

21-5838

In Supreme Court of The United States

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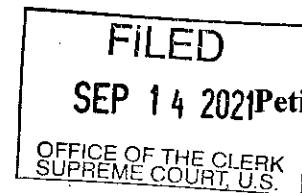
2021

Michael A. Johnson

v.

Wendy Kelley, Byron Brown

Respondent



On Writ of Certiorari to the 8th Circuit Court of Appeals

Petition for Writ of Certiorari

Michael A. Johnson, Pro se  
Tucker Maximum Security Unit  
2501 State Farm Rd.  
Tucker, Ar 72168

### **Jurisdiction on Writ of Certiorari**

### **Question(s) Presented For Review**

Why did A.D.C. officials "Wendy Kelly" and Byron Brown" fail to protect me from a stabbing that I wrote "Director Kelley" about before the stabbing telling "her". To release me to any General population would cause atypical and significant hardship upon me in relations to the ordinary incidents of prison life. I have a documented enemy alert list and long standing Aryan Affiliation hit order against my person. Can I get some help? Why was I denied protective custody after begging for help? Why did Wendy Kelley fail to take action on letters and why did Wendy Kelley and Byron Brown both fail to put me in protective custody? Why did Byron Brown fail to protect me after I went to him on 11-27-18 the day "before" stabbing and told "him" people were talking about jumping me? He said we don't have protective custody.

Federal Civil Procedure-Forma Pauperis Proceedings.

Principle, that if Plaintiff makes allegations that if true indicated significant likelihood that someone inflicted injury on him, and if circumstances are such as to make it infeasible for the plaintiff to identify that person before filing his complaint, his in forma pauperis suit should not be dismissed as frivolous, applies to any case in which, usually because Plaintiff has been injured as consequence of actions of unknown member of collective body, Identification of responsible party may be impossible without pretrial discovery. 28 U.S.C.A. §1915(d). I was asleep still don't know officer on door that night name? No-one would give it to me. Security officer?

### **Statement of Parties**

The Petitioner is Michael A. Johnson, a prisoner at the Maximum Security Unit in Tucker, Arkansas. The respondents are "Wendy Kelley" and "Byron Brown" Wendy Kelley is former Director of Arkansas Department of Correction and Byron Brown was a Lt. at Wrightsville Unit Prison. "Both" Wendy Kelley and Byron Brown are represented by Sammie Strange Jr. of Arkansas Attorney Generals Office, 323 Center Street, Suite 1100, Little Rock, Arkansas 72201-2610

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**In The Supreme Court of The United States**

**2021**

Michael Johnson

Petitioner

v.

Wendy Kelley and Byron Brown

Respondent

**Petition For A Writ Of Certiorari To The United States Supreme Court**

Michael Andrew Johnson#110504, the petitioner, respectfully requested that a writ of certiorari issue to review the judgment of the 8th Circuit Court of Appeals entered in the case on August 9<sup>th</sup> 2021.

**Decisions Below**

The Decision of the United States Court of Appeals for the 8th Circuit is reported. It is cited in the table at *2019 WL 6933881* and a copy is attached as Appendix A to this petition (A.1) The order of the United States District Court for the Eastern District of Arkansas is reported. ~~A copy is attached Appendix B to this petition~~ (A.11).

**Statement of Jurisdiction**

The Judgment of the United States Court of Appeals the 8th Circuit was entered on September 9, 2021. An order denying a petition for rehearing was entered on ~~September 9, 2021~~, and a copy of that order is attached as Appendix B to this petition (A.10).

Jurisdiction is conferred by 28 U.S.C. §1254(1).

## **Constitutional Provisions, Treaties, Statutes, Rules, And Regulations Involved**

This case involves Amendment 8th to the United States Constitution, which provides:

Section 1. All persons born or naturalized in the United States, and subject to the Jurisdiction thereof, are Citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of Citizens of the United States; Nor shall any State deprive any person of life, liberty or property without due process of law; nor deny any person within its Jurisdiction the equal protection of the laws

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this Article.

The Amendment is enforced by *Title 42, Section 1983, United States Code.*

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory District of Columbia Subjects, or cause to be subjected, any Citizen of the United States or other person within the Jurisdiction thereof to the deprivation of any rights, privileges , or immunities secured by the Constitution and Laws, shall be liable to the party injured in an action at law, suit in equity, or other people proceeding for redress, except that in any action brought against Judicial officer for an act or omission taken in such officer's Judicial capacity. Injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purpose of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a Statute of the District of Columbia.

### **Statement of the Case**

I wrote former Director Wendy Kelley of the Arkansas Department of Corrections several "Letter" in 2018 from Cummins Unit Prison telling her That I needed help that I had "Aryan hits" on my life from "Aryan Gang Members" and I told "her", Wendy Kelley, to release me to "Any" General Population would cause atypical and significant hardship upon me in relation to the ordinary incidents of Prison life. "Letter" dated October 2nd, 2018, Before said incident occurred on 11-28-18. I asked for protective custody and was denied, because I'm to big. I wrote Ms. Wendy Kelley several Letters in fact but she failed to take action. I was then transferred from Cummins Unit to Wrightsville Unite and not long after arriving I started having the same Aryan problems I was having at Cummins Unit so I went straight to Lt. Byron Brown of Wrightsville Unit Prison and explained to him that people were talking about me being a "Snitch" and they were talking about jumping me and I told him it was about Aryan problems and Byron Brown said that Wrightsville Unit did not have Protective Custody and Mr. Brown said all he could do was move me from 5 Barracks to 1 Barracks and this was on 11-27-18. The next morning on 11-28-18 three Inmates came into a Barracks they did not live in and stabbed me while sleeping and I still do not even know "who" what officer was working the door? I should have been put in Protective Custody. I warned officials that " All known Gangs had a hit on my life. No-one would tell me officers' names so I could put as defendant? I was transferred after leaving U.A.M. S. Hospital to Malvern Ark. Quachita Unit.

### Basis for Federal Jurisdiction

This case is a “failure to protect from Gang hit on my life”, that I warned “officials” would happen and it did. A violation of the 8th Amendment to the United States Constitution. The District Court had Jurisdiction under the General Federal Question Jurisdiction conferred by 28 U.S.C. 1331.

Because this case involves the Eight Amendment the level of Culpability required for a liability finding. Compare *Duckworth*, 780 F.2d at 652-53 (“the infliction of suffering on prisoners can be found to violate the Eighth Amendment only if that is deliberate, or reckless in criminal law sense.”) with *Smith*, 103 S.Ct. at 1637 ( “... based on the Policies of 1983, that Reckless or Callous disregard for the plaintiff’s rights... should be sufficient to trigger a Jury’s consideration of appropriateness of punitive damages”) “ I Michael A. Johnson wrote the Director of the Arkansas Department of Corrections Wendy Kelley numerous letters before the stabbing occurred and said I would be hurt because I had a know hit order on my life by Aryan gangs and she released me to population when I begged her not to and I was stabbed 9 times in my sleep by 3 Aryan Skinheads who are affiliated with “Wendal Chisum N.A.E.”, “Dustin Faught is W.A.R.” and “Hayden Geels is W.A.R.”. In order to show callous indifference, plaintiff has proved by letters to Director Kelley the existence of a “pervasive Risk of harm by other inmates, that Prison Officials failed to reasonably respond, knowing of that risk. “ I was in fear of my safety and I apprised prison officials Wendy Kelley and Byron Brown the existence of the problem and the need for protective measures.” Both officials Wendy Kelley and Byron Brown failed to protect me from a stabbing that should have never happened.

### **Reasons for Granting The Writ**

The plaintiff Michael Johnson argue that the District Court's refusal to extend Qualified immunity for Wendy Kelley and Byron Brown engendered "Plain error" under the Qualified Immunity 801 doctrine, a government official performing discretionary functions are shielded from civil damages of which as long as their actions do not violate clearly established statutory or constitutional rights of which a reasonable person would have known. *Anderson v. Creighton*, 483 U.S. 635, 107 S.Ct. 3034, 3038, 97 L.Ed. 2d 523 (1987) see, e.g. *Spence v. Staras*, 507 f.2d 554 (7th Cir. 1974) court held that prison officials have a constitutional duty to take measures to protect against inmate on inmate attacks.) Although the precise prison practice before "you: the lack of a proper procedure for screening the files of prisoner's to determine their involvement with gangs before they are assigned a cell-mate in the "Investigative statutes"area of the prison-has never been held unlawful, a preciously analogous case holding this practice unlawful is not what is required to pierce an officers immunity: Liability may be imposed where, in light of his or her proclivity for violence and/or whether they are a gang target in the fact of gang related threats and violence manifest utter disregard for the value of human life. This we will not condone, for in America we respect the sanctity of human life, including those confined in penal institutions?

### **Importance of the Question Presented**

This case presents a fundamental Question of why my Constitutional Rights were violated? Why was I stabbed 9 times when I warned officials "Wendy Kelly," and why was all my rights violated? The question presented is of great public importance because it effects the operations if the of th e prison systems in all 50 States. the District of Columbia, and hundreds of city and

county jails. In view of the large amount of litigation over Prison proceedings, guidance is also of great importance to prisoners, because it effects their ability to receive fair decisions in proceedings that may result in months or years of added incarceration to harsh punitive confinement . The issue's importance is enhanced by the fact that the lower courts seriously misinterpreted The Arkansas Department of Corrections former Director Wendy Kelley failed to act on Letters I wrote her and I was brutally stabbed 9 times by Aryan Gang members who did not live in the same Barracks with me? How did they get in the Barracks? All prison policies have and were violated? Guards let the Inmates in a Barracks not assigned to? Prison policy violation. "Wendy Kelley" and "Byron Brown" failed to protect me and it resulted in a attack of "me". Both Wendy Kelley and Byron Brown failed to respond to a particular threat or Danger to me? "I" was a obvious prisoner for such attack and both officials failed to protect me and showed deliberate indifference.

### **Conclusion**

For the foregoing reasons, this petition for a writ of certiorari should be granted in this case.

Dated: 9-12-2021

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Michael Johnson #110504

Pro Se

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72168

**(Specification of other Appended Materials)**

Attached are legal Hospital Records, Letter written to former Director Wendy Kelley before stabbing occurred on 11-28-18 at Wrightsville Unit Prison. Also attached affidavits were I've been Diagnosed with Mental Health Disorder on 5-21-21 which has altered the outcome of a 2 year civil case on this matter? I was diagnosed with a life threatening mental disorder Post Traumatic Stress Disorder and I Repeatedly told the District Court I need an Attorney every motion for Attorney and "All Motions were denied and I still need help? I was Diagnosed by Mental Health Doctor Richards of Quachita Unit in Malvern Arkansas. this has effected the outcome of a year case. Will the Supreme Court serve Justice to "me" as required by Constitutional Rights? Thank you for your time and concern. Please use swift, proper, Judgment