

22-7651
No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED
FEB 24 2023
OFFICE OF THE CLERK

LILY CASSANDRA ALPHONSIS—PETITIONER

vs.

COUNTY OF LOS ANGELES et al —RESPONDENT(S)

*On Petition for Writ of Certiorari to the United States Court of Appeals for the
Ninth Circuit*

PETITION FOR A WRIT OF CERTIORARI

LILY CASSANDRA ALPHONSIS
Post Office Box 2465
Beverly Hills, CA 90213
(424) 417 - 0613

RECEIVED
MAY 26 2023
OFFICE OF THE CLERK
SUPREME COURT, U.S.

i.

**QUESTIONS PRESENTED ARE UNDER RLUIPA, AMERICANS WITH
DISABILITIES ACT AND THE EIGHTH AMENDMENT**

1. Congress passed RLUIPA because prisons sometimes imposed “‘frivolous or arbitrary’ barriers” on religious exercise. *Id.* at 716 (quoting 146 Cong. Rec. 16,698, 16,699 (2000) (joint statement of Sen. Hatch and Sen. Kennedy on RLUIPA)).

In 2015, the Supreme Court held in *Holt* that, if most other prisons would accommodate the religious practice a plaintiff has requested and has been denied, prison officials must show why they cannot allow that practice at their prison. *Holt v. Hobbs*, 135 S. Ct. 853 (2015). *Holt* held that RLUIPA’s test “is exceptionally demanding” and “requires the [State] to show that it lacks other means of achieving its desired goal.”

The Questions Presented Are:

- a) Whether a jail facility’s ban on the hijab or religious head scarf worn for religious reasons, was the least restrictive means of ensuring effective prison administration and security; b) Whether, particularly in light of the intervening decision in *Holt v. Hobbs*, 135 S. Ct. 853 (2015), the lower court afforded improper due deference to Respondent under RLUIPA, 42 U.S.C. 2000cc-1(a), since many of the factual assertions was grossly exaggerated in dismissing Petitioner’s hijab case; c) Whether correctional officers should discard inmate’s Quran and prayer mat.
2. Whether the 9th Circuit’s decision on Americans with Disabilities Act conflicted the Supreme Court’s decision regarding the due process in

denying access to an inmate with severe food allergies' to enrollment in an institutional program.

4.
 - a) Whether Scott v. Harris is applicable in a video evidence where the party who presented the video evidence's own key witness testimony contradicts the video evidence and confirms the victim's version of events; b) Whether the Eighth Amendment allows a correctional officer to use excessive force to remove handcuffs on an inmate who poses no threat and is locked behind a heavy metal door.

ii.

PARTIES TO THE PROCEEDINGS BELOW

Petitioner Lily Cassandra Alphonsis was the plaintiff in the district court and the appellant in the court of appeals.

Respondent County of Los Angeles and Joel Garnica were the defendants in the district court and the appellees in the court of appeals.

iii.

RELATED PROCEEDINGS

This case arises from and is related to the following proceeding in the U.S. District Court for the Central District of California and the U.S. Court of Appeals for the Ninth Circuit:

- Alphonsis v. County of Los Angeles et al, No. CV 17-03650-ODW (DFM)
- Alphonsis v. County of Los Angeles et al, No. 21-56141(9th Cir.), judgment entered November 30, 2022.

There are no other proceedings in state or federal trial or appellate courts directly related to this case within the meaning of this Court's Rule 14.1(b)(iii).

TABLE OF CONTENTS

	Page
Questions Presented	i
Parties to the Proceedings Below.....	ii
Related Proceedings	iii
Opinions Below	1
Statement of Jurisdiction	1
Statutes Involved.....	1
Statement of the Case	2
I. Background	2
II. Proceedings Below	5
A. Proceedings in the district court	5
B. Proceedings in the court of appeals.....	6
Reasons for Granting the Petition.....	7
1. To remove the substantial burdens placed on Muslim women's rights to wear the Hijab and pray in correctional institutions in the country.....	7
2. To avoid the restrictions on religious items especially the Qurans and mats in solitary confinement.....	10
3. To avoid the discrimination and the abuse against people with severe food allergies.....	11
4. To hold correctional officers accountable for gross misconduct and inmate abuse.....	13
Conclusion	15
Appendix A – Order Denying Rehearing	16
Ninth Circuit Court	

(November 30, 2022)

Appendix B – Opinion of the United States1

Court of Appeals for the Ninth Circuit

(October 14, 2021)

Appendix C – Opinion of the United States.....

District Court for the Eastern District of Pennsylvania ...

(September 8, 2021)

TABLE OF AUTHORITIES

Bonner v. Lewis, 857 F.2d 559, 562 (9th Cir.1988).....	11
Cheema v. Thompson, 67 F.3d 883, 885 n. 3 (9th Cir. 1995).....	9
Duffy v. Riveland, 98 F.3d 447, 455 (9th Cir.1996).....	11
Furnace v. Sullivan, No. 10-15961, slip op. (9th Cir. January 17, 2013).....	6, 13
Graham v. Connor 490 U.S. 386 (1989).....	14
Gonzales v. O Centro Espírita Beneficente União do Vegetal, 546 U.S. 418 (2006).....	7
Holt v. Hobbs, 574 U.S. 352 (2015).....	7
Morrissey v. Brewer, 408 U.S. 471 (1972).....	12
Morrissey v. Brewer, (1972) 408 U.S. 471.....	13
Scott v. Harris,	

550 U.S.372, 127 S. Ct. 1769 (2007).....	13,13,14
Thomas v. Davis United States Court of Appeals, Fourth Circuit..... Sep 28, 1999	10
United States v. Cejas 761 F.3d 717, 723 (7th Cir. 2014).....	13
United States v. Ikezi, 353 F. App'x 482, 483 (2d Cir. 2009).....	13
United States v. Sarro 742 F.2d 1286, 1292 (11th Cir. 1984).....	14
Waterford Bd. of Educ., 277 F.3d 633, 635 (2d Cir. 2002).....	10
Watson v. Geren (2nd Cir. 2009) 587 F.3d 156, 160FRAP 40(a)(2).....	10
Winterrowd v. Nelson, (Furnace v. Sullivan, No. 10-15961, slip op. (9th Cir. January 17, 2013).....	13

IN THE
SUPREME COURT OF THE UNITED STATES

LILY CASSANDRA ALPHONSISS,

Petitioner,

v.

COUNTY OF LOS ANGELES AND JOEL GARNICA,

Respondents.

**On Petition for a Writ of Certiorari
to the United States Court of Appeals for the Ninth Circuit**

Petitioner Lily Cassandra Alphonsis respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit.

OPINIONS BELOW

The court of appeals' opinion (App., infra, 1a) is reported. The district court's opinion (App., infra, 33a-60a) is unreported.

STATEMENT OF JURISDICTION

The judgment of the court of appeals was filed on October 14, 2022. App., infra, 1a. and the Petition for Rehearing was denied on November 30, 2022. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

STATUTES INVOLVED

RLUIPA, AMERICANS WITH DISABILITIES ACT AND THE EIGHTH
AMENDMENT

STATEMENT OF THE CASE

I. BACKGROUND

On May 29, 2015, the California state prosecutor Susan Jung Townsend presented misleading information to Judge Lisa B. Lench and sentenced Petitioner to five years at the Century Regional Detention Facility (C.R.D.F.). While Petitioner was in Respondent's custody, Petitioner was deprived of a medical diet for seven months and forced to survive on cereal and water. She was starved and then punished whenever she failed to join the food line that she could not consume from. Petitioner depended on other inmates for fruits/vegetables because Respondent refused to provide a medical diet suitable for Petitioner's deadly food allergies. Petitioner was repeatedly mistreated and antagonized by Respondent and was denied access to vocational programs due to her special dietary needs. She was mocked, harassed and punished for practicing her religion as a Muslim woman.

A. Petitioner's Hijab

Petitioner is a Muslim woman whose religious faith mandates that she wear a headscarf or headcover, also known as the Hijab for prayers. The Hijab is a significant part of Islamic religious practice for women during prayer. Petitioner sincerely holds the proffered belief rooted in her Islamic religion.

In June 2015, Petitioner submitted a request for a Hijab and long sleeve shirts for prayer. However, the County informed her that it was against the jail's policy to wear any form of headcover.

In August 2015, Petitioner spoke with the jail's Islamic Chaplain, Ms. Maria Khani who confirmed the County's policy and encouraged Petitioner to use her T-shirt and bedsheet as a cover-up for prayers. Petitioner used a makeshift Hijab to pray in her cell, as suggested by the chaplain, but was constantly and contradictorily harassed and punished by Respondents for refusing to stop her

3.

prayer to remove her Hijab. The Respondents, deputies Gonzales, Hernandez, Castle, and Castro told Petitioner not to cover her head. Deputy Gonzales put Petitioner on "24-hour lockdown" after she refused to remove her Hijab in the middle of her prayer. Whenever Petitioner's prayers were interrupted, she would explain that her religious beliefs prohibited her from removing her Hijab. However, her explanations were ignored, and she was cited for insubordination and sent to solitary confinement for refusing to stop her prayers to remove her Hijab. Petitioner was repeatedly harassed for practicing her religion and experienced severe mental stress in handling the harassment, given the fact that she was deprived of food and strongly depended on her prayers for hope and sustenance.

In October 2015, Petitioner spoke with a mental health officer and reported the harassment to him. She stated that she could no longer handle the mental distress and that she should be moved from the facility. She was then transferred to C.R.D.F. but was sent to solitary confinement because a deputy alleged that Petitioner's discussion with a mental health officer was fake.

B. Removal of Petitioner's Prayer Mat and Quran.

On October 2015, February 7, 2016, and August 25, 2016, Respondent's deputies, who worked at the discipline division, removed Petitioner's Quran from her property in solitary confinement. Petitioner filed a complaint and inquired into the removal of her Quran and prayer mat. Respondent Sergeant Hernandez answered Petitioner's grievance and told her that the Quran was removed because it belongs to the County of Los Angeles, and it was against Respondent's policy for her to have the Quran during discipline. Whenever Petitioner was sent to solitary confinement her Quran was confiscated, and the Bible and the Torah were made available to her only.

C. Petitioner's Food Allergies and Respondent's Fashion Design Program.

In July 2015, Petitioner enrolled in a Respondent's fashion design vocational program but was removed from the program in September 2015, and transferred to Respondent's Twin Towers Facility because Respondent claimed it could not accommodate Petitioner's special dietary needs. In October 2015, Petitioner returned to Respondent's Century Regional Detention Facility (CRDF) and re-applied to the fashion design program. However, Respondent's officer Vera answered Petitioner's request in late November 2015, and stated that Petitioner could not participate in the program because of her severe food allergies.

In 2016, Petitioner asked Respondent's officer Martinez to find out the reason she was refused reentry into the vocational program. However, the deputy returned with the same answer stating that Respondent's Education Based Incarceration department had firmly stated that Petitioner will never be enrolled in the program again due to her medical dietary restrictions, which were considered a liability against E.B.I. policy.

D. Respondent Joel Garnica inflicting injuries on Petitioner

On June 5, 2015, Petitioner's housing module was raided by Respondent Garnica and his team. The inmates were kept in the outdoor recreation area, where Garnica and his team addressed inmate concerns and answered their questions. Petitioner asked questions about the County's property damage policy because her personal property was constantly destroyed each time her module was raided. Respondent Joel Garnica did not like Petitioner's questions and reprimanded her. Garnica called Petitioner to come forward, handcuffed her, and then took Petitioner to solitary confinement.

Respondent Joel Garnica put Petitioner in a cell, but as the door slid closed, he grabbed Petitioner's handcuffs through a knee-level slot hole and intentionally pressed on the handcuff to lower her body down. He then twisted her wrist, which in turn dislocated her arm and caused her back to pop. Petitioner screamed in pain and told Respondent that he was hurting her. She asked that he let go of the handcuffs so that she can adjust her arm and for him to remove the handcuffs. However, Garnica, joined by a second deputy, Ochoa, refused to let go and instead used excessive force to press the handcuffs on Petitioner's wrist, causing cuts, bruises, and injuring her back.

II. PROCEEDINGS BELOW

A. Proceedings in the District Court

Upon exhausting all her administrative remedies in the jail, Petitioner submitted a civil complaint and asked the district court to intervene. The district court assigned constitutional statutes to Petitioners claims and asked her to amend her complaint. In following the Court's recommendations, Petitioner presented her Third Amended complaint in pursuant to the Eighth Amendment Excessive Force, R.L.U.I.P.A and the Americans with Disabilities Act.

The district court cited the Hudson factors and dismissed Petitioner's Eighth Amendment claim. The court erroneously held that Petitioner suffered minimal injuries from the unhandcuffing because she lifted her hand after her injury and therefore, was not injured. The Court also cited Scott v. Harris and used evidentiary flawed video evidence that contradicted Respondent's key eyewitness' statement. The Court then used qualified immunity to dismissed Petitioner's Eighth Amendment claim.

Under Petitioner's Hijab case, the district court cited the Turner factors and held that Respondent's male-only Kufi cap policy was the least restrictive means

6.

of furthering its compelling interest in the women's jail security. The court held that Respondent's male-only Kufi policy satisfied R.L.U.I.P.A's broad protection for the Hijab and then dismissed Petitioner's Hijab claim. The court failed to consider a letter from the jail's chaplain refuting Respondent's gross exaggerations about Kufi caps. The chaplain's letter confirmed Respondent's restrictions on the Hijabs and rebutted Lt. Kelly Adlers assertions in her Declarations, which declared the availability of the male-only Kufi caps in the women's jail.

In Petitioner's Americans with Disabilities Acts claim, the district court held that Respondent denied Petitioner access to its vocational class because of disciplinary actions and not her medical diet. The court failed to see that Respondent still violated the Petitioner's ADA right to due process even if denial of access to the vocational class was based on the disciplinary action.

B. Proceedings in the court of appeals

The Ninth Circuit Court affirmed the district's court decision on Petitioner's excessive force claim and conflicted its precedent established by an earlier decision held in *Furnace v. Sullivan*, No. 10-15961, slip op. (9th Cir. January 17, 2013). In Petitioner's claim, the Ninth Circuit held that there was no genuine dispute of material fact that Respondent Garnica did not use excessive force when he removed Petitioner's handcuffs on June 5, 2017. The Ninth circuit contradicted itself, then cited *Scott v. Harris* in support of using Respondents evidentiary flawed video evidence for their final decision.

Under Petitioner's Hijab claim, the Ninth Circuit held that the district court correctly concluded that there was no genuine dispute of material fact that the Respondent policy, which prohibited head coverings other than Kufi caps, was "the least restrictive alternative available . . . to reach [the County's] compelling interest" in prison security. The Courts unconstitutionally held that it was

acceptable for Muslim women to wear Kufi caps for prayer and misconstrued the jail chaplain's letter to fit that narrative. Furthermore, the lower court concluded that Petitioner did not allege a R.L.U.I.P.A. claim premised on the purported confiscation of her Quran and prayer mat, nor did she address any such claim in her opening brief on appeal and they dismissed her claim as a result.

The Ninth Circuit also held that the district court entered summary judgment in favor of Respondent in the disability discrimination because there was no genuine dispute of material fact that due to Petitioner's disciplinary infractions, Petitioner was not "otherwise qualified to participate in" the jail education program. However, the Court failed to acknowledge that Respondent violated Petitioner's due process when she was removed from the program.

The Ninth Circuit held that the district court did not abuse its discretion when they failed to review Petitioner's supplemental evidence showing her injuries and refuting Respondent's false statements.

In addition, the Ninth Circuit denied Petitioner's Petition for Panel Rehearing and Rehearing En Banc.

REASONS FOR GRANTING THE PETITION

1. To remove the substantial burdens placed on Muslim women's rights to wear the Hijab and pray in correctional institutions in the country.

In 2015, this Court unanimously ruled that an Arkansas prison policy which prohibited a Muslim prisoner from growing a short beard in accordance with his religious beliefs violated the Religious Land Use and Institutionalized Persons Act (RLUIPA). *Holt v. Hobbs*, 574 U.S. 352 (2015).

R.L.U.I.P.A. requires the Government to demonstrate that the compelling interest test is satisfied through application of the challenged law "to the person"—the particular claimant whose sincere exercise of religion is being substantially

burdened.'" Hobby Lobby, 573 U.S., at ——, 134 S. Ct., at 2779 (quoting Gonzales v. O Centro Espírita).

In Petitioner's case, Respondent, the County of Los Angeles, failed to create a religious policy that allows Muslim women to pray in accordance with religious practice for its women's jail facilities. Petitioner was harassed on a daily basis for following the jail chaplain's directives to use a makeshift Hijab to pray in her cell. She was constantly cited for insubordination and sent to solitary confinement for refusing to stop her prayers and remove her makeshift Hijab. Her Quran and prayer mat were intentionally removed and discarded whenever she was sent to solitary confinement, and the Bible and the Torah were made available to her.

Respondent had the chance to accommodate Muslim women in its jail facilities by permitting the use of the Hijab like other correctional institutions in Southern California. But they failed to do so even after the chaplain approached them with a policy that would have allowed Muslim women to use the Hijab in accordance with prison security policy. They intentionally placed a substantial burden on Petitioner and tormented her spirit.

This Court noted that the ability of other correctional institutions to use further comparable interests without challenging the existing regulations is evidence that a less restrictive alternative is available. It also demonstrates that where a significant number of other facilities allow accommodations, a facility cannot deny accommodations consistent with R.L.U.I.P.A.'s strict scrutiny requirements, unless the facility offers persuasive reasons why it cannot adopt the less restrictive methods used elsewhere.

Respondent violated Petitioner's religious rights and presented a Kufi cap policy drafted for its Men Central Jail to defend its failure to create a policy that accommodates its women's jail facilities. The lower courts' decision to substitute

Respondent's male-only Kufi cap policy for a Muslim woman's Hijab is a conflict to R.L.U.I.P.A's broad protections for the Hijab. The County failed to prove that a man's headcover is the least restrictive means to deny a Muslim woman's right to wear her Hijab to pray in her cell.

In addition, the County failed to show why they took a different course from the many other correctional facilities that permit the Hijab. Respondent failed to show how the Kufi cap policy became an alternative means to satisfy the compelling government interest against the use of the Hijab and did not present any alternative means that they considered before the restrictions on the Hijab. *Cheema v. Thompson*, 67 F.3d 883, 885 n. 3 (9th Cir. 1995) (finding fault with Defendant's failure to explain that another school district had managed to accommodate Sikh students' religious practices without sacrificing school safety). Also, See *Cutter*, 125 S.Ct. at 2124 (quoting Brief for the United States at 24).

The lower Courts overlooked Petitioner's rights to religious practice and to be free from harassment and punishment. They overlooked R.L.U.I.P.A's strict scrutiny requirements and favored the Respondent's male Kufi cap policy over a woman's protected rights to prayer. The Courts were convinced by Respondent's misleading declarations that the Kufi cap policy was a suitable accommodation for the Hijab. However, women in Islam do not wear Kufi caps for prayer, just as men in Islam do not wear Hijabs.

The Islamic Shura Council of Southern California intervene upon hearing the Respondent's claim about the Kufi cap and submitted a letter to the Ninth Circuit to clarify the Respondent's misleading declarations. After all, the Kufi cap policy was drafted by the Islamic Shura Council of Southern California for the Men Central Jail. This is why Respondent's Kufi cap policy can never satisfy the "least restrictive means" requirement under R.L.U.I.P.A.

Respondent knew it could not offer any persuasive reasons why it did not adopt the less restrictive methods used in other women's facilities. This is why Respondent presented the men's central jail Kufi policy in its defense against Petitioner's R.L.U.I.P.A. claim. The lower Court's decisions on Petitioner's Hijab case have raised global concern in the Islamic community and created an unislamic principle that needs immediate rectification by the nation's highest court. The courts' decisions are not just unislamic but they are prejudicial material errors of law that have resulted in the denial of justice—and has raised issues of important systemic consequences for the development of the law and the administration of justice" Watson v. Geren (2nd Cir. 2009) 587 F.3d 156, 160FRAP 40(a)(2).

2. To avoid the restrictions on religious items especially the Qurans and mats in solitary confinement.

R.L.U.I.P.A's material point of fact and law was overlooked by the lower court's decision against Petitioner's Quran and mat claim. Petitioner's religious beliefs are protected by the Free Exercise Clause and the Religious Land Use and Institutionalized Persons Act (R.L.U.I.P.A.). The discarding of Petitioner's religious items violates both statutes. However, the lower courts sided with Respondent, and chose to apply only the Free Exercise Clause to Petitioner's claim. Indisputably, the courts know that under R.L.U.I.P.A, Petitioner does not have to show that Respondent has a custom of discarding inmates' Quran and prayer mats. See 42 U.S.C. § 2000cc-1(a); 42 U.S.C. § 2000cc-2(b.). The lowers courts overlooked R.L.U.I.P.A's protection for religious items and abused its discretion. The Second Circuit has cautioned, that ""a decision is against the weight of the evidence . . . if and only if the verdict is [(1)] seriously erroneous or [(2)] a miscarriage of justice. . . ."" Raedel, 670 F.3d at 417-18 (quoting Farrior v.

Waterford Bd. of Educ., 277 F.3d 633, 635 (2d Cir. 2002)). In Petitioner's case it is a miscarriage of justice and the reason for this Court to grant review.

3. To avoid discrimination and abuse against people with severe food allergies and allow them to be productive in correctional institutions.

It is a matter of national interest for this court to grant Petitioner's Writ of Certiorari and review the case due to the discrimination and abuse against people with severe food allergies and avoid the unreported number of suicides in jail.

In citing Thomas v. Davis to dismiss Petitioner's A.D.A. claim, the lower court contradicted the Ninth Circuit's ruling in that case. In Thompson v. Davis, the "Plaintiffs alleged that Defendants have violated Title II of the Americans with Disabilities Act ("A.D.A. ") by denying them full and fair consideration for parole based on their disability of drug addiction." The district court dismissed the complaint. However, the Ninth Circuit Court reversed the district court's ruling and remanded the case for further proceedings.

Furthermore, the Ninth Circuit's decision in Petitioner's ADA case conflicted with the Supreme Court's decision regarding due process in denying inmates access to institutional programs. Respondent alleged that Petitioner was denied access to the vocational program due to her disciplinary infractions. But there is no evidence that was provided to show that Petitioner was informed about the write-ups being the reason she was restricted access to the vocational sewing class. Respondent did show evidence that Petitioner's A.D.A. grievances were even answered by its Deputy Sharman and Gabowa. See Duffy v. Riveland, 98 F.3d 447, 455 (9th Cir.1996) (holding the same with respect to prison disciplinary hearings); Bonner v. Lewis, 857 F.2d 559, 562 (9th Cir.1988) (same).

The Ninth Circuit stated in *Thomas v. Davis* that "we have found that prison "programs or activities" include such things as parole and disciplinary hearings." See *Armstrong I*, 124 F.3d at 1024, and *Armstrong II*, 275 F.3d at 856 (collectively making clear that parole proceedings are "programs or activities" within the meaning of the A.D.A.); The lower Court stated, we have interpreted Title II's "programs" and "activities" to include" 'all of the operations of a qualifying local government." In reaching this conclusion, this Supreme Court noted that the legislative history of the A.D.A. "strongly suggests that § 12132 should not be construed to allow the creation of spheres in which public entities may discriminate on the basis of an individual's disability."

In *Morrissey v. Brewer*, 408 U.S. 471 (1972), this Supreme Court set forth the minimal due process requirements that a parole, or, in this case, correctional institution's program revocation hearing must meet to satisfy the Fourteenth Amendment to the United States Constitution.

Some of those requirements include the following:

- (a) written notice of the claimed violations of parole or program;
- (b) disclosure to the parolee of evidence against him;
- (c) opportunity to be heard in person and to present witnesses and documentary evidence.

The Respondent should have addressed Petitioner's A.D.A. issue if the information she was given about her special diet being the reason for the denial of the program was incorrect, but they did not. In addition, Respondent failed to provide any evidence that they addressed Petitioner's concerns or grant her the right to due process. The indisputable fact is that Petitioner's disciplinary history had nothing to do with denying her access to the program. As Respondent's records show, her food allergies and medical diet were the main reasons she was

removed from the program, transferred out of C.R.D.F., and then denied access upon her return to the facility. Respondent violated Petitioner's ADA right, the due process to be heard, and to defend herself against the write-ups, even if they were the reason why Deputy Tammy Sherman denied her access to the program.

In her declaration to the lower Court, Deputy Tammy Sherman admitted that she removed Petitioner from her sewing class and then transferred her to Twin Towers on September 21, 2015, but gave no explanation as to why she removed Petitioner from her vocational class. Deputy Sherman's declaration also stated that she decided that Petitioner would not be permitted to enroll in the program after reviewing her records. She made this decision without speaking to Petitioner to hear her side of the story or inform her of the reason behind her decision. Moreover, she did not answer any of Petitioner's A.D.A. grievances in writing.

Respondent failed to inform Petitioner why she was removed from the program. She also failed to answer her grievances and to allow her to be heard before she was removed from the program and denied reentry. As a result, the lower Court's application of *Thomas v. Davis* in dismissing Petitioner's right to access the vocational sewing program should be reviewed by this Court and be remanded for further proceedings. *Morrissey v. Brewer* (1972) 408 U.S. 471.

4. To hold correctional officers accountable for gross misconduct and inmate abuse.

Petitioner was injured in a position where she posed no threat to Respondent Garnica. She was handcuffed behind a locked metal door while two deputies pulled her body down through a slot hole and removed her handcuffs. *Winterrowd v. Nelson* (*Furnace v. Sullivan*, No. 10-15961, slip op. (9th Cir. January 17, 2013)).

Respondent presented an evidentiary flawed videotape that contradicted their key eyewitness' statement about the incident. Respondent's only eyewitness'

statement did not contradict Petitioner's complaint. However, Deputy Webster's statement contradicted the events depicted on the videotape and raises questions about the video's authenticity. *United States v. Cejas*, 761 F.3d 717, 723 (7th Cir. 2014). See, e.g., *United States v. Ikezi*, 353 F. App'x 482, 483 (2d Cir. 2009) (referring to Rule 901(b)(9) as a basis for authenticating a videotape); 555 F. App'x 389, 395-96 (5th Cir. 2014).

The lower Court's cited *Scott v. Harris* to dismiss Petitioner's claim. However, this Court held that summary judgment is only appropriate where videotape evidence blatantly contradicts a non-moving party's version of the events. In *Scott v. Harris*, the videotape evidence did not contradict the eyewitness for the moving party's version of the events, nor did Respondent in that case question the authenticity of the videotape. In fact, in *Scott v. Harris*, this Court was so confident in the videotape evidence that they posted the video on the Court's website. The question in reviewing this case, can this Court make the same decision with the County's videotape evidence? If not, then *Scott v. Harris* is inapplicable in Petitioner's case. The Respondent's evidence failed the proponent of a videotape foundation in terms of identification and accuracy. The Respondent did not produce a witness statement to identify that the videotape presents a fair and accurate depiction of what actually occurred. See generally F.E.D. R. EVID. 901(a). *Id.*

Petitioner raised this argument in her opposition to Respondent's Summary Judgement and on appeal, but the lower Courts ignored this material fact. Respondent failed to show how the videotape was produced, what type of equipment was used for the two versions submitted to the court, and who edited, deleted, replaced scenes, and extracted the videotapes. See *United States v. Sarro*, 742 F.2d 1286, 1292 (11th Cir. 1984) (holding that the proponent of a videotape

must show "(1) the competency of the operator [of the recording equipment]; (2) the fidelity of the recording equipment; (3) the absence of material deletions, additions, or alterations in the relevant part of the tape. The lower court failed to analyze these facts in their de novo review, causing a miscarriage of justice in this case.

The Supreme Court noted in *Graham v. Connor*, 490 U.S. 386 (1989) that not all excessive force claims brought under § 1983 are governed by a single generic standard and rejected that notion. Instead, it noted that courts must identify the specific constitutional rights allegedly infringed upon by the challenged application of force, and then judge the claim by reference to the specific constitutional standard which governs that right. Pp. 490 U. S. 393-394. This is why the Court should review this case and correct the overtly misinterpretation of *Scott v. Harris* in the lower Court to violate victims right.

To grant the submission of supplemental evidence that could not be obtained on time due to COVID-19, for review and acceptance.

The lower Court's failure to consider the Petitioner's supplemental evidence was a harmful error because the medical files are the only evidence that show the severity of Petitioner's injuries. The lower Courts interpretation of Chaplain Maria Khani's letter is a miscarriage of justice against all Muslim chaplains and women.

5. CONCLUSION

For the reasons above, Petitioner humbly request this Court's review of her Writ of Certiorari.