, 870 (4th Cir 1988) The due process rights of a pretrial detainees are at least as great as the eight amendment protections available to the convicted prisoner; while the convicted prisoner is entitled to protection only against punishment that is 'cruel and unusual,' the pretrial detainee, who has yet to be adjudicated guilty of any crime, may not be subjected to any form of "punishment," ~~see~~ Martin 849 F.2d at 870

See also Hill v. Nicodemus, 979 F.2d 987, 991 (4th Cir 1992) Further, "the facts that the defendants interferes with Johnson as comfortably as possible and with as little restraint as possible during confinement. The defendants deliberately knowingly did convert the conditions or restriction of detention into punishment." "In other words, Petitioner went to medical on Feb 3, 2018 for severe swelling and hives from a Benadryl shot. Dr. Randolph order for Johnson to be place on medical Isolation which is a lock-up unit "shu" for ~~the~~ detainees who are being punish for behavior problems in the facility. Rather than putting Johnson in a medical Unit for his medical condition. After that event Dr. Randolph,

(5)

See Attachment (2)

\* Attachment (2) Order R.N. Shannon to give Johnson a second Benadryl shot. R.N. Shannon and Nurse McClean came over to the lock-up unit "Shu" and gave Johnson a second Benadryl shot in which Johnson suffered another allergic Reaction. Resulting in chemical Burns. After that event the defendants deliberately left Johnson in the lock-up unit "Shu" to suffer with chemical Burns Wounds (Blister) for five days without Wounds Care. The defendants did engaged in prohibited Conduct deliberately, purposely, knowingly, recklessly used against Johnson was objectively unreasonable.

## STATEMENT OF THE CASE

### Material Facts

On Feb 1, 2018 Johnson alleges that while housed at Alvin S. Glenn Detention Center, he suffers from a rash for which he sought medical treatment. Dr. Randolph order nurse McClean to give Johnson a Benadryl shot in which Johnson suffered an allergic reaction, severe swelling & hives. On Feb 3, 2018 approx: 8pm Johnson was taken back to medical by Lt. Seward, seeking medical treatment for severe swelling & hives. R.N. Shannon called Dr. Randolph at home to explain Johnson conditions from the first Benadryl shot. Dr. Randolph order R.N. Shannon to place Johnson on Medical Isolation which is a lock-up unit "Shu" for detainees who are being punish for behavior problems in the facility and a second Benadryl shot in which Johnson suffered another allergic Reaction, Resulting in Chemical Burns "Blister". On Feb 4, 2018 approx 3am Dr. Randolph prescribed 50mg of steroid. Johnson Stated After, that event the defendants deliberately left him in the lock-up unit cell with feces on the wall & toilet and chemical Burns wounds for five days without wound care. "Finally." On Feb 8, 2018 approx 2pm Johnson was taken back to medical by officer Spell & Cave

### STATEMENT OF THE CASE

For Chemical Burns Wound Immediately when Dr. Randolph saw Johnson Conditions from the Benadryl shots She prescribed 60mg steroid, Hydroxyzine, Vistaril, and Wound Care. Dr. Randolph also order for Johnson to be move from the lock-up unit to a medical unit under close observation. The medical Records and officials in this facility will support these facts. Here the Petitioner did allege a sufficiently serious deprivation of life's necessities that would implicate the Fourteenth Amendment deliberate indifference to a serious medical needs and Eighth Amendment Cruel and unusual punishment inflicted. Johnson claim was dismissed in the District court's without prejudice for failure to exhaust administrative Remedies. U.S. Court Appeals Fourth Circuit affirm for the reasons stated by the district Court. U.S. CA-4 denies Rehearing

### REASONS FOR GRANTING THE PETITION

It is important for this court to take this claim in consideration on the ground that it may help shine the light on other cases such as: Kingsley v. Hendrickson 135 S.Ct 2466, 2472 (2015)

First observation: I would like for this court take in consideration. Johnson stated, while housed at Alvin S. Glenn Detention Center he suffered from a rash which he sought medical treatment and was giving a shot of Benadryl but suffered an allergic Reaction severe swelling & hives

Second Observation: I would like for this court to take in consideration. Johnson stated, On Feb 3, 2018 he was taken back to medical by Lt. Seward, seeking medical treatment for severe Swelling & hives from the first Benadryl shot that was order by Correct Care Solution Medical provider Dr. Randolph. the defendant Dr. Randolph gave the defendant R.N. Shannon a order to put Johnson on medical Isolation in "unit Shu" which is a lock-up unit where they keep detainee who are being punish for behavior problems in the facility. And the order for a second Benadryl shot. Rather than order to put Johnson in a medical unit to be treated for his medical conditions, she order for Johnson to be place on a lock-up unit

### REASONS FOR GRANTING THE PETITION

Third Observation I would like for this court to take in consideration, Johnson stated, "While housed in the lock-up unit shu for No reason at Alvin S. Glenn Detention Center On Feb 3, 2018 Correct Care Solution Medical providers R.N. Shannon and Nurse McClean came to Johnson cell gave him a second Benadryl shot that was order by defendant Dr. Randolph in which Johnson suffered another allergic reaction, Resulting in Chemical Burns See generally compl ECF No. 1 at 5 and Medical Records

Fourth Observation I would like for this court to take in consideration, Johnson stated: Right after that event Correct Care Solution Medical provider Dr. Randolph On Feb 4, 2018 approx: 3 am prescribed Johnson 50mg of steroid for inflammation. Medical Records will support these facts.

Fifth Observation I would like for this court to take in consideration Johnson stated; "After that event the defendants deliberately left him in the lock-up unit shu cell to suffer with feces on the walls and toilet and Chemical Burns wounds for five(5) days without wound care. . Medical Records Will Support

#### REASONS FOR GRANTING THE PETITION

Sixth Observation: I would like for this court to take in consideration. Johnson stated: "Finally after a long journey of suffered and officials fight to get me to medical. On Feb 8, 2018 I was taken back to medical by officer Spell + Cave seeking medical treatment for Chemical Burns wounds. Immediately when Dr. Randolph saw Johnson conditions from the Benadryl shots she prescribed 60mg of steroid, Hydroxyzine, Vistaril and Wound Care and order for Johnson to be move ASAP from the lock-up unit shu to a medical unit under close observation. Medical Records will support these facts.

Seventh Observation I would like for this court to take in consideration. Johnson stated, "Why did the defendants put him in a lock-up unit shu to be punish with other detainees who are being punish for behavior problems in the facility. Rather than put Johnson in medical unit "Mike". My main question is what was the motive of the defendants put Johnson in the lock-up unit shu. When there has not been any behavior problems with Johnson since his arrived Nov. 7, 2017. Officials will testified to these facts.

### REASONS FOR GRANTING THE PETITION

Here, However Petitioner allege a sufficiently serious deprivation of life's necessities that would implicate the fourteenth Amendment Clause and Eighth Amendment Clause.

Kingsley v. Hendrickson 135 S.Ct 2466, 2472 (2015)

Cf. Darnell v. Pineiro 849 F.3d 17, 35 (2d Cir 2017)

Castro v. City of Los Angeles; 833 F.3d 1060, 1070 (9th Cir 2016)

See also Richmond v. Hug; 885 F.3d 928, 938 N.3 (6th Cir 2018)