

No. 19-8930

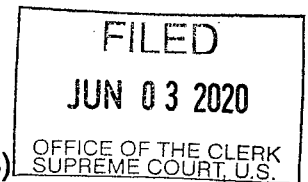
ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Reginald L. Dunahue — PETITIONER
(Your Name)

vs.

Wendy Kelley, Director, et al — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO
U.S. Court Of Appeals-Eighth Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Reginald L. Dunahue

(Your Name)

Cummins Prison/ ADC - Grady, Arkansas

(Address)

Grady, AR. 71644

(City, State, Zip Code)

(000) 000-0000

(Phone Number)

QUESTION(S) PRESENTED

Did The U.S. District Court Abuse Its Discretion By Denying Me-the Petitioner Appointment Of Counsel?

Did the U.S. District Court err and violate the U.S. Constitution by dismissing my Eighth Amendment violation claims against the respondent - Officials Wendy Kelley, Marshall Reed, and Jeremy Andrews?

Did the U.S. Court Of Appeals - 8th Cir. deny me-the Petitioner Justice by concurring with the U.S. District Court's dismissal?

Did the U.S. District Court err and violate the U.S. Constitution by rejecting my 8th Amendment violation/ failure to protect claims attached to respondent - Officials Kathy Baxter, Jamin Crawford, Stephen Lane, David Knott and James Dycus?

And did the U.S. Court Of Appeals - 8th Cir. deny me-the Petitioner, Justice by concurring w/ the Dusting Of my Claims?

Was a miscarriage of Justice committed by U.S. Dist. Court Judges and appellate Court Judges when they granted respondents Qualified Immunity?

Questions

1

Was it erroneous for the U.S. Court Of Appeals to affirm the U.S. district Court's decision to deny my motion(s) for appointment of Counsel ?

2

Was it erroneous for the U.S. Court Of Appeals to affirm the U.S. district Court's decision to dismiss Warden Jeremy Andrews, Director Wendy Kelley and Deputy Director Marshall Reed? because the district Court Overlooked my Complaint and was too blind to see that I accused Mr. Andrews, Mrs. Kelley and Mr. Reed Of Constitutional liability for failure to protect me—Dunahue, R.; also my Complaint accuses them of failing to supervise their Officers who include appellees Baxter & Crawford, Lane & Knott; they knew East Arkansas Regional Prison's recreation yard operation and its Cages constituted a substantial risk Of serious harm to me—Dunahue, R. but Mrs. Kelley, Mr. Reed and Mr. Andrews ignored and did not try to abate that substantial risk Of serious harm to me which resulted in me being taken to the Prison's recreation yard where appellee Baxter minutes before had took an inmate with a knife on his person to, and I was stabbed with; also, Mrs. Kelley, Mr. Reed and Mr. Andrews failed to protect inmates from violence at the hands Of other inmates; Mrs. Kelley, Mr. Reed and Mr. Andrews showed deliberate indifference to the serious and excessive risks to the health and safety Of inmates at East AR. Regional Prison by failing to adequately supervise and train the Prison's Officers which includes appellees—Dycus, Knott, Lane, Crawford and Baxter in how to inspect, investigate and abate dangerous conditions, and failing to develop and follow effective internal review process for reporting Policy violations, and also by failing to discipline malfeasant

employees.

3

Did the U.S. 8th Cir. Court Of Appeals Err by Concurring with the district Court's decision to grant Summary Judgment to appellees Mr. Dycus, Mr. Knott, Mr. Lane, Mr. Crawford and Ms. Baxter?

4

Did the 8th Cir. Court Of Appeals Err by Concurring with the district Court's decision to grant qualified immunity to appellees Dycus, Knott, Lane, Crawford and Baxter?

5

Did appellees Kelley, Reed, Andrews, Dycus, Knott, Lane, Crawford and Baxter violate the 8th Amendment to the U.S. Constitution?

A List Of All The Appellees-Defendants..

Arkansas Prison Officials: Director Wendy Kelley; Deputy Director Marshall Reed; Warden Jeremy Andrews; Deputy Warden James Dycus; Major David Knott; Captain Stephen Lane; Lieutenant Jamin Crawford; and Sergeant Kathy Baxter.

CASE# 2:18-CV-00021.

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:

Arkansas Prison Officials: Director Wendy Kelley; Deputy Director Marshall Reed, Warden Jeremy Andrews; Deputy Warden James Dyc—
us, Stephen Lane; David Knott; Kathy Baxter & Jamin Crawford.

RELATED CASES

Patterson v. Kelley, 902 F.3d 845

Skinner v. Uphoff, 234 F. Supp. 2d 1208 U.S. Dist. Court, D. Wyoming.

Farmer v. Brennan, 511 U.S. 825, 833-34, 114 S.Ct. 1970

Wells v. Walker, 852 F.2d 368 (8th Cir. 1988)

Krein v. Norris, 309 F.3d 487, 491-92 (8th Cir. 2002)

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Supreme Ct. Rule. 10 (a)	
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Tucker v. Evans, 276 F.3d 999, 1001-02 (8th Cir. 2002) — p. 30

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.

☐ 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 01-21-2020.

☐ 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: 03-13-2020, and a copy of the order denying rehearing appears at Appendix D.

☐ 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 Amendment and Treaties Involved.

A Prison Official may be held liable under the Eighth Amendment for acting with deliberate indifference to inmate health or safety only if he knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it. *Wilson v. Seiter*, 501 U.S. 294, 298, 111 S. Ct. 2321, 2324, 115 L. Ed. 2d 291. U.S.C.A. 8th Amend.

Prison Officials have a duty under the Eighth Amendment to provide humane conditions of confinement; they must ensure that inmates receive adequate food, clothing, shelter and medical care — and must protect prisoners from violence at the hands of other prisoners. However, a constitutional violation occurs only where the deprivation alleged is objectively and sufficiently serious and the official has acted with deliberate indifference to inmate health or safety. ✓ *Wilson v. Seiter*.

Prison Officials violates the 8th Amendment only when two requirements are met. First, the deprivation alleged must be objectively and sufficiently serious, and a prison official's act or omission must result in the denial of the minimal civilized measure of life's necessities — *Wilson*, *Supra*, 501 U.S., at 298, 111 S. Ct. at 2324, And *Hudson v. McMillian*, *Supra*, 503 U.S. @ 5, 112, S. Ct. @ 998.

STATEMENT OF THE CASE

I, the petitioner's failure to protect / deliberate indifference on part of prison Officials Claims, were made to the U.S. District Court for the Eastern District Of Arkansas Pursuant to 42 U.S.C. Section 1983. At the Screening Stage of my Claims, the U.S.D.C. ruled my Complaint lacked allegations of D.O.C. Wendy Kelley, D.O.C. Deputy Director Marshall Reed, and D.O.C. Warden Jeremy Andrews being aware I-the Petitioner while at their Prison was incarcerated under conditions that posed substantial risk of serious harm to me-the petitioner, plus all other inmates at the East Arkansas Prison in general; and nevertheless they failed to act to abate the risk and dangerous conditions at East Arkansas Prison in Briceys, Ark.

It's that erroneous perception by the U.S.D.C. that's predicated for the U.S.D.C. dismissing respondents-Wendy Kelley, Marshall Reed & Jeremy Andrews. The U.S.D.C. dismissed

All other respondents because it ruled the respondents were entitled to qualified immunity from my failure to protect / deliberate indifference Claims-because they didn't know on September 19, 2017, inmate Antonio Smith would escape from an always defective holding pen and subsequently stab me (1) times, severely injuring me. The 8th Circuit U.S. Court Of Appeals Concurred w/ the dismissals of all Claims I, the Plaintiff / Petitioner tendered.

(SEE BACK SIDE.)

On September 19, 2017 at Arkansas' East-Ark. Regional Prison, respondents Wendy Kelley, Marshall Reed, Jeremy Andrews, James Dycus, David Knott, Stephen Lane, Jamin Crawford, and Kathy Baxter... were Overseers / Custodians. At about 8:30 a.m. on September 19, 2017 respondents Kelley, Reed, Andrews, Dycus, Knott, Lane & Crawford allowed Baxter who's a respondent to conduct Rec. Yard Call, even though five inmates already had been accidentally helped by Sgt. Baxter with stabbing five other inmates during Rec. Yard Call there at East Arkansas Prison.. That 19th day of September - Sgt. Baxter allowed Antonio Smith - an inmate to exit punitive segregation armed with a home made knife; Baxter escorted inmate Smith to the Rec. Yard next.. Moments later Baxter led me - the petitioner to the Rec. Yard, twenty to forty yards away from inmate Smith. (We were both locked inside of separate holding pens for almost 2 hours, doing Rec. Call) When Sgt. Baxter came back I to lead Smith back to his cell,, Smith would not let Baxter handcuff him and take him out of his holding pen. Since Smith wouldn't leave the yard,, Sgt. Baxter had Corporal - now Sergeant Wilborn to handcuff me - the petitioner and lead me to my cell. As Officers led me to my cell. We passed inmate Smith (who was still on the Rec. Yard), and that's when Smith came out of the holding pen that he was in, and without being provoked... inmate Smith began to stab me as guards scattered.

On September 19, 2017 at Arkansas' East-Ark. Regional Prison, respondents Wendy Kelley, Marshall Reed, Jeremy Andrews, James Dycus, David Knott, Stephen Lane, Jamin Crawford, and Kathy Baxter... were Overseers / Custodians. At about 8:30 a.m. on September 19, 2017 respondents Kelley, Reed, Andrews, Dycus, Knott, Lane & Crawford allowed Baxter who's a respondent to conduct Rec. Yard Call, even though five inmates already had been accidentally helped by Sgt. Baxter with stabbing five other inmates during Rec. Yard Call there at East Arkansas Prison. That 19th day of September - Sgt. Baxter allowed Antonio Smith - an inmate to exit punitive Segregation armed with a home made knife; Baxter escorted inmate Smith to the Rec. Yard next. Moments later Baxter led me - the Petitioner to the Rec. Yard, twenty to forty yards away from inmate Smith. (We were both locked inside of separate holding pens for almost 2 hours, doing Rec. Call) When Sgt. Baxter came back to lead Smith back to his cell, Smith would not let Baxter handcuff him and take him out of his holding pen. Since Smith wouldn't leave the Yard, Sgt. Baxter had Corporal - now Sergeant Wilborn to handcuff me - the Petitioner and lead me to my cell. As Officers led me to my cell we passed inmate - & Smith (who was still on the Rec. Yard), and that's when Smith came out of the holding pen that he was in, and without being provoked... inmate Smith began to stab me as guards scattered.

Concise Statement Of The Case...

The U.S.D.C. for the Eastern District Of Arkansas-Helena dismissed my 42 U.S.C. Section 1983 Civil Complaint about East Arkansas Regional Prison Guards, Warden, Deputy Warden, D.A.C. Director, and Deputy Director failing to protect me-Reginald Dunahue from an inmate-knife-attack on 09-19-2017 at the East AR Regional Prison's Recreation Yard in violation of the U.S. Const. 8th Amendment. The U.S.D.C. erroneously dismissed my deliberate indifference claims against appellees-D.A.C. Director Kelley, Deputy D.A.C. Director Reed, and EARP-Warden Andrews at the 28 U.S.C. § 1915A screening stage. The reasons given by the U.S.D.C. are false & ill-conceived because I-Reginald Dunahue accused these three appellees on my complaint of knowing about and not trying to abate an excessive risk to my health and safety--but the U.S.D.C. wrongly concluded "I made allegations against Kelley, Reed and Andrews that are based on their Supervisory Positions". See Case: 2:18-cv-00021, Doc.#: 5-0, Page 4 of 5.

And months later the U.S.D.C. wrongly granted the Summary Judgment motion Appellees Knott, Crawford, Lane, Dycus, and Baxter filed; the U.S.D.C. wrongly concluded appellees were entitled to qualified immunity because appellees characterized the attack on me as a "surprise", but appellees' interrogatory-answers reflects they knew before I was attacked on 9-19-2017. Several other handcuffed and shackled inmates were ambushed by other non-restrained inmates on East AR Regional Prison's recreation yard and stabbed, as guards were escorting those ambushed.

The U.S.D.C.'s disposition of my Complaint, Summarily affirmed without briefing by the 8th Cir. Ct. Of Appeals ~~does~~ does not Comport with 8th Amendment Principles. ~~XXXXXX~~

The U.S.D.C. Said it granted Summary Judgment for the defendants because the defendants didn't know on 9-19-2014 inmate Antonio Smith would be taken from his cell with a home made knife on his Person, and Subsequently taken to a damaged recreation yard pen Smith's Escape from was Easy & made Possible by the damage.

And the U.S.D.C. Said the defendants were not aware that Smith would Stab me - Reginald Dunahue so the defendants were entitled to qualified immunity. See the U.S.D.C.'s Proposed Findings & Recommendations - Case: 2:18-CV-00021, Document #127, Page 9 of 11.

The U.S.D.C. also said it dismissed my Complaint because it Couldn't See Where & how I Presented tangible Proof Suggesting that all of the defendants knew that I - Reginald Dunahue was confined Under Conditions Posing a Substantial risk of harm to me before inmate Antonio Smith Stabbed me... Plus, lastly it Said that the defendants acted reasonably before and during the Course of me being Stabbed, and no reasonable factfinder could find that my Complaint, Arguments, Exhibits, and Pleadings established a violation of a Constitutional or Statutory right. See Case: 2:18-CV-00021, Document #127, Pages 9 thru 11. Next, I tendered a notice of Appeal in a timely manner, and Subsequently lodged my brief to the U.S. Court of Appeals - 8th Circuit, where it was denied and where I Petitioned for an En Banc rehearing & rehearing by a Panel but to no avail. The 8th Circuit affirmed the U.S.D.C.'s humbug Conclusion.

REASONS FOR GRANTING THE PETITION

1. The record for my Case—Reginald Dunahue v. Wendy Kelley, et al. Case no. 2:18-cv-00021 (U.S. District Court for the Eastern District of Arkansas) Proves that there is genuine issue as to material fact respondents were subjectively aware of, and deliberately indifferent to a substantial risk of harm to my the Petitioner's safety, and all other inmates safety in general at East Ark. Regional Prison. The record includes evidence proving all of the Prison Official respondents were exposed to underlying facts revealing that risk—The U.S.D.C. and Appeals Court just ignored and rejected that evidence.
2. My Complaint's arguments focuses on the d.o.c. Official-respondents—Kelley's, Reed's and Andrews's deliberate indifference to the risk of substantial harm posed by the overall lax security at the prison—not on the failure of the respondents to foresee the risk posed by the particular prisoner who attacked me.
3. The answers, information, admissions, Confessions, testimonies and representations of tangible & persuasive evidence all contained and manifested in Reginald Dunahue v. Wendy Kelley, et al. No. 2:18-cv-00021—U.S.D.C., Document #:128, pp. 25-29; Document #:18, pp. 4-8; Document #:128, pp. 30-33; Document #:17, pp. 15-18; Document #:18, pp. 9-13; Document #: 54-1, pp. 23-29; Document #: 121, pp. 1-12; Document #:82-3, pp. 1-5;

and Document #: 82-4, pp. 1-26 certainly Proves and develops that all of the respondents failed to protect all inmates of East Ark. Regional Prison from violence at the hands of other inmates and in so doing, Officials demonstrated deliberate indifference to serious and excessive risks to health and safety of all inmates who were at East Arkansas Regional Prison in violation of the Eighth Amendment. Also, all of the documents attest to the facts Wendy Kelley, Marshall Reed, Jeremy Andrews, James Dykus, David Knott and Stephen Lane and Jamin Crawford failed to train adequately and supervise Kathy Baxter and all Officers whose duty entails searching and escorting inmates at East Arkansas Regional Prison. Critical & Objective Study of the documents establishes evidence of the respondents' awareness of the substantial risk of inmate on inmate stabbings were long-standing, pervasive, well-documented and expressly noted by prison Officials whose job it is to search and escort inmates of East Arkansas Regional Prison.

These documents affirmatively refute the false reporting of by Appellate Court Judges Loken, Shepherd and Erickson who asserted -- "Because there's nothing in the record to indicate that I (Dunahue) was exposed to a substantial risk of serious harm, or that the defendants acted with deliberate indifference... We find that summary judgment was proper."

(See Back Side)

my Complaint put the U.S.D.C. on notice, D.O.C. Officials Dir. Kelly, Deputy Dir. Reed & Warden Andrews stood idle while their subordinates @ the East Ark. Prison were disobeying Safety Regulations enacted by the Arkansas Board Of Corrections, and it was that disobedience that resulted recurrently in inmates at East Ark. Prison being stabbed. See DOC.#: 2, pp. 4-23, and DOC.#: 18.

In my case the Circuit Court didn't go with the rule for an inmate making a sufficient complaint that states a cognizable claim for relief under 42 U.S.C. § 1983 — My Complaint in respects to all respondents conforms to Fed. Rule Of Civ. Proc. Rule 8(d).

Respondents Kelley, Reed, Andrews, Dycus, Knott, Lane, Crawford and Baxter on September 19, 2017 were under color of law; had an 8th Amendment duty to prevent inmate Antonio Smith #108884 to exit his cell armed w/ a home made knife; and all respondents duty included protecting me, the Petitioner from violent attacks by inmates, Officers too; these respondents recklessly abandoned their duties and I, the Petitioner paid the price for that.

A custodial relationship between me and all respondents existed. In Wells v. Walker, 852 F.2d. 368 (8th Cir. 1988) when a special custodial relationship exists between State actor and victim and the State actor places victim recklessly in a position of danger, in which he would not otherwise been. An affirmative right to protection by the State arises and is violated.

my Complaint put the U.S.D.C. on notice, D.O.C. Officials Dir. Kelly, Deputy Dir. Reed & Warden Andrews stood idle while their Subordinates @ the East Ark. Prison were disobeying Safety Regulations enacted by the Arkansas Board Of Corrections, and it was that disobedience that resulted recurrently in inmates at East Ark. Prison being stabbed. See DOC.#: 2, pp. 4-23, and DOC.#: 18.

In my case the Circuit Court didn't go with the rule for an inmate making a sufficient complaint that States a cognizable claim for relief under 42 U.S.C. § 1983 — My Complaint in respects to all respondents conforms to Fed. Rule Of Civ. Proc. Rule 8(d).

Respondents Kelley, Reed, Andrews, Dycus, Knott, Lane, Crawford and Baxter on September 19, 2011 were under color of Law; had an 8th Amendment duty to prevent inmate Antonio Smith #108884 to exit his cell armed w/ a home made knife; and all respondents duty included protecting me, the Petitioner from violent attacks by inmates, Officers too; these respondents recklessly abandoned their duties and I, the Petitioner paid the price for that.

A custodial relationship between me and all respondents existed. In Wells v. Walker, 852 F.2d. 368 (8th Cir. 1988) when a special custodial relationship exists between State actor and victim and the State actor places victim recklessly in a position of danger, in which he would not otherwise be. An affirmative right to protection by the State arises and is violated.

4.) The Appellate Court affirmed the erroneous decision of the U.S.D.C. to grant the respondents Qualified Immunity, due to respondents arguing they on 9.19.2017 did not know Prisoner, Antonio Smith would attack me—Reginald Dunahue—"the attack surprised them". Read Appellees Brief on page # 16. The U.S. Supreme Court in Farmer v. Brennan holds: ("Nor may a prison Official escape liability for deliberate indifference by showing that while he was aware of an obvious, substantial risk to inmate safety... he did not know that the plaintiff was especially likely to be assaulted by the specific prisoner who eventually committed the assault.") Therefore none of the argument by respondents about a surprise attack entitled them to Qualified Immunity—had merit.

5.) My Complaint and all of my pleadings made to the District Court and appellate Court allege facts showing prima facie violation(s) of My Eighth Amendment Right Under the U.S. Constitution, Judges in Farmer v. Brennan 511 U.S. 825, 833, 114 S.Ct. 1970, 128 L.Ed.2d 811 (1994) Krein v. Norris, 309 F.3d 487, 491-92 (8th Cir. 2002) also Skinner v. Uphoff, 234 F.Supp.2d 1208 agree Pass the Eighth Amendment test for Constitutional Liability of Prison Officials for failure to protect.

SEE BACK SIDE

6) Qualified Immunity was granted to Dycus, Baxter, Lane, Knott & Crawford even though the record contains circumstantial evidence —
nce they abandoned their 8th Amendment Duty to protect me the pe —
titioner from a violent attack by any inmate.

Qualified Immunity protects Officials who act in an Object —
ively reasonable manner, and shields 'government' Officials
from liability when their conduct does not violate clearly
established Statutory or Constitutional rights of which a
reasonable person would have known. Harlow v. Fitzgerald, 457

U.S. 800, 818 (1982). Grievances submitted by Corey O. Stew —
ard # 122825 Pot Kelley, Reed, Andrews, Dycus, Knott & Lane
on notice of Security at the East Ark. Prison were not search —
ing inmates for weapons before Security took inmates to
the Rec. Yard, therefore inmates were crawling out of Re —
c. Yard Pens and stabbing other inmates being led off of Re —
c. Yard by Security. See Grievance Responses placed in the ap —
pendix. However, the respondent's admit.

Respondent Baxter was in charge of searching inmates the day
inmate Smith stabbed me; Baxter was aware that Prison Poli —
cy required Baxter to strip search inmate Smith before she
took him to the Rec. Yard, and she didn't. See Dunahue v.
Kelley, et al. # 2:18cv 00021-Doc.#: 118, p.4.

6) Qualified Immunity was granted to Dycus, Baxter, Lane, Knott & Crawford even though the record contains circumstantial evidence they abandoned their 8th Amendment Duty to protect me the Petitioner from a violent attack by any inmate.

Qualified Immunity protects Officials who act in an objectively reasonable manner, and shields government Officials from liability when their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. Harlow v. Fitzgerald, 457

U.S. 800, 818 (1982). Grievances submitted by Corey O. Stewart # 122825 put Kelley, Reed, Andrews, Dycus, Knott & Lane on notice of security at the East Ark. Prison were not searching inmates for weapons before security took inmates to the Rec. Yard, therefore inmates were crawling out of Rec. Yard pens and stabbing other inmates being led off of Rec. Yard by security. See Grievance Responses placed in the appendix. However, the respondent's admit:

Respondent Baxter was in charge of searching inmates the day inmate Smith stabbed me; Baxter was aware that Prison Policy required Baxter to strip search inmate Smith before she took him to the Rec. Yard, and she didn't. See Dunahue v. Kelley, et al. # 2:18cv 00021-Doc. #: 118, p.4.

The district Court ignored tangible evidence of APPELLEES' involvement because (c) Doc# 78, p. 10 Question & Answer #4, And Doc# 116-3, p. 1 - Statement #6 Affirms APPELLEE Baxter Unlocked inmate Smith's Cell door on 09-19-2017 and took him out of ^{his} Cell Armed with the knife Shown on Doc# 82-3 Page#1.

The disregard by the dist. Court violated My 1st, 6th, and 14th U.S. Constitutional Amendment Rights to a jury trial & due Process, and redress of my grievances; the dist Court abandoned its duty to adjudicate fairly in my case when all of the Court documents I've referred to in this brief elucidates the facts:

APPELLEES knew beforehand they were admitting Use of unsafe fences - PENS at their Prison, and Serval inmates had Escaped from the Pens on multiple Occasions,

APPELLEES knew before hand that on every occasion,, an inmate was stabbed by the inmate who escaped; and

APPELLEES knew beforehand they were admitting inmates to aboard the rec. yard Armed with Knives.

In Farmer v. Brennan, 511 U.S. 825. 114 S.Ct. 1970 128 L.Ed. 2d. 811:

1. A Prison Official may be held liable Under the 8th Amendment for acting with deliberate indifference to inmate health or safety only if he knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it.

(a) Prison Officials have a duty Under the 8th Amendment to provide humane conditions of confinement, they must ensure that inmates receive adequate food, clothing, shelter, medical care,, and must protect prisoners from violence at the hands of other prisoners. And a Constitutional Violation occurs only where the deprivation alleged is objectively and sufficiently serious and the Official has acted with deliberate indifference to inmate health or safety.

**ARKANSAS DEPARTMENT OF CORRECTION
VISITATION /TELEPHONE CONTACT REQUEST AND AUTHORIZATION FORM**

Please circle your request selection: ADDITION CHANGE

PLEASE MAKE SELECTION : PHONE LIST _____ VISITATION LIST _____ BOTH _____

Inmate's Name: _____ ADC# _____

Applicant's Name: _____

PLEASE PRINT NAME AS IS APPEARS ON DRIVER'S LICENSE

Street or Address _____ Street _____ City _____ State _____ Zip Code _____

Mailing Address _____ Street _____ City _____ State _____ Zip Code _____

Date of Birth: ____/____/____ Telephone Number: _____
Month Day Year

Are you a CURRENT or PREVIOUS ADC employee or (CONTRACT employee or VOLUNTEER)? YES _____ NO _____

IF YES, Date last employed or volunteered: _____ Unit of Assignment: _____

SOCIAL SECURITY #: _____

If age 12 or older, Valid Driver's License Number/State Issued Photo ID Number: _____ SEX: _____ RACE: _____
Driver's License STATE of ISSUE ()

Relationship to Inmate: _____

If form is for an Attorney request, provide State Bar Card Number _____

ARE YOU PRESENTLY ON THE APPROVED PHONE LIST OF ANOTHER INMATE INCARCERATED WITHIN THE ARKANSAS DEPARTMENT OF CORRECTION? YES () NO () IF YES, PLEASE COMPLETE THE FOLLOWING; IF MORE THAN ONE, LIST ALL. Use additional paper if needed.

Inmate Name _____	ADC # _____	RELATIONSHIP _____	Incarceration Unit _____
Inmate Name _____	ADC # _____	RELATIONSHIP _____	Incarceration Unit _____

ARE YOU PRESENTLY ON THE APPROVED VISITATION LIST OF ANOTHER INMATE INCARCERATED WITHIN THE ARKANSAS DEPARTMENT OF CORRECTION? YES() NO() IF YES, PLEASE COMPLETE THE FOLLOWING; IF MORE THAN ONE, LIST ALL. Use additional paper if needed.

Inmate Name _____	ADC # _____	RELATIONSHIP _____	Incarceration Unit _____
Inmate Name _____	ADC # _____	RELATIONSHIP _____	Incarceration Unit _____

SEARCH AUTHORIZATION

I, _____ OF _____ request
Name City State

permission from the Arkansas Department of Correction, to Visit and/or Contact by telephone, Inmate _____
ADC # _____. I have read the rules and regulations on the back of this form and I understand them fully. I do agree to abide fully by such rules and regulations. I understand that there will be consequences should I fail to follow the rules and regulations governing telephone usage, both those located on the back of this application and rules posted at the Unit. In consideration for being granted permission to telephone usage and/or visitation, I consent to a criminal background check(s).

COMPLETE AND RETURN THIS FORM TO:

VISITATION CLERK
At the Inmate's Assigned Unit

Printed-Applicant's Name (Must be Legible or Form Cannot Be Processed)

Signature of Applicant

If you are under 18 years of age, your Legal Guardian's approval to visit and consent to a search of your person and possessions or contact by telephone must be indicated by signing below. Additionally, you will be required to have an approved adult with you to visit. Signature of Parent or Legal Guardian constitutes "consent" or approval.

Relationship to Applicant: _____

Signature of Legal Guardian

Clearly Print Parent or Legal Guardian's Name

Doc# 128-0, pp. 37-45, (my objections) — Proves ADC Warden Andrews was aware that his officers were allowing inmates to stab other inmates on Andrews's Rec. Yard at E.A.H.U.; nevertheless, Andrews didn't do anything to prevent inmate A. Smith to come to Andrews's Rec. Yard on 09-19-2011 armed w/ a knife that's shown on Doc# 82-3, p.1 — and Smith stabbed me with.

Doc# 128-0, pages 37 to 45 and Doc# 128-0, p.1 Proves ADC Deputy Director Reed knew in advance officers were allowing inmates to stab other inmates on the E.A.H.U. rec. yard, however Reed didn't do anything to prevent inmate A. Smith to come to the rec. yard on 09-19-2011 armed w/ a knife shown on Doc# 82-3, p.1, A. Smith stabbed me with.

Doc # Doc# 128-0, pp. 37-45 and Page 30 to 32 — Proves ADC Major Knott knew in advance his officers were allowing inmates to stab other inmates on his rec. yard, nevertheless Knott didn't do anything to prevent inmate A. Smith to come to his rec. yard armed with a knife that's shown on Doc# 82-3, p.1 — he stabbed me with.

Doc# 128-0, pp. 15-18 and Doc# 128-0, pp. 30-32 Proves ADC Captain Lane knew his officers were allowing inmates to stab other inmates on his rec. yard — And Capt. Lane knew in advance — but he didn't do anything to prevent inmate Antonio Smith to come to his rec. yard armed with a knife shown on Doc# 82-3, p.1 which he stabbed me with, on 9/19/2011.

Doc# 128-0, pp. 30-32 Proves Lieutenant Crawford had enough reason, cause and circumstantial proof to know in advance that inmate Antonio Smith would stab me or somebody else on 09-19-2011 — And inmate Smith had a history of assaults w/ knives on inmates. Doc# 82-4, pp. 1 to 26 shows Crawford knew I/m Smith on 9-19-2011 had a knife & wanted to stab somebody (that somebody was me), and said he intended to, long before I came to the South Yard from about 40 yards away.

Case: 2:18-cv-00021-JM-JTK

REGINALD L DUNAHUE ADC#106911
EAST ARKANSAS REGIONAL UNIT
ARKANSAS DEPARTMENT OF CORRECTION
POST OFFICE BOX 970
MARIANNA AR 72360

██████████ ADC. Director Wendy Kelley, Deputy Director Marshall Reed and East Arkansas Maximum Prison Warden Jeremy Andrews, Deputy Ward- James Dycus, Chief of Security David Knott, Captain Stephen Lane and Lieutenant Jamin Crawford On September 19, 2017 had the State duty to supervise & ensure ██████████, Search & Escort Sargent, Kathy Baxter. Search inmate Antonio Smith # 108884 for weapons & seized the weapons found (before inmate Smith was released from his cell on 9-19-2017) — ██████████, Kelley, Reed, Andrews, Dycus, Knott, Lane and Crawford defaulted in supervising & ensuring ██████████ Baxter on 9-19-2017 searched for & seized the weapon shown on Doc # 82-3, pp. 3-4 before Baxter released inmate Smith from his cell; the ██████████ default was deliberate because Answers on Doc # 17, pp. 15-18, Doc # 128, pp. 30-33, 37-45 reveals the facts there had been numerous inmates admitted by ██████████ Baxter to pass by her armed with knives (before September 19-2017). And Doc # 18, pp. 9-10 Ans. 1 & 4, ██████████ Proves ██████████ Baxter's duty on 9-19-2017 to conduct searches of East Arkansas Max. inmates and release them from their cells — See Doc # 116-3, p. 1 Statements 1 & 2.

In Farmer v. Brennan, 511 U.S. 825 114 S.Ct. 1970 128 L.Ed.2d. 811. Under the Eighth Amendment, Prison Officials must take reasonable measures to guarantee safety of inmates, and they have the duty protect prisoners from violence at hands of other prisoners.

A Prisoner Claiming that Prison Officials violated the Eighth Amendment duty to protect him against harm need not show that Prison Officials acted or failed to act believing that harm actually befall him; ^{would}

it is sufficient that Official acted or failed to act despite his knowledge of substantial risk of serious harm. U.S.C.A. Const. 8.

See Back Side

D.O.C. Official-Respondents proposed to the appellate Court the assault that I-Reginald Donahue experienced-- was a surprise, and the Circuit Court agreed that the surprise theory was good enough excuse to base Qualified Immunity On. Major Knott's answers to interrogatories reveals it was quite a few occasions at the East Ark. Prison inmates had ambushed and stabbed other inmates on the Rec. Yard-- prior to me the Petitioner being ambushed.. So it was no surprise attack.

See Appendix for Major Knott's answers, and reports of the attack On me the Petitioner.

D.O.C. Official-Respondents proposed to the appellate Court the assault that I-Reginald Dunahue experienced-- was a surprise, and the Circuit Court agreed that the surprise theory was good enough excuse to base Qualified Immunity On. Major Knott's answers to interrogatories reveals it was quite a few occasions at the East Ark. Prison inmates had ambushed and stabbed other inmates on the Rec. Yard-- prior to me the Petitioner being ambushed.. So it was no surprise attack.

See Appendix for Major Knott's answers, and reports of the attack On me the Petitioner.

ARGUMENT

The U.S.D.C. Erroneously Dismissed My Claims Against Respondents Director Kelley, Deputy Director Reed & Warden Andrews at 28 U.S.C. § 1915(A) Screening Of my Complaint (Doc.# 18-0 Pages 1 to 38). My Complaint was brought Pursuant to 28 U.S.C. § 1343 & 42 U.S.C. § 1983 and States there were no Corrective actions taken by Kelley, Reed & Andrews to repair or replace the wire metal mesh holding pens at East Ark. Regional Unit Where in my Complaint I Said Serval inmates had been Put into damaged holding pens they escaped from to Charge and Stab guards and Other inmates whom guards led around Shackled & handcuffed. I announced in my Complaint Kelley, Reed & Andrews turned a blind eye to the Wrongful lack of trained, Competent, Mature and ready to do duties guards at East Ark. Regional Unit. And I mentioned that Kelley, Reed and Andrews omitted to fire or demote and suspend guards at EARU whom's laziness, ineptitude, Omission, inattention and misconduct made Stabbings of inmates by inmates possible and it was Kelley's, Reed's & Andrews's failure to supervise, train and discipline the Other respondents Dycus, Knott, Lane, Crawford and Baxter that is the Proximate reason Stabbings of inmates by inmates at EARU frequently Occurred. These accounts I Presented along w/ Corroborating Proof was ignored & excluded during the U.S.D.C.'s 28 U.S.C. § 1915(A) Screening. And the 8th Circuit didn't Care to See how I Clearly Stated Claims against respondents Kelley, Reed & Andrews that are claims Upon which relief may be granted So the 8th Cir. Court Of Appeals erroneously Concurred w/ the ludicrous decision Of the U.S.D.C. (Doc.# 127).

The 8th Circuit Cited Cooper v. Schirano, 189 F.3d 781, 783 (8th Cir. 1999) for the purpose of Exemplifying how my Complaint is deficient... But my Complaint is nothing like Cooper's Complaint because I - Reginald Dunahue named all the tortfeasors - Prison Officials, and stated how Kelley, Reed and Andrews facilitated a highly unsafe and inhumane condition of life for me at EARU.

So my Complaint is made according to the standard and requirements delineated in Ashcroft v. Iqbal, 556 U.S. 162, 178 (2009) and Be-ll Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007). My Claims of deliberate indifference and failure to protect that I assigned to respondents Kelley, Reed and Andrews are viable ones and should have not been dismissed. Respondents are Prison Custodians and Supervisors and D.O.C. Policy makers who before I - inmate & Petitioner - Reginald Dunahue was stabbed by inmate Antonio Smith... knew about the recurrent escapes by inmates from East AR. Regional Unit holding pens, and the stabbings in lieu of those escapes in which respondent's D. Knott's, S. Lane's and J. Crawford's answers attest to occurring at East AR. Regional Unit. The U.S. Supreme Court in Farmer v. Brennan, 114 S.Ct. 1970 held: A Prison maybe held liable Under the Eighth Amendment for acting with "deliberate indifference" to inmate health or safety only if he knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable action to abate it. Prison Officials have a duty Under the Eighth Amendment to provide humane conditions of confinement.

They must ensure that inmates receive adequate food, clothing, shelter, medical care too; and Prison Officers must protect prisoners from violence at the hands of other prisoners. And a Constitutional violation occurs only where the deprivation alleged is objectively and sufficiently serious. It's undisputed D.O.C. Wendy Kelly, D.O.C. Marshall Reed and D.O.C. Jeremy Andrews were in command of East AR Regional Unit during year 2017 and failed to train, suspend, fire or demote the D.O.C. guards @ EARU for their reckless omissions, misconduct, laziness, and failures to abide by safety precautions and policies promulgated by Arkansas D.O.C., that if followed by D.O.C. guards will prevent inmate assaults with home-made knives. The D.O.C. guard - D. Knott affirmed on his answers on DOC.#: 121, pp. 17-19...there were many inmate on inmate stabbings on the recreation yards at EARU during the year of 2017; the stabbings were made possible by damaged, metal mesh wire fences, D.O.C. guards used and put inmates into daily which inmates would bust out of to attack other inmates being led around by guards,, bound up. Refer to DOC.#: 128, pp. 37-46 and DOC.#: 77, pp. 15-17.

The 8th Cir. Ct. Of Appeals was supplied w/ ample proof that I-Reginald Dunahue met the subjective & objective components of the 8th Amendment failure to protect analysis... but the 8th Circuit denied me relief because i'm incarcerated.

Were respondents Dycus, Knott, Lane, Crawford & Baxter erroneously granted Qualified Immunity? YES.

It erroneously was decided by the U.S.D.C. the respondents J. Dycus, D. Knott, S. Lane, J. Crawford & K. Baxter were entitled to qualified immunity from my failure to protect & deliberate indifference claims because respondents characterized inmate Antonio Smith's attack on me as a "Surprise".

The U.S.D.C. granted respondents Summary Judgment and said it did so because the U.S.D.C. didn't see proof of there being a substantial risk of serious harm I faced when and by respondents omitting to take precautions and safety measures that could have precluded the stabbing I was victim of on 9-19-2017. The 8th Circuit of Appeals concurred with the U.S.D.C.'s judgment, erroneously.

Answers by respondents S. Lane & D. Knott affirm the fact that I-Reginald Dunahue faced great danger and risk by letting lax, lame, incompetent, poorly-supervised & trained guards lead me to the recreation yards at East AR Regional Unit, because respondent K. Baxter allowed use of damaged inmate holding pens and inmates to enter them while wearing weapons. Refer to DOC. # 77, page 15 Question & Answer #1. DOC. # 77, p. 16 Q&A # 4 and Q&A # 5; and DOC. # 77, p. 17 Q&A # 6; and DOC. 78, p. 4 Q&A # 1; p. 5 Q&A # 3, 4, 5 & 6.

Now the Answer to Question #12 Proves the answer to Question #10 to be Untrue on DOC. # 78, pp. 6-7.

In Farmer v. Brennan, 511 U.S. 825, 833-38

Prison Officials have a duty to protect prisoners from violence by other inmates; prison Official Violates Eighth Amendment only when (1) Condition Poses objective and Substantial risk of Serious harm, and (2) Official knows of and disregards said risk. All Respondents were Positioned @ East AR. Regional Unit as Custodians, and it's reasonable for any Judge to infer that a lot of Stabbings by inmates occurred on their watch at EARU before I was stabbed -- That's why when I asked the Arkansas Attorney General to give me copies of the Officer Reports of Inmate Stabbings on EARU's recreation yards during year 2017 -- the A.G. refused to provide the information. Refer to DOC.#s 128, pp. 65-73, and DOC.#s 41, 70, 74, 75, 77, 78, 86 and 91.

All of those reports prove that I abided in a condition that posed an objective & Substantial risk of Serious harm to me when being led to and from the recreation yard by guards supposedly led by respondents Dycus, Knott, Lane, Crawford & Baxter. Damaged rec. yard pens at EARU allowed inmates to bust out of them and attack other inmates being led around by guards -- handcuffed & shackled is what the Officer Reports I sought will represent to a judge and jury.

More over, a jury could infer from the reports -- all the respondents knew about the danger created by the damaged pens, weapons respondents allowed inmates to carry to the rec. yards, and the failures of respondents to eliminate the dangers.

Was Respondent's Really Entitled To Summary Judgment? NO...
And Did They Act w/ Deliberate Indifference? YES...

Damaged Rec. Yard Pens at East AR. Regional Unit allowed me -
Reginald Dunahue and about ten other EARU inmates to be
stabbed by various other inmates on different dates, and al -
l Respondents was aware of the damage on the day ~~XXXXXX~~
~~XXXXXX XXXX XXXX~~ the respondents Dycus, Knott, Andrew -
s and Lane Permitted respondent K. Baxter to place the inmat -
e who stabbed me -- in the damaged Rec. Yard pen shown On
DOC. #: 82-3, pp. 3-4.

With out effort a fair judge would conclude the respondents
runs an injurious prison recreation yard, and thats why the Ar -
kansas Attorney General and the U.S.D.C. judges J. Moody and
J. Kearney denied me the records and Evidence Sought ~~by~~ by
me. Refer to DOC. #: 128, pp. 47-53, and DOC. #: 41, 70, 74, 75, 77,
78, 86 & 91. The U.S.D.C. for the Eastern Distr. Of Arkansas
blocked & Stopped my fight to force the Ark. Attorney
General to give me records Of inmate Stabbings that
Occurred at East AR. Regional Unit during year 2017,
Photos Of the Scenes, and Photos Of the weapons Used.
The A.G. said Only (2) Stabbings -- besides mines,, Oc -
curred; But the A.G. Lied. Stabbings Occurred frequently
on EARU's recreation yard; So respondents Dycus, Knott,
Lane, Crawford & Baxter had ample reason to be on the
look-out for an attack on me - Reginald Dunahue but th -
ey were not on the look-out because they wasn't Con -
cerned.

In Farmer v. Brennan, 511 U.S. 825, 114 S.Ct. 1970 128 L.Ed.2d 811 — the Court held: A prison official may be held liable under the Eighth Amendment for acting with "deliberate indifference" to inmates health or safety only if he knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it — Prison officials have a duty under the Eighth Amendment to provide humane conditions of confinement. They must ensure that inmates receive adequate food, clothing, shelter, and medical care, and must protect prisoners from violence at the hands of other prisoners — However, a constitutional violation occurs only where the deprivation alleged is objectively & sufficiently serious, and the official has acted with "deliberate indifference" to inmate health or safety.

Deliberate indifference entails something more than negligence but is satisfied by something less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result. Thus, it is the equivalent of acting recklessly.

Subjective recklessness as used in the Criminal Law is the appropriate test for "deliberate indifference". Permitting a finding of recklessness only when a person has disregarded a risk of harm of which he was aware is a familiar and workable standard that is consistent with Cruel and Unusual Punishments clause as interpreted in the U.S. Supreme Court cases. The Eighth Amendment Outlaws Cruel & Unusual punishments.

The Subjective test does not permit liability to be premised on Obviousness or Constructive notice. However, this does not mean that prison officials will be free to ignore obvious dangers to inmates. Whether an Official had the requisite knowledge is a question of fact Subject to demonstration in the usual ways, and a factfinder may conclude that the Official knew of a Substantial risk from the fact that it was obvious. Nor may an Official escape liability by showing that he knew of the risk but did not think that the Complainant was especially likely to be assaulted by the prisoner who committed the act. It does not matter whether the risk came from a particular Source, or whether a prisoner faced the risk for reasons personal to him, or because all prisoners in his situation faced the risk. And if an inmate presents evidence showing that a Substantial risk of inmate attacks was 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 and thus must have known about it... then such evidence could be sufficient to permit a trier of fact to find that the defendant-Official had actual knowledge of the risk.

While Under the color of law,, respondents Kelley, Reed, Andrews, Dycus, Knott, Lane, Crawford and Baxter showed deliberate indifference to the fact I-Reginald Dunahue was confined Under conditions posing a Substantial risk of serious harm, at East Ark. Regional Unit,, to me.

Was My Claim For Dycus Failing To Protect Me, Un Support-
ed. NO. My Claim Was Supported.

Respondent J. Dycus's Declaration (DOC.# 116-4) acknowledges & admits Dycus's Official affirmative duty or duties @ East Ark. Regional Unit in the Year of 2017 were over seeing all of the Guards whose job it was to search inmates they led to the EARU recreation yard; Evaluate the Performance of the Guards whom job it was to search inmates before they lead inmates to the recreation yards; and to train, refer for training, and discipline those Guards for not following Safety & Security Protocol, Guidelines and directives; And for disobeying Employee Conduct Rules.

Its Logical for a fair Judge to infer that Mr. Dycus abandoned his duties when a fair Judge sees the answers from respondents Knott & Lane on DOC.#s 128 ~~and~~ pp. 30-33 and 17, pp. 15-18; The Officer Reports & Photos of all the inmate stabbings that occurred on the recreation yards at EARU, which the Ark. Attorney General refused to produce and which the U.S.D.C. Judges denied my motions to Compel Discovery; and when a fair Judge sees DOC.#: 82-4, pp. 1-26. Evidence & Documents suggests Mr. DYCUS didn't do what would've curbed inmate Stabbings on the recreation yard at EARU, Or prevented Stabbings to occur. The Evidence & Case Records insinuates: At East Ark. Regional Unit -- respondent Dycus chose to recklessly ignore the danger those under him facilitated & contributed to that I-Reginald Dunahue faced when I went to the recreation yard;

the case record & evidence insinuates Dycus didn't reprimand, fi-
re, nor suspend any of the guards who didn't confiscate the w-
eapons carried by the inmates they removed from cells and too-
k to damaged recreation yard pens at EARU, and the inmates
later busted out of them to stab other inmates; And the
case records & evidence suggests Dycus knew and ignored th-
e the Rec. Yard pens' damage facilitated inmate stabbings at
EARU. Had Mr. Dycus did his job, Sargent K. Baxter on
Sept. 19, 2017 would've "searched" inmate Antonio Smith, and
found Smith's knife when Baxter came to his cell to
get him out to take him to the pen shown on DOC # 82-3, pp.
3-4. Dycus failed to do, execute the duties listed on DOC # 116-
4 which enabled inmate Smith to stab and seriously inju-
re me. Mr. Dycus abandoned his duty to protect me from
preventable harm, so he violated the Eighth Amendment
for sure. And he didn't show the U.S.D.C. an ADC policy
that says female guards can not "search" male inmates
as he claimed. Refer to appellees brief - Case # 19-1691, p. 2.
Mr. Dycus is liable for the stabbing & injury I sustained... Evid-
ence in this case suggests Dycus knew about real facts from
which to infer a substantial risk of serious harm to me - Reginald
Dunahue existed but he omitted recklessly to alleviate that ri-
sk he knew about. The 8th Cir. Ct. Of Appeals saw the facts
of Dycus's liability and culpableness but denied my appeal nev-
ertheless b/c I proceeded pro se.

Did The U.S.D.C. ERM By Granting Summary Judgment To
Major D. Knott... YES.

Had Respondent D. Knott actually been doing the duties listed
as his on DOC. # 116-6, it would not have been so many instanc-
es of inmates being removed from EABU cells with Kniv-
es on their person; Respondents Crawford, Lane & Baxter
would have searched the dozen of inmates and found their
knives; Damaged recreation yard pens like the one show-
n on DOC. # 82-3, pp. 3-4 would've been disassembled or
~~XXXX~~ Officially Condemned Once DOC. # 128, pp. 37-43 was read
and addressed by respondents Andrews, Reed & Knott; Additionally,
Respondents Baxter, Lane & Crawford would have searched inmat-
e Smith and took away his knife.

~~XXXX~~ photographed on DOC. # 82-3, p. 1 before Baxter put in-
mate Smith in the damaged pen shown on DOC. # 82-3, pp. 3
and 4. Respondent Knott didn't do his Official duties to
Supervise Baxter, Lane and Crawford and ensure they searched in-
mate Smith on September 19, 2017, and Confiscated the We-
apon shown on DOC. # 82-3, p. 1 Smith used to stab and ser-
iously injure me after respondent Baxter put Smith into a
damaged recreation yard pen, he easily escaped out of. See
DOC. # 82-4, pp. 1-26. Doc. # 128, pp. 37-43 Put Major Knott on
notice of the facts there was a need to condemn and disasse-
mble all recreation yard pens w/ obvious defect(s) & damages @
EABU; training Officers named in Q&A # 3, DOC. # 128, p. 31
to actually check the pens before use, 2 Check inmates for
weapons before taking them to the pens, and to stop - prevent
25

inmate attacks on other inmates, Guards would be Escorting @ EARU. Refer to Q&A #s 3, 4, 5 and 6. Doc. # 78, p. 5; Compare Q&A # 10 with Q&A # 12 and You'll discern the Contradiction - lie in Knott's answers. It's apparent that the 8th Cir. Court Of Appeals had all the Proof Of respondent Knott recklessly abandoning his Official duties to: Supervise Guards and Searches Of inmates by Guards; Monitoring Staff, guards and inmates; and Ensure I - Reginald Dunahue on Sept. 19, 2017 was afforded adequate Security-Protection from Serious Bodily Harm I sustained. See Doc. # 82-4, pp. 1-26.

The 8th Cir. Court Of Appeals denied my appeal because it didn't want to give relief to a Pro Se Litigant in jail who presented enough tangible evidence to establish genuine issues of material fact to survive Summary Judgment, and Satisfy Subjective & Objective Components to the Eighth Amendment failure to protect analysis. Plus the 8th Circuit Sided with the respondents theory of the attack on me being a Surprise to the respondents, and based that Court's acquiescence of the Surprise theory - it said the respondents Knott, Dycus, Lane, Crawford & Baxter were entitled to qualified immunity. In Farmer v. Brennan, 114 Sup. Ct. 1970 - Fed. inmate Dee Farmer whose a transsexual also -- was beat and raped inside of a U.S. Penitentiary in Terre Haute, Indiana without Prison Guards anticipating he would be attacked... but the U.S. Sup. Ct. Sided with Dee Farmer, because the Prison Officials weren't vigilant when they knew that the USPs in Terre Haute were prone to be violent.

inmates

Did The U.S.D.C. Erroneously Grant Summary Judgment To Sargent Kathy Baxter... YES.

The facts Respondent Baxter is the Officer who is liable for inmate Antonio Smith Carrying a weapon to EARU recreation yard on September 19, 2017, and then Escaping from a pen to stab me — are obvious but the 8th Cir. Court Of Appeals turned a blind eye to those facts. Sgt. Baxter's duties were to Search inmate Smith on September 19, 2017 and Seize Smith's knife before Baxter led Smith to the recreation yard — Refer to DOC.# 78, p. 9 Q&A #1; and p. 10 Q&A #4; and DOC.# 118 p. 4. However, Sgt. Baxter Chose not to Search inmate Smith on September 19, 2017 and failed to Check the Condition Of the Rec. Yard Pen She Put inmate Smith into. Baxter's duty was to Check the recreation yard pens at EARU — See DOC.# 77, p. Q&A #2, #3 & #4, and DOC.# 78, p. 6 Q&A #8. DOC.# 82-4, pp. 1-26 testifies to the facts Respondent Baxter Put me-Reginald Dunahue into the position to be seriously injured when Baxter took I/m Antonio Smith and Smith's Weapon to the recreation yard where Sgt. Baxter took me also on September 19, 2017. More over, Baxter Put I/m Smith into a Pen that didn't have the Capability Of Containing Smith, So he Emerged from the pen to Stab me as Respondents were Somewhere distant, laughing, chatting & Snacking. Refer to D.C. # 118, p. 4. The case record & evidence all reveal the fact Sgt. Baxter had neglected her Official duties habitually without being reprimanded, Suspended, demoted, or re-assigned by respondents Kelly, Reed, Andrews, Dycus, Knott, Lane, Crawford — Baxter's Superiors. And because Sgt. Baxter wasn't fulfilling her dut —

ies - there were numerous inmate on inmate stabbings occurring on EARU recreation yard. The 8th Cir. Ct. Of Appeals dismissed that fact, along w/ the fact there's Prison Policy obligating guards of any gender to search Male inmates going in & out isolation, to and from the recreation yard also. Refer to DOC.#128, pp. 34 to 36. Respondent Baxter abandoned her Official duty to Protect me - Reginald Dunahue from serious bodily harm in violation of the 8th Amendment.

8th Cir. Ct. Of Appeals Committed a miscarriage of justice here... Respondent Knott admits Baxter was supposed to be under respondents Lane's & Crawford's Supervision. Refer to DOC.#128, p. 31, Q&A #s 3-6. And read what Crawford said his Official duties were - DOC.#116-1 Sentence #3. Its reasonable to deduct it was Crawford's Omissions of duties to Supervise the guards named on DOC.#128, p. 31, Q&A #3; direct and monitor their job performance; and instruct them on how to do their job in accord to Safe Keeping Policy and Procedure... that allowed Sgt. Baxter to Slack and Put my life and health in jeopardy on Sept. 19, 2017 at EARU. The 8th Circuit didn't Care to examine none of these cited documents to deduct a substantial and Objective serious safety risk persisted at EARU because Lt. Crawford didn't do his duties he listed on DOC.#116-1.

I - Reginald Dunahue Presented both the USDC and the 8th Circuit Court Of Appeals with adequate Proof Of Culpability on Part Of ~~all~~ all the respondents in respects to their deliberate indifference to the substantial risk of harm I had to face when I went to the recreation

yard at East AR Regional Unit. So the 8th Cir. Ct. Of Appeals had all it needed to conclude all the respondents violated my 8th & 14th Amendment Rights provided by the U.S. Constitution.

And Was it an abuse of the U.S.D.C.'s discretion to deny me Counsel I motioned for? YES.

In this case there is trace of conflictive accounts of Stabbings and numbers of them given; In this case, discovery of records of inmate assaults on East AR Regional Unit's rec. yards exist but ~~was~~ was suppressed by Counsel for defendants and USDC Judges; Also, there is over a dozen reports and photos of inmate holding pen escapes that occurred on the rec. yards at EARU; Policies and guidelines on inmate escorting & Searches too.

USDC Judges when expressing on DOC.# 127, pp. 9-10 why they dismissed my claims, said, "I didn't Present evidence showing & Proving the defendants had Prior Knowledge of a ~~very~~ risk of harm to me" which is false. Had the USDC appointed me counsel it would have received all of the incident reports & photos of numerous yard area Stabbings that occurred before I-Reginald Dunahue was stabbed. Defendants' Counsel refused to Produce discovery, and the USDC refused to compel them to Produce discovery. Defendants' appeal brief on Page 4 admitted to the USDC the respondents failed to Prevent two inmates to Come to EARU recreation yards carrying home ~~knives~~ made knives used to stab two other inmates, and answers by respondents Lane & Knott to my interrogatories affirmed more than (4) Stabbings occurred on EARU recreation yard. So DOC.# 127's reasons for granting Summary Judgment for

respondents Dycus, Knott, Lane, Crawford, and Baxter are false-- Documents and Photos that Establishes genuine issues to the material facts All of the respondents on & before September 19, 2017 were aware that recreation yard holding pens had crawl through-escape holes in them inmates at East Aft. Regional Unit had come out of a dozen of occasions prior to September 19, 2017, and sequentially knife attacked other incapacitated inmates--in front of guards..(I was knife attacked on September 19, 2017) (In Tucker v. Evans, 276 F.3d 999, 1001-02 (8th Cir. 2002) 'inmates alleging failure to protect must make two showings in order to prevail--They are: that there was a substantial risk of harm to them, and the Prison Official was deliberately indifferent to that risk)..the USDC approved the respondents to keep secret those documents and Photos. Refer to Doc. # 39, 41, 45, 49, 56, 57, 60, 70, 74, 77, 78, 86, 120, 124 & 126.

The Showings that Tucker v. Evans require...I came in Doc. # 12-8 "My Objection", and made these two showings to the USDC and the 8th Circuit in my brief and my reply brief, which I believe the judges never read because they didn't see the fact the Tucker v. Evans "showings" were made in my case. All the evidence to meet the two requirements came in Doc. # 128 and my briefs to the 8th Circuit. Had I been championed by a Civil Rights Lawyer, that evidence would've been weighed and would've won my case, by illustrating to judges just how apparent and well known the danger to me-Reginald Dunahue was, and however respondents allowed to persist.

In Farmer v. Brennan, 114 S.Ct. 1970 -- the USDC threw out Farmer's Complaint because Prison Officials didn't foresee inmates raping Farmer, and he never warned them he'd be raped. The D.O.C. Officials' attorneys blocked discovery of evidence and the USDC granted Summary Judgment for the D.O.C. Officials with ^{out} ruling on Farmer's motions for Summary Judgment and to Compel Production of documents. The USDC said the D.O.C. Officials weren't guilty of deliberate indifference to Farmer's safety because D.O.C. Officials didn't know he would be raped. The U.S. Supreme Court disagreed. It held the USDC erred by viewing the D.O.C. Officials weren't liable for failing to protect and consequently granting them Summary Judgment. In my case the 8th Cir. Ct. of Appeals said the USDC did right to dismiss my claims because ADC Officials / respondents didn't know I'd be stabbed by inmate Antonio Smith. And just like respondents in my case... the D.O.C. Officials that inmate Farmer sued, refused to produce documents that suggested the D.O.C. Officers knew there was a substantial and obvious safety risk inmate Farmer faced, that D.O.C. Officials ignored. The United States Supreme Court felt the denial-refusal was another reason for it to reverse, vacate and remand Farmer's Case dismissal, back to the USDC for it to review the necessity, or lack of for Farmer's motion to be granted. Here in my case, the USDC told me - Reginald Dunahue, documents requested on DOC.# 128, pp. 53-58, Response-N-Request NOS. 1, 2, 4, 5 & 13 were not necessary for me to oppose defendants' motion for Summary Judgment. (Examine DOC.# 128, pp. 50-52 ~~Request NOS. 8-11~~ Request NOS. 8-11) The USDC was wrong because the reports, records and photos would've even more proved genuine

issue to the respondents' claim to qualified immunity. DOC. # 54-1, pp. 23-49, DOC. # 121, pp. 7-12; and DOC. # 121, p. 11 Q&A # 1, and Q&A # 2, Q&A # 3, 5 & 6 on pp. 18-19.... Gave the USDC and the 8th Circuit adequate proof of respondents knowing and not correcting the damage to rec. yard pens; respondent Baxter repeatedly permitted inmates to go onto rec. yards carrying knives; Multiple inmates were seriously injured because respondents omitted to fix or reinforce the rec. yard pens and confiscate weapons the inmates carried to the yard; and Guards named in Question #3, DOC. # 121, p. 18 were recklessly put inmates' life, health & safety in danger.

According to The 8th Cir. Ct. Of Appeals in Patterson v. Kelley, 902 F.3d 845 — it is ~~obvious~~ true. "An obvious risk of harm may justify an inference that Prison Officials subjectively disregarded that risk." Also, "had inmate Patterson informed ADC Officials he seen violent attacks, robberies, gay sex, and gambling going on in his barracks -- the 8th Circuit would have concluded the ADC Officials were subjectively aware of, or deliberately indifferent to a substantial risk of harm to inmates."

The 8th Cir. Ct. Of Appeals handled my case disproportionately because I adduced a sufficient amount of proof showing the respondents were exposed to facts revealing I-Reginald Dunahue was at risk, and respondents recklessly ignored it.

Conclusion

It Should now be Crystal clear to this Supreme Court that all Of the requisite evidence to Substantiate my 8th Amendment Violation Claims was fully Presented to both the U.S. District Court and U.S. Court Of Appeals — 8th Circuit. But because I'm indigent and incarcerated and a victim of Prison Officials' reckless Omission Of Affirmative 8th Amendment duties in the U.S. District Court Court and the 8th Circuit Court Of Appeals excluded me from the Class Of Americans Entitled to justice; that's why it's now my request that the U.S. Supreme Court will Correct the Errors of the 8th Circuit it made in Case: Reginald Dunahue v. Wendy Kelley, et al. USCA Case No. 19-11691 — And reverse and vacate the Order made in my Case, and remand my Claims back to the USDC. And due to the complexity Of my Case, I request this Court to assign an attorney or attorneys to handle My Suit I desire be tried by a USDC Justice.

So, without further address — I, Reginald Dunahue here — by Petitions this Supreme Court to reverse and vacate the Order made in Case: Reginald Dunahue v. Wendy Kelley, et al. USCA Case No. 19-11691.

Respectfully Submitted By:
Reginald Dunahue # 106911
P.O. Box 500
Grady, AR. 71644

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Reginald Dunbar

Date: 06-15-2020