

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

\_\_\_\_\_  
IN THE

SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

Edward JoRodge Gladney — PETITIONER  
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Edward JoRodge Gladney  
(Your Name)

P.O. Box 1034  
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Coleman, Florida 33521  
(City, State, Zip Code)

(352) 689-7000  
(Phone Number)

SEP 16 2021

OFFICE OF THE CLERK

No. **21-6504**

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**IN THE  
SUPREME COURT OF THE UNITED STATES**

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**EDWARD JORODGE GLADNEY-Petitioner**

**Vs.**

**UNITED STATES OF AMERICA-Respondents**

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**ON PETITION FOR A WRIT OF CERTIORARI**

**TO THE**

**NINTH CIRCUIT COURT OF APPEALS**

**PETITION FOR WRIT OF CERTIORARI**

**Edward JoRodge Gladney – *pro se***

**USP Coleman II**

**P.O. Box 1034**

**Coleman, Florida 33521**

**(352) 689-7000**

**ORIGINAL**

## **QUESTION(S) PRESENTED**

**(1) Did the Circuit Court err by contradicting this Court's precedent in Farmer v. Brennan by ruling Petitioner was obliged to show an *individualized* risk to sexual assault?**

**(2) Did the Circuit Court err by determining that the record lacked evidence of *any* individualized risk to Petitioner of which guards were aware?**

## **LIST OF PARTIES**

**[X]** All parties appear in the caption of the case on the cover page.

## **RELATED CASES**

None

## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

*Farmer v Brennan*, 511 U.S. 825, 114 S. Ct.

1, 4, 5

1970 (1994)

## TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS	
INVOLVED.....	3
STATEMENT OF THE CASE.....	4
REASONS FOR GRANTING THE WRIT.....	5
CONCLUSION.....	6

## INDEX TO APPENDICES

APPENDIX A	Decision of Federal Court of Appeals
APPENDIX B	Mandate Denying Rehearing
APPENDIX C	Oral Argument Statements by Appellate Court
APPENDIX D	Decision of U.S. District Court
APPENDIX E	
APPENDIX F	

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**

**[X]** For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix   A   to the petition and is

**[X]** reported at Gladney v. US, No. 19-17443 (9<sup>th</sup> Cir. May 3, 2021) or,

**[ ]** has been designated for publication but is not yet reported; or,

**[ ]** is unpublished.

The opinion of the United States district court appears at Appendix   -   to the petition and is

**[X]** reported at Gladney v. Shartle, 2019 US Dist LEXIS 199332; 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 May 3, 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: June 22, 2021, and a copy of the order denying rehearing appears at Appendix B.

☐ 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 the Court is invoked under 28 U.S.C. §1254(1).



## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

Eighth Amendment of the United States Constitution

## STATEMENT OF THE CASE

On May 19, 2016, Petitioner Ms. Edward J. Gladney, a transgender inmate, was brutally sexually assaulted by an out-of-bounds inmate at the United States Penitentiary Tucson (which held the highest rate of sexual assaults among all U.S. prisons . On August 28, 2017, this instant lawsuit was filed. However, on October 19, 2019, the District Court granted the Respondent's Motion to Dismiss, ruling that the statutory and regulatory rules .... "give officials broad *discretion...*" on housing and caring for prisoners. In sum, the court held that "protocols for monitoring housing units are left to the *discretion* of the facility." Yet the court erred by failing to address the well-settled notion that the *Eighth Amendment places limits on that discretion*. The Petitioner appealed to the Ninth Circuit, filing her opening brief on October 14, 2020. The court the appeal on May 3, 2021, in sum ruling: "...*the record lacks evidence of any individualized risk to Plaintiff of which guards were aware.*" Nonetheless, Circuit Judge Graber stated on the record at Oral Argument that "...*Farmer wasn't specifically individualized...*" and that "...*there wasn't anything particular about mapping...*" However, the Court failed to acknowledge or address this fact, as stated by Circuit Judge Graber in its May 3, 2021 ruling.

## REASONS FOR GRANTING THE PETITION

Petitioner avers that, pursuant to *Farmer v. Brennan*, an *individualized risk* need not be demonstrated to establish deliberate indifference, and therefore the court has erred by squarely contradicting Supreme Court precedent.(See *Farmer v. Brennan*). Additionally, Petitioner asserts that the Respondent's subjective knowledge of her transgender status was sufficient to establish deliberate indifference. Nevertheless, the Petitioner further submitted records under penalty of perjury that the Federal Bureau of Prisons at Tucson possessed records (and therefore knowledge) of her having "naive and passive tendencies" and a "likelihood of being controlled by others." Those records went undisputed by the Respondent and such traits were *obvious risk factors* which placed her at great risk of manipulation by sexual predators - especially at USP Tucson which the Respondent agrees had the highest rate of sexual assaults. Furthermore, on the record, the prison described her as having "*feminine characteristics*" and that staff would typically address her as "*Mam/Miss*", and that Petitioner was "*lady-like*" in appearance. Yet, the Circuit ruled that those factors, which were all unrebutted by Respondent, were insufficient to place the prison on notice that she was at significant risk of being sexually assaulted at such an institution. *Gladney v. United States*, No. 19-17443 (9<sup>th</sup> Cir. May 3, 2021).

By ruling that Petitioner did not demonstrate that officials were aware of any individualized risk to her, apparently beyond her transgender status, and by not addressing/acknowledging the additional individualized risk factors in the record, Petitioner respectfully submits that the panel thereby erred by either overlooking or misapprehending both the law and facts governing these important questions.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, reading "Edward P. Gladney", written over a horizontal line.

Date: September 13, 2021