

No. _____

19-8406

IN THE

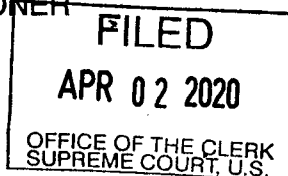
SUPREME COURT OF THE UNITED STATES

ORIGINAL

Jihad Shahaddah PETITIONER
(Your Name)

VS.

Deputy Gotcher — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court Eastern District of Virginia
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE) Alexandria
Division

PETITION FOR WRIT OF CERTIORARI

Jihad Shahaddah
(Your Name)

12352 Coffeewood Dr. P.O. Box 500
(Address)

Mitchells, VA 22729
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) I wish the Court Could decide the issue/review of Deliberate indifference of the 8th amendment. In order to demonstrate that the defendant had notice of an excessive risk of a prison assault, it is sufficient that the risk is long standing, pervasive, well documented or expressly noted by prison officials in the past, and the circumstances suggest that the defendant-official being sued had been exposed to information concerning the risk. *Cox v. Quinn*, 828 F.3d 227, 236 — (4th Cir. 2016 quoting *Parrish ex rel. Lee v. Cleveland*, 372 F.3d 294, 303 (4th Cir 2004).
- 2) Also prison officials breaking protocol and disregarding the "Manual", they must read and rely on before committing an act, that put the "prisoner trusty" at risk of excessive harm to be assaulted.

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:

Sheriff Beth Arthur

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CASES Cox v. QUINN -

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294, 303

4th Cir 2004

Farmer v. BRENNAN, —

511 U.S. 825, 843 1994

Odom v. South Carolina Dept. of Corrections - 349 F.3d 765, 769

Harris v. Pittman, 927 F.3d 266, 276

Elliot v. Carter, 791 S.E.2d 730, 733-34

Cowan v. Hospice Support Care, Inc 603 S.E.2d 916, 918

STATUTES AND RULES

8th amendment Deliberate indifference - prison officials violate the eighth amendment when they act with deliberate indifference to a prison condition that exposes a prisoner to an unreasonable risk of serious harm or deprives a prisoner of a basic human need

Gross Negligence - a government employee is negligent when he or she fails to use reasonable care. The employee must have breached (failed in) this duty to keep you safe.

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 _____ to the petition and is

☐ reported at _____; 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 2/2020.

~~Disregard~~

☐ 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: _____, 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. § 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

Cox v. Quinn 828 F.3d 227 (4th Cir. 2016)

Farmer v. Brennan 511 U.S. 825 (1994)

Parrish ex rel. Lee v. Cleveland 372 F.3d 294 4th Cir. 2004

Odom v. South Carolina Dep't of Corrections
349 F.3d ~~765~~ 765 (4th Cir. 2003) ←

Scott v. Harris 550 U.S. 372 (2007)

Cowan v. Hospice Support Care Inc. 603 S.E.2d 916
Elliot v. Carter 791 S.E. 2d 730 Va. 2016 Va. 2004

Harris v. Pittman 927 F.3d 266 (4th Cir. 2019)

Williams v. Vaughan 199 S.E.2d 515 (Va. 1973)

Green v. Ingram 608 S.E. 2d 917 (Va. 2005)

Groome v. Birkhead 201 S.E. 2d 789 (Va. 1974)

~~United States v. [illegible]~~

STATEMENT OF THE CASE

Shahaddah demonstrated that Deputy Gotcher acted with deliberate indifference in "releasing" Inmate Rose from his cell, as well as in it's analysis of the evidence, specifically in reaching inferences in favor of the moving party and in using "video evidence" to develop it's view of uncontested facts. (Richard Williams, eye witness as well)

ON April 26, 2017 Jihad Shahaddah, then incarcerated at the Arlington County Detention Facility, "was injured" during an assault from fellow inmate Andrew Rose. The assault occurred because the supervising correctional officer, Deputy Kyle Gotcher with the Arlington County Sheriff's Office "released Rose" from a secure prison cell in contravention of "security protocols" and "special directives" specifically intended to segregate and separate Rose from other inmates. On July 13, 2018 after exhausting my claims at the administrative level, Shahaddah filed a complaint seeking relief for his injuries under 42 U.S.C 1983 and under Virginia State Law. Shahaddah Later amended his complaint to add Arlington County Sheriff Beth Arthur as Defendants. IN March 2017 Shahaddah began

Serving as part of the Facility's Inmate workforce. JA 96:3. Shahaddah assisted with cleaning showers and empty cells, taking out trash, mopping the floor, and assisting with meal services. Shahaddah passed and collected meal trays, in the 11A Housing Unit administrative segregation that housing offenders who have violated prison policies and regulations with the most serious disciplinary issues. In April 2017 Rose was one of the inmates housed in the 11A Unit. "Rose was a special directive inmate" an inmate due to his custody Level or assaultive or unpredictable behavior faced significant Security restrictions. "These restrictions were memorialized" in documents called special directives, these special directives regarding Rose was imposed due to repeated violent and unpredictable behavior. Rose had previously used cleaning supplies and furniture in a physical altercation with a fellow inmate, assaulted a Sheriff's Deputy with a dinner tray in October 2016 and broke the sprinkler head of his cell in November 2016 flooding his housing unit. On April 26, 2017 shortly after 4:00pm Deputy Gotcher and Shahaddah were gathering the trays at the end of the meal service. "The process involved having Gotcher "collect the trays through the tray slot" which was accessible "without having to unlock" the cell door.

Gotcher would then hand the trays to Shahaddah who would deposit them on the meal cart. At approximately 1:14 pm Gotcher approached the cell where Rose was incarcerated. JA-11 11A Day Area "Security Video", Time Stamp 13:14:52, Video run time 3:54. For approximately the next minute, he conversed with Rose through the cell door. Gotcher later testified that unlike the other inmates "Rose declined to return his meal tray." JA 73. At approximately 1:15 pm "Gotcher opened the door to Rose's cell." JA 11, time Stamp 13:15:49, Video Run time 4:50. At the time that Gotcher opened the cell door, all other inmates were not on lockdowns. Shahaddah was standing near the meal cart approximately five to ten feet away from Rose's cell with no barriers between the two. "Rose was not handcuffed" with a Leather restraint belt "nor was he restrained in any other manner."

Gotcher testified that, after the door opened, Rose moved off his bunk and started moving towards the door, "which Rose was never on the bunk" "in the first place". Approximately twenty seconds after the door had been opened, Rose left the cell through the open door, passing by Gotcher. JA-11, Time Stamp 13:16:06 Video run time 5:07. "Gotcher made no physical attempt to stop or subdue him at that point. Upon leaving the cell, Rose ran towards Shahaddah with his hand balled up and swinging. JA-11, Time Stamp 13:16:06-13:16:11, Video run time 5:07-5:12. At this point, Rose approached the food cart, picked up a tray of ice and flung it at Shahaddah. JA-11, Time Stamp 13:16:14-13:16:16, Video run time 5:15-5:18. The projectile missed and scattered in contents, ice and water, across the floor. "As Shahaddah stepped back to dodge the ice, he slipped and felt a sharp pain in his knee".

Around this time, Gotcher stepped forward and used OC spray to subdue Rose. After Rose was subdued, Shahaddah was approached by another deputy, Deputy Martin who asked Shahaddah what had happened. Shahaddah informed Martin that Rose came charging at him after Gotcher opened the door to his cell. JA 104:20-23.

"Martin was surprised that Gotcher had opened the cell door," instead of the tray slot. "Since the attack, Shahaddah has suffered continual knee pain (pettello femoral pain Syndrome), mobility issues, hypertension, anxiety, PTSD and depression. There is also an eye witness who was at the incident by the name of "Richard Williams" who is willing to testify how he has seen commit the 8th Amendment Deliberate indifference Violation by Deputy Gotcher. Also eye witness "Lee Hausdon" another inmate who was there.

Deputy Gotcher was one who would also be prejudice to African Americans by saying "racial comments" and slurs. I found those to be offensive, and one time while I was cleaning a cell intentionally locked me in the cell to show his "white Superiority". The fact that Deputy Gotcher said that he had instructed inmate rose to get on his bunk before he opened the door is a "Lie", he is a Deputy that wanted to show and see which "Negro" could beat the other in a fight and opened the door instead of the tray slot to do it. Deputy Gotcher knew inmate rose's history, as being a Deputy you have to know, so knowing that inmate purposely opened the door, while before this has never opened any other inmates door before not even on that day. I want this to go to trial and show the video and the eye witnesses version of the facts. I would like to get "declarations" from these witnesses "Richard Williams".

REASONS FOR GRANTING THE PETITION

The District Court erred in granting Summary Judgment on plaintiff's 1983 Claims by failing to make all reasonable Inferences in favor of the plaintiff. The eighth Amendment of the U.S. Constitution protects prisoners from facing prison violence during their period of incarceration. It imposes Liability on prison officials who were deliberately indifferent to the threat of harm faced by a prisoner. The question in this case is "whether sufficient evidence exist" that Gotcher was deliberately indifferent to Shahaddah's rights or whether "Gotcher acted with utter disregard of prudence amounting to complete Neglect of the Safety of Another in Releasing Rose from his cell" and permitting him to attack Shahaddah. At the district court level the court may grant Summary judgement only where there is "No genuine issue dispute" as to any material fact and the movant is entitled to judgement as a matter of Law. The court must

believe the evidence offered by the non moving party and all justifiable inferences must be drawn in his favor" when determining if a "genuine issue of material fact exist"

Odom v. South Carolina Dept. of Corrections

349 F.3d 765, 769 (4th Cir. 2003) Furthermore,

"the Court cannot resolve any factual disputes in summary judgment, but rather, any disputes ~~that emerge~~ must be resolved by the jury. Stephenson v. Pfizer, Inc. 641 Appx 214 (4th Cir. 2016.)

CONCLUSION

For the foregoing reasons This petition for a writ of Certiorari should be granted

Jihad Shahadah

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jihad Shahid

Date: 4/1/20