

21-6206

No.

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ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

JOEL BARCELONA

PETITIONER

(Your Name)

Supreme Court, U.S.
FILED
OCT 27 2021
OFFICE OF THE CLERK

vs.

SAT. PARRISH, et al.,

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Eleventh Circuit Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

JOEL BARCELONA

(Your Name)

382 S.W. MCI Way

(Address)

Madison, Florida 32340-4430

(City, State, Zip Code)

(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. WHETHER THE RESPONDENTS, NURSE P. Chunnu and Nurse M. Kelly exhibited deliberate indifference to Petitioner's LIFE-THREATENING medical condition WHEN THEY REFUSED OR DENIED ACCESS TO medical treatment WHEN PETITIONER DECLARED medical EMERGENCY multiple times WHERE PETITIONER IS SUFFERING AN EXTREME CHEST PAIN AND SHORTNESS OF BREATH AND NEARLY A LOSS OF LIFE INSTEAD ACCUSED PETITIONER OF LYING, "YOU ARE NOT SICK", GO BACK TO YOUR DORM AND REFUSED TO REFER TO PRISON DOCTOR.

2. WHETHER THE RESPONDENTS, Sgt. Parrish, et al., "a non-medical officials" exhibited deliberate indifference to Petitioner's LIFE-THREATENING medical condition WHEN THEY PREMATURELY REMOVED PETITIONER FROM THE HOSPITAL FOLLOWING "ENDOSCOPIC SURGERY" TO STOP "GASTROINTESTINAL BLEEDING" WITHOUT PROPER DISCHARGE OR AUTHORIZATION FROM THE RESIDENT PHYSICIAN.

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:

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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☒ is unpublished.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 X 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☒ is unpublished.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 July 30, 2021.

☒ 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

PETITIONER SUFFERED AN EXTREME CHEST PAIN AND SHORTNESS OF BREATH, DECLARED MEDICAL EMERGENCY MULTIPLE TIMES, DEPRIVED OF ACCESS TO MEDICAL TREATMENT BY NURSE P. CHUNNU AND NURSE M. KELLY, ACCUSED OF LYING, "YOU'RE NOT SICK", AND REFUSED TO REFER TO PRISON DOCTOR. THE EIGHT AMENDMENT STRICTLY PROHIBITS CRUEL AND UNUSUAL PUNISHMENT WHICH INCLUDES DELIBERATE INDIFFERENCE TO PETITIONER'S LIFE-THREATENING MEDICAL CONDITION. AMEND. VIII.

PETITIONER WAS DIAGNOSED WITH "GASTROINTESTINAL BLEEDING", FOLLOWING "ENDOSCOPIC SURGERY" TO STOP THE BLEEDING, PREMATURELY REMOVED FROM THE HOSPITAL WITHOUT PROPER DISCHARGE OR AUTHORIZATION FROM THE RESIDENT PHYSICIAN CONSTITUTED DELIBERATE INDIFFERENCE TO PETITIONER'S LIFE-THREATENING MEDICAL CONDITION IN VIOLATION OF THE EIGHT AMENDMENT'S PROSCRIPTION AGAINST CRUEL AND UNUSUAL PUNISHMENT. AMEND. VIII. SEE APPENDIX D.

STATEMENT OF THE CASE

1. Conflicting Statement of Facts
2. Court of Appeals overlooked and misapprehended the Law.
3. Appointed Counsel claims no legal issue for reconsideration on appeal.

On April 25, 2016 - Monday at 9:00 a.m. Petitioner had suffered a LIFE-THREATENING SEVERE CHEST-PAIN and a SHORTNESS OF BREATH and nearly PASS-OUT. I declared medical EMERGENCY. Petitioner was REFUSED TO ASSES by Nurse P. Chunnu who respond to the call. SHE SAID, "EVERYTHING IS normal."

At 1:00 P.M. AFTER FOUR (4) HOURS sitting on WHEEL-CHAIR "WITHOUT treatment" or even the most basic diagnostic exam. Nurse P. Chunnu said "You are not sick", "You lied to me". Go back to your Dorm. Nurse P. Chunnu acted deliberately indifferent to my LIFE-THREATENING medical condition in violation of THE EIGHT Amendment to THE U.S. Const. amend. VIII.

On April 26, 2016 - Tuesday at 8:00 a.m. Petitioner had suffered a SEVERE CHEST-PAIN and SHORTNESS OF BREATH and nearly PASS-OUT. I declared medical EMERGENCY. I was REFUSED TO ASSESS by Nurse P. Chunnu - SHE SAID, "You lied to me", "You have no chest-PAIN, no SHORTNESS OF BREATH", "You are not sick".

At 2:00 P.M. AFTER FIVE (5) HOURS sitting on a WHEEL-CHAIR "WITHOUT treatment", SHE SAID, Go back to your Dorm. Nurse P. Chunnu acted with deliberate indifference

Statement of Case cont'd.

TO MY LIFE-THREATENING medical condition in violation OF THE EIGHT Amendment TO THE U.S. Const. amend. VIII.

On April 27, 2016 - Wednesday at 6:00 a.m. PETITIONER HAD SUFFERED AN EXTREME CHEST PAIN AND SHORTNESS OF BREATH AND NEARLY DIED. I DECLARED MEDICAL EMERGENCY. I WAS ASSESSED BY NURSE M. KELLY. I ASK HER FOR HELP TO CALL 911. NURSE M. KELLY SAID! "YOU LIED TO ME!" "YOU'RE NOT SICK", "YOU HAVE NO CHEST PAIN", "NO SHORTNESS OF BREATH", "YOU REFUSED TO SMILE AT ME". "I AM NOT CALLING 911 AND YOU WILL NOT SEE A DOCTOR". Lt. Wilson WAS PRESENT WERE NOT ACTING WITHIN THE SCOPE OF HIS DISCRETIONARY AUTHORITY WHEN NURSE M. KELLY REFUSED MY REQUEST TO CALL 911. Lt. Wilson AND NURSE M. KELLY ACTED WITH DELIBERATE INDIFFERENCE TO MY LIFE-THREATENING medical condition in violation OF THE EIGHT Amendment TO THE U.S. Const. amend. VIII.

AT 8:00 a.m. AFTER TWO (2) HOURS SITTING ON A WHEEL-CHAIR "WITHOUT TREATMENT." NURSE M. KELLY SAID, GO BACK TO YOUR DORM WITHOUT PROVIDING BREAKFAST ACTED WITH "culpable state of mind."

AT 9:00 a.m. Col. VELEZ AND Asst. Warden ARE DOING ROOM INSPECTION CAME TO MY CELL. I WAS LAYING DOWN ON MY BED SUFFERING AN EXTREME CHEST PAIN AND SHORTNESS OF BREATH. Col. VELEZ ASK ME, WHAT'S YOUR PROBLEM? I SAID, I AM NOT FEELING WELL. HE CALLED OFC. ROBINSON TO CALL MEDICAL EMERGENCY. I SAID, I'VE BEEN AT MEDICAL THIS MORNING, NURSE M. KELLY REFUSED TO ASSESS MY medical condition. Col. VELEZ TOLD OFC. ROBINSON TO

Statement of the Case cont'd.

call medical emergency. Nurse P. Chunnu met me at the Dorm Hallway on a wheel-chair push by the inmate medical orderly. Nurse P. Chunnu and M. Kelly "never came to my cell." See Appendix A. Page 4.

Nurse P. Chunnu quote: "You again". See original Complaint at Appendix A.

At Medical, Nurse P. Chunnu quote: "You lied to me. You have no chest pain, no shortness of breath. You're not sick", she repeatedly quote: "I will write you a D.R."

At 1:00 P.M. sitting on a wheel-chair for four (4) hours "without treatment at all". Nurse P. Chunnu quote: Go back to your Dorm. No wheel-chair. I was nearly pass-out on my way back to the Dorm. Nurse P. Chunnu acted with deliberate indifference to my life. Threatening medical condition in violation of the Eighth Amendment's proscription against cruel and unusual punishment. amend. VIII.

At 3:00 P.M. Medical called me again at the Dorm. Ofc. Greer came to my cell. She said, the Doctor want to see you. She ask me, can you walk? I said no! She said, I'll call medical orderly to push you on a wheel-chair.

At 3:30 P.M. M. Amede, N.P. quote: I will help you, I will send you to the Hospital.

At 6:00 P.M. I was transported to Lakeside M.C..

Statement of the case cont'd.

I WAS EXAMINED BY AT LEAST FIVE (5) DOCTORS AT THE

F.R. I WAS DIAGNOSED WITH "GASTROINTESTINAL BLEEDING" (ULCER) LOSS OF BLOOD, BELOW G. BLOOD LEVEL, ANEMIA AND

CAUSE ME TO SUFFER A SEVERE CHEST PAIN AND SHORTNESS OF BREATH AND NEARLY DIED. THE DOCTORS AT LAKEVIEW M.C. DECIDED TO KEEP ME AT THE HOSPITAL AND I RECEIVED

AT LEAST FOUR (4) IV'S, OXYGEN AND 3 UNITS OF BLOOD

TRANSFUSION. I WAS ON A LIQUID DIET FOR FOUR (4) DAYS.

On April 29, 2016, Friday at 9:00 a.m. I RECEIVED

ANESTHESIA AND PUT TO SLEEP AND AN "ENDOSCOPIC SURGERY" WAS PERFORMED TO STOP "GASTROINTESTINAL BLEEDING."

SEE APPENDIX B.

On April 30, 2016, Saturday at 12:00 p.m. Sgt. Ranzish

"A NON-MEDICAL OFFICIAL" AT SOUTH BAY C.F. CAME TO LAKEVIEW M.C. AND ORDERED OFC. JONES AND MAGNIT

TO CALL A NURSE. WHEN OFC. MAGNIT CAME ON THE LEFT

SIDE OF MY BED AND PRESS THE "INTERCOM," QUOTE: WE

NEED A NURSE HERE. SGT. RANZISH WAS NO LONGER INSIDE

THE ROOM. NURSE JADE CAME IN, OFC. JONES: QUOTE:

"WE ARE LEAVING", TAKE OFF THAT I.V. AND OXYGEN ON

HIM. ON OUR WAY OUT AT THE NURSE STATION, THE RESI-

DENT PHYSICIAN AND NURSE JADE BEHIND HIM ARE

CHASING US. QUOTE: WHAT HAPPENED. OFC. JONES,

QUOTE: WE ARE LEAVING. I ASK THE DOCTOR IF I CAN

GET A MEDICATION FOR MY CHEST PAIN AND SHORTNESS

STATEMENT OF THE CASE cont'd.

OF BREATH. THE DOCTOR, QUOTE: IT'S UP TO DR. HELLER. THE DOCTOR, QUOTE: I'LL SEE YOU AFTER TWO MONTHS FOR FOLLOW-UP. SOUTH BAY C.F. MEDICAL DEPARTMENT REFUSED TO SEND ME BACK TO LAKESIDE M.C. FOR FOLLOW-UP. MEDICAL RECORDS, QUOTE: "FOLLOW-UP WITH PRIMARY CARE PHYSICIAN WITHIN 2-3 DAYS AND SURGEON, DR. KAIRYS, IN 7-DAYS". SEE MEDICAL RECORDS AT APPENDIX C.

ON THE MORNING OF APRIL 30, 2016, SATURDAY AT 7:00 A.M. PRIOR TO MY DISCHARGE, "NO DOCTOR" CAME TO MY ROOM AND ADVISE ME THAT I WILL BE DISCHARGED. NURSE JADE WHO MAKE HER ROUTINE CHECK ON ME EVERY 30-MINUTES. SHE NEVER ADVISE ME THAT I WILL BE DISCHARGED.

* THE DISCHARGED INSTRUCTION WAS NEVER PRESENTED TO ME WITH A "FORGED SIGNATURE BY NURSE JADE", SIGNED "INMATE". NO DOCTOR'S SIGNATURE AND MYSELF. SEE APPENDIX D. CONSPIRACY EXIST HERE.

PETITIONER WAS FORCIBLY DISCHARGED BY SGT. PARTUSH, ET AL., "A NON-MEDICAL OFFICIALS" WITHOUT PROPER DISCHARGE OR AUTHORIZATION FROM THE RESIDENT PHYSICIAN ACTED WITH DELIBERATE INDIFFERENCE TO MY LIFE-THREATENING MEDICAL CONDITION IN VIOLATION OF THE EIGHT AMENDMENT TO THE U.S. CONST.

Statement of the Case cont'd.

At 3:00 P.M. upon my arrival at South Bay C.F.

Medical Clinic, Nurse Jadoff, quote: "We are not expecting you to come back today." I said, I don't know, she took my blood pressure and took me to the infirmary for observation "without medication."

On May 2, 2016, Monday at 4:00 P.M. Dr. J. Heller came to see me at infirmary and prescribed medication for protonix and dantrolate. I received medication on Wednesday (5) days later after I was discharged from the hospital.

On May 12, 2016, Dr. Barosy came at the infirmary and quote: "You can go back to the Dorm, everything is O.K."

On May 18, 2016, I suffered a chest pain and shortness of breath at the Dorm. I feel very weak and fatigue. I declared medical emergency. Nurse Mitchell performed an EKG. Quote everything is normal. She gave me Aspirin.

On May 23, 2016, I had a call-out to see Dr. Barosy. I complain that I'm still suffering chest pain and shortness of breath, abdominal and stomach pain. He prescribed several medications including vitamins to help increase my low blood counts because I'm still feeling very weak, fatigue and dizzy. On May 25, 2016, Dr. Barosy scheduled for X-ray of my chest, abdominal and stomach pain. I never received X-ray result.

Statement of the Case Cont'd.

As per Dr. Bakosy, the Doctor's Medical Report at Lakeside M.C. that I should remain in the Hospital for at least 9 days for a full recovery. This Report has been "Redacted" from the Medical Report. Thus, I have been treated with deliberate indifference by the named Respondents, Sgt. Parrish, et al., "A NON-MEDICAL OFFICIALS" by forcibly removing from the Hospital without proper discharged or authorization from the Resident Physician. See Appendix D.

On June 11, 2016, I suffered an extreme chest pain, shortness of breath, abdominal and stomach pain. I declared medical emergency. Nurse gave me two shots of Mox.

"Nurse Jade knew who directed her to remove my I.V. and Oxygen. Officer Jones and McGint. "A NON-MEDICAL OFFICIALS". "No Doctor" inside the room at that time. See Appendix A - original complaint under penalty of Perjury.

Courts most often find deliberate indifference when:

1. Prison guards or other non-medical officials intentionally deny or delay your access to treatment; or
2. Or when these same non-medical officials interfere with the treatment that your doctor has ordered. Estelle, 429 U.S. at 104-05; Meloy v. Bachmeier, 302 F.3d 845, 849 (8th Cir. 2002).

Statement of the Case Cont'd.

On JUNE 13, 2016, I'm on a call-out to see Dr. Heller. I am complaining that I am continued suffering an extreme chest pain, shortness of breath, abdominal and stomach pain. He prescribed a "Dicyclomine 20mg" single dose 3x a day.

On JUNE 27, 2016, I was scheduled by Dr. Heller for abdominal and stomach pain X-ray. No X-ray was ever performed resulted for my continued abdominal and stomach pain.

Medical Dept. deprived Petitioner to send it back to Lakeside M.C. for follow-up within 7 days after unlawful discharged or after two months to find out the cause of my continued abdominal and stomach pain instead Petitioner was transferred to another facility to avoid medical responsibility. This is solely a financial decision rather than a serious medical condition. SEE Appendix C.

On JULY 25, 2016, I had a call-out to see Dr. Heller. due to inadequate medical care, I complaint to Dr. Heller, I am continued suffering for an abdominal and stomach pain. He prescribed several medications and vitamins for my continued pain and suffering that possibly cause the loss of my life due to an inadequate medical care.

At this point of time, I ask Dr. J. Heller if he ordered to discharged Petitioner from the Hospital. Dr. J. Heller, quote: "I did not work on April 30, 2016, Saturday". No Doctor work on weekends.

STATEMENT OF THE CASE CONT'D.

On AUGUST 29, 2016, I WAS TRANSFERRED FROM SOUTH BAY C.F. TO ANOTHER FACILITY TO AVOID MEDICAL RESPONSIBILITY.

On SEPTEMBER 14, 2016, UPON MY ARRIVAL AT NWFC MEDICAL, NURSE WHITE CONFISCATED MY MEDICATION PRESCRIBED BY DR. J. HELLER AT SOUTH BAY C.F. QUOTE: "YOU ARE NOT ALLOWED TO KEEP MEDICATION AT THE DORM".

SINCE SEPTEMBER 14, 2016, NO MEDICATION WAS GIVEN THAT CAUSE ME PAIN AND SUFFERING.

On DECEMBER 2, 2016, I SUFFERED A CHEST PAIN, ABDOMINAL AND STOMACH PAIN. I DECLARED MEDICAL EMERGENCY. THE OFFICER PUT ME ON A "SHOWER ROOM" AS PUNISHMENT FOR DECLARING MEDICAL EMERGENCY FOR 45-MINUTES IN SEVERE PAIN UNTIL THE NURSE HAS ARRIVE. THE NURSE GAVE ME MY MEDICATION PRESCRIBED BY DR. J. HELLER FROM SOUTH BAY BACK IN JULY 25, 2016. DICYCLDOMINE 20 MG (SINGLE DOSE) FOR TWO WEEKS DAILY AND BYNTYL (DOUBLE DOSE) TWICE A DAY FOR TWO WEEKS.

On DECEMBER 20, 2016, I SUFFERED A SEVERE ABDOMINAL AND STOMACH PAIN AS THE CONSEQUENCES OF INADEQUATE MEDICAL CARE. I DECLARED MEDICAL EMERGENCY. NURSE J. BAHILLO GAVE ME MALOX AND IBUPROFEN.

On DECEMBER 21, 2016, I SUFFERED AN EXTREME CHEST PAIN, ABDOMINAL AND STOMACH PAIN. I DECLARED MEDICAL EMERGENCY. THE NURSE WAS VERY UPSET.

Statement of the Case Cont'd.

Quote: An extreme pain is a "NON-MEDICAL" EMERGENCY BECAUSE I am still breathing. Protocol at F.D.C. as per Nurses - Non-responsive - not breathing or dead inmate is deem medical emergency.

In Blackmore v. Kalamazoo Cty., 390 F.3d 890, 894 (6TH Cir. 2004).

Deliberate Indifference

THE EIGHT Amendment forbids prison officials from "unnecessarily and wantonly inflicting" pain on an inmate by acting with "deliberate indifference" toward the inmates' serious medical needs. Estelle v. Gamble, 429 U.S. 97, 104, 50 L. Ed. 2d 251, 97 S. Ct. 285 (1976). (2004 U.S. App. LEXIS 8) Pretrial detainees are analogously protected under the Due Process Clause of the Fourteenth Amendment. Bell v. Wolfish, 441 U.S. 520, 545, 60 L. Ed. 2d 447, 99 S. Ct. 1861 (1979). Whether a convicted prisoner or a pretrial detainee, deliberate indifference to one's need for medical attention suffices for a claim under 42 U.S.C. § 1983. Roberts v. City of Troy, 773 F.2d 720, 723 (6TH Cir. 1985). Prison officials' deliberate indifference violates these rights "when the difference is manifested by . . . prison guards in intentionally denying or delaying access to medical care . . . for a serious medical need. Estelle, 429 U.S. at 104.

A constitutional claim for denial of medical care has objective and subjective components. Farmer v.

Statement of the Case Cont'd.

Brennan, 511 U.S. 825, 834, 128 L. Ed. 2d 811, 114 S. Ct. 1970 (1994); NAPIER, 238 F.3d at 742; Brown v. BARGER, 207 F.3d 863, 867 (6TH Cir. 2000). THE OBJECTIVE COMPONENT REQUIRES THE EXISTENCE OF A "SUFFICIENTLY SERIOUS" medical need. FARMER, 511 U.S. at 834; ESTELLE, 429 U.S. at 104.

"AS THE SUPREME COURT EXPLAINED IN FARMER, (2004 U.S. APP. LEXIS 9) 'THE INMATE MUST SHOW THAT HE IS INCARCERATED UNDER CONDITIONS POSING A SUBSTANTIAL RISK OF SERIOUS HARM.'" BROWN, 207 F.3d at 867 (QUOTING FARMER, 511 U.S. at 834).

THE SUBJECTIVE COMPONENT REQUIRES AN INMATE TO SHOW THAT PRISON OFFICIALS HAD A "SUFFICIENTLY CULPABLE STATE OF MIND IN DENYING MEDICAL CARE. BROWN, 207 F.3d at 867 (CITING FARMER, 511 U.S. at 834).

THIS SUBJECTIVE COMPONENT "SHOULD BE DETERMINED IN LIGHT OF THE PRISON AUTHORITIES' CURRENT ATTITUDES AND CONDUCT. HELLING v. MCKINNEY, 509 U.S. 25, 36, 125 L. Ed. 2d 22, 113 S. Ct. 2475 (1993). DELIBERATE INDIFFERENCE "ENTAILS SOMETHING MORE THAN MERE NEGLIGENCE." (390 F.3d 896) FARMER, 511 U.S. at 835, BUT CAN BE "SATISFIED BY SOMETHING LESS THAN ACTS OR OMISSIONS FOR THE VERY PURPOSE OF CAUSING HARM OR WITH KNOWLEDGE THAT HARM WILL RESULT." Id. UNDER FARMER, THE OFFICIAL MUST BOTH BE AWARE OF FACTS FROM WHICH THE INFERENCE COULD BE DRAWN THAT A SUBSTANTIAL RISK OF SERIOUS HARM EXISTS, AND HE MUST ALSO DRAW THE INFERENCE". Id. at 837; see also LEMAN v. VISNESKI, 266 F.3d 429, 435 (6TH Cir. 2001). "KNOWLEDGE (2004 U.S. APP. LEXIS 10) OF THE ASSERTED SERIOUS NEEDS OR CIRCUMSTANCES CLEARLY INDICATING THE EXISTENCE OF

Statement of the Case Contd.

Such needs, is essential to a finding of deliberate indifference. Horn v. Madison County Fiscal Court, 22 F.3d 653, 660 (7th Cir. 1994).

The district court determined that Blackmore presented sufficient proof to create a material factual issue on whether the county acted with a "sufficiently culpable state of mind" to satisfy the subjective component of the "deliberate indifference" test.

The district court, however, granted summary judgment, concluding that Blackmore failed to satisfy the objective element, which requires proof, using verifying medical evidence, that his injury was sufficiently serious. Although we agree with the district court's conclusion on the subjective factor, we disagree with the district court's conclusion on the objective factor and the district court's interpretation of Naber.

1. Sufficiently Culpable State of Mind

The district court found an issue of fact as to "when [the individual] Defendants knew the nature and duration of Plaintiff's abdominal pain, when they reason to believe that Plaintiff required medical (2004 U.S. App. Lexis 11) attention, and the length of the delay between such knowledge and Plaintiff's evaluation by a nurse. (T.A. 220, Opinion at 6). We agree, here, Blackmore, alleges that he began to complain of stomach pain within an hour of his arrival in the early morning hours on Saturday, May 27. It is undisputed that Sergeants

Statement of the Case Cont'd.

log entries at 5:00 P.M. on Sunday evening and at some point on Monday morning described Blackmore as having "sharp abdominal pain". Other undisputed facts are that Blackmore was given antacids by non-medical prison officials, that Blackmore vomited, that he was placed in an observation cell, and that he did not receive any medical attention until 6:00 A.M. on Monday morning, over fifty hours after his arrest.

Viewing these facts in a light most favorable to the Plaintiff, we conclude that a reasonable jury could conclude that Defendants were "aware of facts from which inference could be drawn that a substantial risk of serious harm exists and the Defendants ignored that risk." Farmer, 511 U.S. at 837. Thus, we agree with the district court that a material factual dispute exists on whether Defendants had a "sufficiently culpable state of mind" under the 2004 U.S. App. Lexis 12 subjective prong of the "deliberate indifference" test. See Original Complaint signed under Penalty of Perjury. Appendix A.

2. "Sufficiently serious" medical need

As to the objective component, a serious need for medical care, Farmer requires only that "the inmate show that he is incarcerated under conditions posing a substantial risk of serious harm." 511 U.S. at 834, so as to avoid the "unnecessary and wanton infliction

Statement of the Case Cont'd.

OF PAIN." Id. This Court defined this objective factor as evidence of serious medical needs". Brooks v. Celeste, 39 F.3d 125, 128 (6TH Cir. 1994) and later noted the evidence need only show "the medical need at issue is sufficiently serious". Comstock v. McClary, 273 F.3d 693, 702-03 (6TH Cir. 2001) (quoting Farmer, 511 U.S. at 834 (emphasis added)) (390 F.3d 897). Most other circuits hold that a medical need is objectively serious if it is "one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a layperson would easily recognize the necessity for a doctor's attention". Gaudreault v. Municipality of Salem, 923 F.2d 203, 208 (1ST Cir. 1990) (emphasis added) (citing Monmouth County Corr. Instl Inmates v. Lanzaro, 834 F.2d 326, 347 (3RD Cir. 1987)); (2004 U.S. App. LEXIS 13) see also Wyatt v. Southard, 251 F.3d 588, 593 (7TH Cir. 2001); Asvegan v. Henry, 49 F.3d 461, 464 (8TH Cir. 1995); Hill v. DeKalb Regional Youth Detention Ctr., 40 F.3d 1176, 1187 (11TH Cir. 1994); Ramos v. Lamm, 639 F.2d 559, 575 (10TH Cir. 1980); accord Harden v. Green, 27 Fed. Appx. 173, 2001 WL 1464468, at *3 (4TH Cir. 2001). As the Eleventh Circuit observed, "cases stating a constitutional claim for immediate or emergency medical attention have concerned medical needs that are obvious even to layperson because they involve 'Life-Threatening' conditions or situations where it is apparent that delay would detrimentally exacerbated the medical problem (whereas) delay or even denied

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OF MEDICAL TREATMENT FOR SUPERFICIAL, NONSERIOUS PHYSICAL CONDITIONS DOES NOT CONSTITUTE A [CONSTITUTIONAL] VIOLATION". Hill, 40 F.3d at 1187-88.

THIS "OBVIOUSNESS" STANDARD FOR DETERMINING A SERIOUS MEDICAL NEED IS DISTINCT FROM A SEPARATE BRANCH OF EIGHT AMENDMENT DECISIONS WHERE THE SERIOUSNESS OF A PRISONER'S MEDICAL NEED "MAY ALSO BE DECIDED BY THE EFFECT OF THE "DELAY IN TREATMENT"". Hill, 40 F.3d at 1188 (emphasis added in part); Gaudreault, 923 F.2d at 208; Monmouth County, 834 F.2d at 347. THESE DECISIONS INVOLVE PRISONER CLAIM OF DELAY IN TREATMENT THAT CAUSE INJURY, LOSS, OR HANDICAP. Hill, 40 F.3d at 1188.

IN HOFFER V. SEC'y, FLA. DEPT' OF CORR., 973 F.3d 1263, 1273 (11TH CIR. 2020). THE ELEVENTH CIRCUIT HAS REPEATEDLY STATED THAT "A CLAIM OF DELIBERATE INDIFFERENCE" REQUIRES PROOF OF MORE THAN GROSS NEGLIGENCE. (CITATION OMITTED). WITHIN THE CIRCUIT, HOWEVER, IS A LINE OF CASES FAVORING THE "MORE THAN MERE NEGLIGENCE" ARTICULATION, WHICH MAY BE A DISTINCTION WITHOUT A DIFFERENCE AS "THE SUPREME COURT ITSELF HAS LIKENED THE DELIBERATE INDIFFERENCE STANDARD TO SUBJECTIVE RECKLESSNESS AS USED IN CRIMINAL LAW. Id. (INTERNAL QUOTATION MARKS AND CITATION OMITTED).

IN HOFFER V. INCH, 382 F. SUPP. 3d 1288 (N.D. FLA. 2019).

A. THE MERITS OF PLAINTIFFS' CLAIMS

1. DELIBERATE INDIFFERENCE UNDER THE EIGHT AMENDMENT

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THE EIGHT AMENDMENT TO THE UNITED STATES CONSTITUTION PROHIBITS THE GOVERNMENT FROM INFLECTING "CRUEL AND UNUSUAL PUNISHMENTS" ON INMATES. Wilson v. Senter, 501 U.S. 294, 296-97, 111 S.Ct. 2321, 115 L.Ed.2d 271 (1991). THE SUPREME COURT HAS INTERPRETED THIS PROHIBITION TO ENCOMPASS "DEPRIVATIONS . . . NOT SPECIFICALLY PART OF [a] SENTENCE BUT . . . SUFFERED DURING IMPRISONMENT." *Id.* AT 297. CONSEQUENTLY, AN INMATE WHO SUFFERS "DELIBERATE INDIFFERENCE" TO HIS "SERIOUS MEDICAL NEEDS" MAY STATE A CLAIM (382 F.Supp.3d 1296) FOR A VIOLATION OF THE EIGHT AMENDMENT. Estelle v. Gamble, 429 U.S. 97, 104, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976). TO PREVAIL ON THEIR CLAIM OF DELIBERATE INDIFFERENCE, PLAINTIFFS MUST SHOW (1) A SERIOUS MEDICAL NEED, (2) DEFENDANT'S DELIBERATE INDIFFERENCE TO THAT NEED, AND (3) CAUSATION BETWEEN DEFENDANT'S INDIFFERENCE (2019 U.S. Dist. LEXIS 7) AND PLAINTIFF'S INJURIES. Goebert v. Lee County, 510 F.3d 1312, 1326 (11TH Cir. 2007).

SINCE INMATES CAN BE INITIALLY STAGED USING FIBROSURE, THE STAGING DEADLINE MUST ONLY BE BASED ON THE TIME IT TAKES TO GET THOSE RESULTS. INDEED, IT IS CRITICAL THAT THE STAGING DEADLINE IS ONLY AS SHORT AS NECESSARY BECAUSE TREATMENT DEADLINES RUN FROM THE DATE AN INMATE IS STAGED. IN OTHER WORDS, IF THE STAGING DEADLINE IS ARTIFICIALLY LONG, THEN THAT ENABLES F.D.C. DELAY TREATMENT FOR A NON-MEDICAL REASON." "[A] delay IN RENDERING NECES-

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SAFELY medical treatment for non-medical reasons is enough to state a "deliberate indifference claim."

MELTON, 841 F.3d at 1229.

In Meloy v. Bachmeier, 302 F.3d 845, 849 (8TH Cir. 2002)

AT THE TIME OF Bachmeier's actions, THE LAW WAS CLEARLY ESTABLISHED THAT A PRISON OFFICIAL'S DELIBERATE INDIFFERENCE TO AN INMATE'S SERIOUS MEDICAL NEEDS VIOLATES THE EIGHT AMENDMENT. ESTELLE v. GAMBLE, 429 U.S. 97, 104-05, 50 L. Ed. 2d 251, 97 S. Ct. 285 (1976);

Jolly v. Knudsen, 205 F.3d 1094, 1096 (8TH Cir. 2000).

TO ESTABLISH DELIBERATE INDIFFERENCE, A PRISONER MUST PROVE HE HAD OBJECTIVELY SERIOUS MEDICAL NEEDS AND THE OFFICIAL ACTUALLY KNEW OF BUT DELIBERATELY DISREGARDED THOSE (2002 F.3d 849) NEEDS. JOLLY, 205 F.3d at 1096. DELIBERATE INDIFFERENCE MAY BE MANIFESTED BY PRISON DOCTORS (2002 U.S. App. LEXIS 8) IN RESPONDING TO THE PRISONER'S NEEDS OR BY PRISON OFFICIALS IN INTENTIONALLY DENYING OR DELAYING ACCESS TO MEDICAL CARE OR INTENTIONALLY INTERFERING WITH PRESCRIBED TREATMENT.

ESTELLE, 429 U.S. at 104-05. WE HAVE HELD A SUPERVISOR IS ONLY LIABLE "FOR AN EIGHT AMENDMENT VIOLATION WHEN THE SUPERVISOR IS PERSONALLY INVOLVED IN THE VIOLATION OR WHEN THE SUPERVISOR'S COLLECTIVE INACTION CONSTITUTE DELIBERATE INDIFFERENCE TOWARD THE VIOLATION. BOYD v. KNOX, 47 F.3d 966, 968 (8TH Cir. 1995) (footnote omitted).

"THE SUPERVISOR MUST KNOW ABOUT THE CONDUCT AND FACILITATE IT, APPROVE IT, CONDONE IT, OR TURN A BLIND EYE

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[to it]". *Id.* (internal quotation marks omitted). Likewise, other courts have stated supervisory officials are liable under § 1983 only if they fail promptly to provide an inmate with needed medical care, they deliberately interfere with the prison doctors' performance, or they tacitly authorized or are indifferent to the prison doctors' constitutional violations. E.g., Milner v. Beorn, 896 F.2d 848, 854 (4th Cir. 1990).

It is undisputed that Petitioner's ulcers posed a serious medical need. See Rooster v. City of Saginaw, 749 F.3d 437, 446 (6th Cir. 2014) (holding that a duodenal ulcer condition was "a serious, indeed dire, medical need"); Barcelona v. Parrish, 750 F. App'x 841, 844 (11th Cir. 2018) (explaining in the context of another § 1983 case describing Barcelona's (Petitioner) ulcers as "life-threatening" prior to surgery).

In the instant petition, Petitioner has shown an objective and subjective prong of the "deliberate indifference" test, where Petitioner had suffered an extreme chest pain and shortness of breath for the period of "3 days (36 hours)" delay of treatment of pain and suffering for "life-threatening illness", "Gastrointestinal bleeding". Nurse P. Chundu and M. Kelly accused Petitioner of lying to them. Quote: "You lied to me". "You are not sick", Go back to your Dorm.

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PETITIONER HAS SHOWN THAT NURSE P. CHUNNU AND M. KELLY HAVE "A SUFFICIENTLY CULPABLE STATE OF MIND" IN DENYING NECESSARY MEDICAL CARE. BROWN, 207 F. 3d at 867 Citing FARMER, 511 U.S. at 834.

FOLLOWING SURGERY, PETITIONER WAS FORCIBLY DISCHARGED FROM THE HOSPITAL LEAD BY SGT. PARRISH, ET AL., "A NON-MEDICAL OFFICIALS" WITHOUT PROPER DISCHARGE OR AUTHORIZATION FROM THE RESIDENT PHYSICIAN. MELOY V. BACHMEIER, 302 F. 3d 845, 849 (8TH CIR. 2002). TO ESTABLISH DELIBERATE INDIFFERENCE, A PRISONER MUST PROVE HE HAD OBJECTIVELY SERIOUS MEDICAL NEEDS AND THE OFFICIALS KNEW OF BUT DELIBERATELY DISREGARDED THOSE (302 F. 3d 849) NEEDS. JOLLY, 205 F. 3d at 1096.

PETITIONER IS HOPING THAT THIS COURT WILL TAKE NECESSARY STEPS IN ORDER TO SAVE LIVES OF INMATES, DUE TO INADEQUATE MEDICAL CARE. PETITIONER WAS DEPRIVED OF SENDING BACK TO THE HOSPITAL FOR FURTHER MEDICAL TREATMENT. TODAY, PETITIONER IS SUFFERING A SWOLEN ABOVE MY PRIVATE PART WITHOUT FURTHER TREATMENT THAT CAUSE ME TO SUFFER FATIGUE, WEAK AND DIZZINESS.

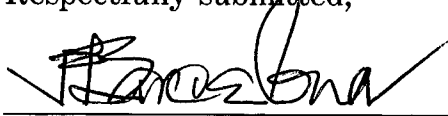
REASONS FOR GRANTING THE PETITION

PETITIONER WAS DEPRIVED OF A RIGHT SECURED UNDER THE U.S. CONST. OR FEDERAL LAW; AND SUCH DEPRIVATION OCCURRED UNDER COLOR OF STATE LAW OR LOCAL LAW THAT PETITIONER'S ULCERS POSED A SERIOUS MEDICAL NEED (HOLDING THAT A DUODENAL ULCER CONDITION WAS "A SERIOUS, INDEED DIRE, MEDICAL NEED"); BARCELONA V. PARLISH, 750 F. App'x 841, 844 (11TH Cir. 2018) (EXPLAINING IN THE CONTEXT OF ANOTHER § 1983 CASE DESCRIBING PETITIONER'S ULCERS AS A "LIFE-THREATENING" PRIOR TO SURGERY).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: OCTOBER 28, 2021.