No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

LISHAN WANG — PETITIONER
(Your Name)

VS.

MIRIAM DELPHIN-RITTMON,et al — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis.*

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

1. U.S. District Court, District of Connecticut

2. U.S. Court of Appeals for the Second Circuit

☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____

_____, or

☒ a copy of the order of appointment is appended.

_____
(Signature)

AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

I, Lishan Wang, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	**Average monthly amount during the past 12 months**		**Amount expected next month**	
	You (an inmate)	Spouse (divorced)	You (an inmate)	Spouse (divorced)
Employment	$0.00	$0.00	$0.00	$0.00
Self-employment	$0.00	$0.00	$0.00	$0.00
Income from real property (such as rental income)	$0.00	$0.00	$0.00	$0.00
Interest and dividends	$0.00	$0.00	$0.00	$0.00
Gifts	$0.00	$0.00	$0.00	$0.00
Alimony	$0.00	$0.00	$0.00	$0.00
Child Support	$0.00	$0.00	$0.00	$0.00
Retirement (such as social security, pensions, annuities, insurance)	$0.00	$0.00	$0. 00	$0.00
Disability (such as social security, insurance payments)	$0.00	$0.00	$0.00	$0.00
Unemployment payments	$0.00	$0.00	$0.00	$0.00
Public-assistance (such as welfare)	$0.00	$0.00	$0.00	$0.00
Other (specify): NONE	$0.00	$0.00	$0.00	$0.00
Total monthly income:	$0.00	$0.00	$0.00	$0.00

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A	N/A	N/A	$ 0.00
N/A	N/A	N/A	$ 0.00
N/A	N/A	N/A	$ 0.00

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
N/A	N/A	N/A	$ 0.00
N/A	N/A	N/A	$ 0.00
N/A	N/A	N/A	$ 0.00

4. How much cash do you and your spouse have? $ 0.00
Below, state any money you or your spouse have in bank accounts or in any other financial institution. (Note: Petitioner is a divorcee!)

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
N/A	$ 0.00	$ 0.00
N/A	$ 0.00	$ 0.00
N/A	$ 0.00	$ 0.00

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

☒ Home N/A
Value 0.00

☒ Other real estate N/A
Value 0.00

☒ Motor Vehicle #1 N/A
Year, make & model N/A
Value 0.00

☒ Motor Vehicle #2 N/A
Year, make & model N/A
Value 0.00

☒ Other assets N/A
Description None
Value 0.00

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
N/A	$ 0.00	$ 0.00
N/A	$ 0.00	$ 0.00
N/A	$ 0.00	$ 0.00

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
L.W. (Minor)	Daughter	18
N/A	N/A	N/A
N/A	N/A	N/A

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home) Are real estate taxes included? ☐ Yes ☐ No N/A Is property insurance included? ☐ Yes ☐ No N/A	$ 0.00	$ 0.00
Utilities (electricity, heating fuel, water, sewer, and telephone)	$ 0.00	$ 0.00
Home maintenance (repairs and upkeep)	$ 0.00	$ 0.00
Food	$ 0.00	$ 0.00
Clothing	$ 0.00	$ 0.00
Laundry and dry-cleaning	$ 0.00	$ 0.00
Medical and dental expenses	$ 0.00	$ 0.00

	You	Your spouse
Transportation (not including motor vehicle payments)	$ 0.00	$0.00
Recreation, entertainment, newspapers, magazines, etc.	$ 0.00	$0.00
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	$ 0.00	$ 0.00
Life	$ 0.00	$0.00
Health	$ 0.00	$0.00
Motor Vehicle	$ 0.00	$0.00
Other: N/A	$ 0.00	$0.00
Taxes (not deducted from wages or included in mortgage payments)		
(specify): N/A	$ 0.00	$0.00
Installment payments N/A		
Motor Vehicle	$ 0.00	$0.00
Credit card(s)	$ 0.00	$0.00
Department store(s)	$ 0.00	$0.00
Other: N/A	$ 0.00	$0.00
Alimony, maintenance, and support paid to others	$ 0.00	$0.00
Regular expenses for operation of business, profession, or farm (attach detailed statement)	$ 0.00	$0.00
Other (specify): N/A	$ 0.00	$0.00
Total monthly expenses:	$ 0.00	$0.00

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? N/A

If yes, state the attorney's name, address, and telephone number:

N/A

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? N/A

If yes, state the person's name, address, and telephone number:

N/A

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I'm an indigent inmate, divorced, with kids whom I can not support and they have to make living themselves or live on the government or charity!

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: February 2, 2023

(Signature)

DOC#: 0000375805 Name: WANG, LISHAN [Birth_Date]: 01/23/1966
LOCATION: 125-A

ACCOUNT BALANCES Total: 0.00 CURRENT: 0.00 HOLD: 0.00

SUB ACCOUNT	01/01/2020 START BALANCE	01/26/2023 END BALANCE
SPENDABLE BALANCE	0.00	0.00
DISCHARGED SAVINGS		
BONDS		
PLRA		
HOLIDAY PACKAGES		
COST OF INCARCERATION		
REENTRY ID		

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
OEYE	MED EYE OBLIGATION	125-08/02/19	2.83	0.17	0.00

TRANSACTION DESCRIPTIONS -- SPENDABLE BALANCE SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- DISCHARGED SAVINGS SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- BONDS SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- PLRA SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- HOLIDAY PACKAGES SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- COST OF INCARCERATION SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- REENTRY ID SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

Inmate Request Form

Connecticut Department of Correction

**If your name, cell number, and Inmate number are not listed then no response

CN 9601
REV 1/31/09

Inmate name: WANG, L		Inmate number: 375805
Facility/Unit: CCI	Housing unit: SB1-17	Date: Jan. 26, 2023

Submitted to: Counselor Mr. Smith

Request:

Last Three Years' Inmate Account Balance

— Could you print Two Copies of My Last Three Years' Account Balance and sign them with your name? (I need to prove to the U.S. Courts that I'd been an indigent in last three years.)

continue on back if necessary

Previous action taken:

continue on back if necessary

Acted on by (print name): Title:

Action taken and/or response:

continue on back if necessary

Staff signature: Date:

DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 USC § 1746

I, Lishan Wang, declare and state as follows:

1. I have read the foregoing answers to the questions from the court(s) and the statements I have made to the court(s).
2. I have answered truthfully, to the best of my knowledge and belief. I have made each my statement truthfully, to the best of my knowledge and belief. Any document(s) I attach to support my answers and/or statements is a true and genuine copy from its source(s) to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing answers and/or statements are true and correct.

Executed on February 2, 2023.

Lishan Wang, #375805

Notary:

Subscribed and sworn to before me
This day of 2 Feb, 2023
Notary Public
My Commission Expires 10/31/24

D. Conn.
16-cv-1207
Hall, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 19th day of August, two thousand twenty-one.

Present:

Rosemary S. Pooler,
Denny Chin,
Raymond J. Lohier, Jr.,
Circuit Judges.

Lishan Wang,

Plaintiff-Appellant,

v. 21-397

Miriam Delphin-Rittmon, et al.,

Defendants-Appellees,

Michael A. Norka, Psychiatrist, et al.,

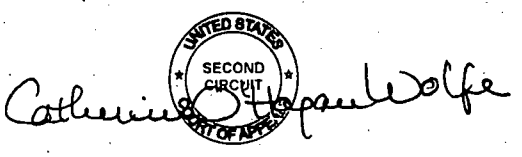
Defendants.

Appellant, pro se, moves for appointment of counsel, leave to proceed in forma pauperis, and for this Court to "accept" duplicate copies of his briefs as filed. Upon due consideration, it is hereby ORDERED that the motion to proceed in forma pauperis is DENIED as unnecessary, as Appellant retains his in forma pauperis status. Fed. R. App. P. 24(a)(3). It is further ORDERED that the motion for appointment of counsel is GRANTED and counsel shall be appointed from this Court's pro bono panel. Counsel is hereby instructed to brief, among any other issues, whether the district court abused its discretion by not considering whether to appoint a guardian ad litem under Federal Rule of Civil Procedure 17(c), before dismissing Wang's claims, where the court was aware Appellant had been adjudicated to be incompetent to stand trial in a state criminal case. *See Ferrelli v. River Manor Health Care Ctr.*, 323 F.3d 196, 201 (2d Cir. 2003) ("If a court were

presented with evidence from an appropriate court of record . . . indicating that the party had been adjudicated incompetent . . . it likely would be an abuse of the court's discretion not to consider whether Rule 17(c) applied."); *Berrios v. N.Y.C. Hous. Auth.*, 564 F.3d 130, 134 (2d Cir. 2009).

It is further ORDERED that the motion to accept Appellant's brief as filed is DENIED as moot.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court



United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 16th day of September, two thousand twenty-one.

Lishan Wang,

Plaintiff-Appellant,

v. 21-397

Miriam Delphin-Rittmon, et al.,

Defendants-Appellees,

Michael A. Norka, Psychiatrist, et al.,

Defendants.

IT IS HEREBY ORDERED that

Jon Romberg
Seton Hall University School of Law
Center for Social Justice
833 McCarter Highway
Newark NJ 07102
(973) 642-8700

be appointed as counsel for the Appellant. Counsel is directed to review Local Rule 31.2 regarding procedures for setting the filing dates for the submission of briefs.

For the Court:
Catherine O'Hagan Wolfe, Clerk of Court

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

WANG, LISHAN
_____ — PETITIONER
(Your Name)

VS.

MIRIAM DELPHIN-RITTMON, et al. RESPONDENT(S)

PROOF OF SERVICE

I, LISHAN WANG, do swear or declare that on this date, March 21, 2023, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Atty. Mary Lenehan, Assistant Attorney General, Connecticut Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 21, 2023

LG
_____
(Signature)

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

LISHAN WANG — PETITIONER
(Your Name)

vs.

MIRIAM DELPHIN-RITTMON, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

LISHAN WANG
(Your Name)

CHESHIRE CORRECTIONAL INSTITUTION
(Address)

900 Highland Avenue, Cheshire, CT 06410
(City, State, Zip Code)

203-651-6100
(Phone Number)

LIST OF PARTIES

All parties appear in the caption of the case on the cover page:

Lishan Wang,

Plaintiff - Petitioner

v.

Miriam Delphin-Rittmon, Helene Vartelas, CEO, Connecticut Valley Hospital, Thomas Ward-McKinlay, Psychologist, Director of Whiting, Frank Valdez, Unit 2 Director, Frankel, Dr., (1st name), Physician, (Possible First Name: "Irene"), Kathy Burness, APRN, Wanda Williams, Staff Member, Misty Delciampo, Nurse,

Defendants

LIST OF PARTIES

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:

1. The parties do NOT appear in the caption of the case(previously):

LISHAN WANG, *Plaintiff-Appellant,*

v.

Daniel Ramos, staff member; Darrin Gould, staff member.

2. A list of all parties to the proceeding in the court whose judgmen is the subject of this petition is as follows:

Ms. Wanda Williams, staff member; Mr. Daniel Ramos, staff member; Mr. Darrin Gould, staff member; Frank Valdez, Unit Director; Misty Delciampo, nurse; Ward-McKinlay, Director of Whiting; Helene Vartelas, CEO of Connecticut Valley Hospital; Miriam Delphin-Rittmon, Commissioner, State Department of Mental Health & Addiction Service; Tytiana Frankel, physician on call; Kathy Burness, APRN.

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TABLE OF AUTHORITIES

CASES

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STATEMENT OF JURISDICTION

The District Court had jurisdiction over Plaintiff-Appellant-Petitioner, pretrial-detainee Lishan Wang's constitutional claims pursuant to 28 U.S.C. § 1331. The district court entered a final order on November 3, 2020, dismissing Wang's remaining claims. The district court granted Wang's motion to appeal. On August 19, 2021 U.S.Court of Appeals for the Second Circuit granted appellant's motion for appointment of counsel and dictated the counsel to argue whether the district court had abused its discretion by not considering appointment of a guardian ad litem under Fed. R. Civ. P. 17(c) to plaintiff before dismissing his case. On November 23, 2022 the Second Circuit had summarily dismissed Wang's appeal(Case 21-397, Doc# 134-1), concluding that district court had NOT violated Wang's Rule 17(c) and even when it had violated Rule 17(c) it did not cause any harm, and Wang's other claims are meritless on which the appeals court did not give any further explanation. Wang filed motions for rehearing the case en banc, for more time to appeal to U.S. Supreme Court, and for appointment of a counsel. The court had summarily denied all his motions and issued the order in early January 2023. U.S. Supreme Court has jurisdiction to review the appeals court's final order under 28 U.S.C. § 1254(1).

QUESTIONS PRESENTED

1. U.S.District Court District of Connecticut had used circular reasoning or "CATCH-22" to initially deny plaintiff suing "Supervisor" Wanda Williams who had personally involved in the deliberate negligence of her duty and at "Summary Judgment" violated the doctrine about Qualified Immunity established in Harlow v. Fitzgerald(457 U.S. 800, 1982) dismissing two "minions" as defendants, and then dismissed the case by ruling "because no minions were liable, no supervisor can be sued". Can the court abuse its power on "Summary Judgment" and violate an inmate's constitutional right to the court and to a jury trial?(42 U.S.C. 1983)

2. U.S.Court of Appeals for the Second Circuit had dictated and misguided Appellant's court-appointed counsel to argue about appellant's competency(Fed.R.Civ.P. 17(c)), an issue raised in Appellant's criminal case which U.S. Supreme Court had refused to review and U.S. District Court had also refused to wade into in civil suit, and the Appeals Court had already known before the start of the appeal that competency to stand trial had been restored in the criminal case. Can the appeals court dictate an appeal when it knew its conclusion or its final decision before the appeal started?

3. Appeals Court had summarily dismissed appellant's arguments about above Question 1 as "meritless" without further deliberation or explanation. If appellant's other claims were "meritless", what is the use or purpose to argue at the appeal about whether or not District Court had violated plaintiff's right in Fed. R. Civ. P. 17(c)? Or, Why did Appeals Court waste time and resources to even allow the appeal to proceed in the first place when it deemed appellant/plaintiff's original claims "meritless"?

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 K to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[x] is unpublished.

The opinion of the United States district court appears at Appendix D & E to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[x] 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.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S.C. EIGHTH AMENDMENT

U.S.C. FOURTEENTH AMENDMENT

28 U.S.C. §1254(1)

28 U.S.C. §1331

42 U.S.C. §1983

CONNECTICUT STATE GENERAL STATUTES SECTION 4-165(a)

BRIEF

DISTRICT COURT'S VIOLATIONS OF PETITIONER'S CONSTITUTIONAL RIGHTS
(42 USC §1983, EIGHTH AMENDMENT & FOURTEENTH AMENDMENT)

1. This is an appeal about petitioner's basic, fundamental constitutional rights to filing a lawsuit and to a jury trial on his non-frivolous claims. U.S. District Court in Connecticut(District Court, hereafter) had stepped over its bound violating petitioner's such basic, fundamental constitutional right at the early stage of "Summary Judgment" by dismissing petitioner's non-frivolous claims against the state employees for their repetitive failures to enforce the state-stipulated curfew policy on a violent patient Mr. Ralph Green at Whiting Forensic Institute (now Whiting Hospital. Whiting, hereafter) and thus enabling Mr. Green to harass and physically assault the petitioner/plaintiff(or Mr. Wang, a fellow "patient" at Whiting) who had observed the curfew policy staying inside his room after 10:00 PM. There was plenty of time before the assault for any of the state employees on duty to order Mr. Green to observe the curfew policy. And two male state employees(Mr. Ramos and Mr. Gould) had stood idly next to both Mr. Green and Mr. Wang when Mr. Green had menaced Mr. Wang physically by waving two fists in Mr.Wang's face, waiting Mr. Green to punch Mr. Wang so they could thus intervene. Mr. Green did punch Mr. Wang in the head causing concussion and brief loss of consciousness. The District Court had first erred in denying petitioner's motion (Apeendix) Doc# 120, Page 5,12) to add Mr. Ramos and Mr. Gould as defendants for their negligence of their job duty, but paradoxically allowed petitioner/plaintiff to add Ms. Wanda Williams (the Supervisor of Mr. Ramos and Mr. Green) who was working on the same shift(when the assault occurred) at the same unit(where the assault occurred) as a defendant. This is a flagrant violation of petitioner's basic, fundamental constitutional right to filing a complaint after being injured for doing nothing wrong. If Ms. Williams could be added as a defendant (she had witnessed the whole event from the beginning;

from the start of the curfew which Mr. Green didn't obey to Mr.Green's harassing and assaulting Mr. Wang within a few feet distance in plain view), there was no reason for the district court to bar petitioner/plaintiff in the same complaint to sue Mr. Ramos and Mr. Gould as defendants, as they both were working on the same shift(when the assault occurred) at the same location(where both assailant and victim housed) as Ms. Williams.

THE VIOLATION OF PETITIONER'S RIGHT TO SUE LEADS TO THE VIOLATION OF HIS RIGHT TO A JURY TRIAL (42 U.S.C. § 1983, 14TH AMENDMENT EQUAL PROTECTION OF LAW)

2. What has made the District Court's such violation (of petitioner's right to sue) so flagrant, inconceivable, and unjust is: In the following "Summary Judgment", the State argued that Ms. Williams was assigned to monitor another patient at the time of the event and by policy she was not allowed to leave her post and thus was unable to intervene(Petitioner's Note: Ms. Williams had verbally asked Mr. Green to stop harassing Mr. Wang but did NOT ask Mr. Green to obey the curfew rule. Therefore, it is reasonable to assume she could still have sounded the alarm when Mr. Green was not observing the curfew policy, but she didn't; and Ms. Williams was within 3-4 feet distance from Mr. Green a few minutes before the assault, and had witnessed Mr. Green harassing Mr. Wang, charging at Mr. Wang menacingly with two fists in the air like a boxer; she could have used her body alarm to trigger an EMERGENCY CODE to call a "crash team", but she didn't), and the District Court concurred and dismissed petitioner's claims against Ms. Williams and other supervisors by ruling that since no minions (or subordinates, staff members such as Mr. Ramos and Mr. Gould) were being sued as defendants, the supervisors could not be sued (Appemdix E, Doc# 167, Page 24). Therefore, the District Court's above-mentioned first violation of petitioner's constitutional right to filing non-frivolous complaints against the minions (Mr. Ramos and Mr. Gould) had been self-servingly used by the District Court to again violate petitioner's basic, fundamental constitutional right to a jury trial, because it should have been left to the jurors to decide whether or not Ms. Williams had committed

negligence of her duty in enabling Mr. Green to violate the curfew rule and thus to assault Mr. Wang.

3. It is undisputed that Mr. Green had violated the curfew rule, had harassed Mr. Wang (Which Ms. Williams had asked verbally Mr. Green to stop), had physically been menacing Mr. Wang, had continued to physically threatened Mr. Wang with two waving fists in Mr. Wang's face when Mr. Ramos and Mr. Gould were standing idly immediately next to Mr. Green and Mr. Wang, had punched Mr. Wang in the head, and had caused severe head injury. Therefore, in a non-frivolous lawsuit, the District Court's such rulings (mentioned above) are self-serving, circular reasoning, flagrantly unjust, and a typical CATCH-22(barring plaintiff to sue the minions and then arguing the supervisors can not be sued because no minions had been sued).

DISTRICT COURT'S PATTERN OF UNSOUND, UNSCIENTIFIC, AND UNJUST REASONINGS

4. The same Hon. Judge (AVC) at the District Court had repeatedly made such self-serving, unsound, unscientific, unjust, and illogical arguments to dismiss plaintiff's claims. In another case (No. 3:21-cv-01133-AVC, now 3:21-cv-01133-JAM), the plaintiff(the same of the petitioner) had filed complaints about a nurse Marie Charles at Connecticut Department of Correction(DOC, hereafter) because when the plaintiff was sick with COVID-19 in December, 2020 and had developed life-threatening, unstable vital signs (dropping blood pressure, tachycardia, below normal level of blood oxygen, etc.), nurse Marie Charles had refused to treat plaintiff with electrolyte supplements and simply told plaintiff "to drink water". Hon. Judge AVC dismissed plaintiff's complaints by arguing that "drinking water is not a best treatment, but it is a treatment, and an inmate does not entitle to the best treatment"(Appendix Q, Doc# 19, Page 15, 17). When a patient had active diarrhea, uncontrolled hypotension, especially when caused by COVID-19 virus which enters the body via angiotensin conversion enzyme receptor with direct effects on the regulation of blood pressure, drinking plain water without

electrolyte supplement(i.e. Sodium Chloride) will send a wrong signal to kidneys to further secrete urine and cause further loss of bodily electrolytes which will further worsening the hypotension. Electrolytes are essential to maintain proper osmosis inside blood vessels and thus are essential in maintaining the blood pressure. That is high school physics or chemistry knowledge. Hon. Judge AVC had also denied plaintiff's motion to appeal his such unscientific ruling (Appendix Q Doc# 55, Page 26). The judge is not expected to be an expert on medicine or physiology. His Honor should have at least ordered plaintiff to provide the court with expert witness's opinions to prove that nurse Marie Charles had committed medical malpractice and had been indifferent to plaintiff's life-threatening medical conditions by refusing to give plaintiff electrolyte supplement for treatment of dropping blood pressure and by wrongfully telling the patient (plaintiff) to simply drinking plain water without even rechecking his vital signs to confirm his complaints.

5. Hon. Judge AVC had also dismissed plaintiff's other complaints about DOC's institutional failure in protecting inmates from contracting COVID-19 and institutional indifference after inmates had contracted COVID-19 with signs and symptoms. Hon. Judge AVC ruled that an inmate can not file complaints against DOC for institutional problems. That is also not true, as a recent case on trial (Case No. 3:13-cv-1465-SRU, Richard Reynolds v. Leo Arnone, et al.) about inmate's right at DOC and the unusual cruelty of DOC's housing condition had prevailed after a jury trial(Appendix Q DOC# 155, Page 1). This proves that the District Court has routinely stepped out of its bound to deny an inmate's access to U.S. Courts for justice and/or to dismiss inmates' non-frivolous complaints at the early stage of "Summary Judgment" and has routinely violated inmate plaintiffs' constitutional right to a jury trial.

DELIBERATELY ALLOWED ONE INMATE TO ASSAULT ANOTHER INMATE WOULD BE RECKLESS, WANTON, AND MALICIOUS CONDUCT NOT PROTECTED BY STATE GENERAL STATUTES A §4-165(a) AND NOT DISMISSED BY STATE COURT(S)

6. When the state employees knowingly, flragrantly, and deliberately allowing an inmate(Mr.Green was an inmate) to assault another inmate (Mr.Wang was an unsentenced inmate) by knowingly and flagrantly neglecting their duty to enforce state rules and/or by violating the state rule for the security of the facilities and for the safety of inmate population, their negligence would be reckless, wanton and malicious conduct not protected by the State General Statutes A § 4-165(a), and at the early stage of the lawsuit, the sate court usually does NOT dismiss the case for "Summary Judgment", as it is prudent and justice to give both opposing parties an opportunity to prove whether the state employees' actions are in fact reckless, wanton, and malicious at the trial(Appendix § Doc# _____, Page |). U.S. Courts should render an inmate plaintiff more protection in general. Mr. Green was a well-known violent and unstable patient at Whiting. Even the staff members were scared of him when Mr.Green became agitated. Ms. Williams, Mr. Ramos, and Mr. Gould knew that there was a substantial risk Mr. Wang would be seriously harmed when Mr.Green had become irate, charging like an angry bull at Mr.Wang with two fists waving in the air like a boxer, and they had collectively stood by doing nothing to pull Mr. Green out of Mr. Wang's face or simply order Mr. Green to observe the curfew rule and go back to his room. Obviously in petitioner's case, Ms.Williams, Mr. Ramos, and Mr. Gould had unreasonably disregarded Mr. Wang's safety and the excessive risk Mr.Green posed to Mr.Wang (Farmer v. Brennan, 511 U.S. 825, 1994), and their conducts are reckless, wanton and malicious, as they had repeatedly allowed Mr. Green NOT to observe the curfew policy, and on the night of assault, they had let him violate curfew rule for so long, even when he was harassing other patients.

JURY TRIAL ON DOC'S DELIBERATE INDIFFERENCE TO INMATE'S RIGHTS TO SAFETY AND TO FREEDOM OF CRUELTY HAD OFTEN BEEN IN PRISONERS' FAVOR, EVEN IN CASES ONCE BEING DISMISSED BY DISTRICT COURT

7. If growing beard is a prisoner's constitutional right affirmed by the U.S. Supreme Court, if a death row inmate's right to freedom of cruelty of DOC's housing condition(Appendix Q Doc# 155, Page 1), if an inmate assaulted by his cellmate prevailed at trial in his case about DOC' deliberate indifference to his right to safety (Appendix R Doc# _____, Page 1), Petitioner who was an unsentenced prisoner when this case arose has every reason to believe that if U.S. Supreme Court remands his case to the District Court for a trial, he will prevail and will be able to convince the jurors with facts about the state's wanton, reckless and malicious violation of his constitutional rights to freedom from cruelty and to state protection of his safety when he was waiting for a trial. The appeals court for the second circuit had reviewed the above-mentioned cases which once being sent back to the district court, had gone for a trial and prevailed. **Shouldn't an unsentenced prisoner have more right to state's protection of his physical safety and more right to freedom from cruelty?** It is in the interest of justice that an unsentenced prisoner's physical safety should in no way be compromised, so he or she could be put on trial for his or her crimes charged by the state without any unjust influence of coercion, fear, competency compromised by poor health, terror, intimidation, threat, PTSD, and severe anxiety, etc. (In above-mentioned two cases which occurred in the same DOC, filed at the same district court, and once appealed to the same Appeals Court for the 2d Cir.,Mr. Reynolds in Richard Reynolds v. Leo Arnone, et al. and Mr. Williams in Williams v. Marinelli were sentenced inmates before their respective complaints arose.)

IN PETITIONER'S CASE U.S. APPEALS COURT FOR SECOND CIRCUIT HAD VEERED FROM ITS ROUTINE PATTERN OF UPHOLDING PRISONERS' EIGHTH AMENDMENT RIGHT TO FREEDOM FROM CRUELTY CAUSED BY GUARDS' DELIBERATE INDIFFERENCE AND DICTATED APPELLANT TO ARGUE ABOUT HIS INCOMPETENCE TO STAND TRIAL IN HIS CRIMINAL CASE AND KNEW THE OUTCOME OF THE APPEAL BEFOREHAND BECAUSE IT KNEW HIS INCOMPETENCE TO STAND TRIAL HAD BEEN RESTORED BEFORE DISMISSAL OF THE CIVIL CASE BY DISTRICT COURT

8. U.S. Court of Appeals for the Second Circuit(2d Circuit, hereafter) had dictated petitioner's court-appointed counsel to **only** argue about District Court's violation of Fed. Civ. Rule 17(c) because Petitioner had been falsely labeled "being incompetent to stand trial" in his criminal case and the District Court had NEVER held a hearing to determine whether or NOT the plaintiff might need a court-appointed counsel in his civil case before the District Court dismissed the case. Both District Court and the plaintiff/petitioner had NEVER brought up the issue of plaintiff's being "incompetent to stand trial" in his criminal case. In plaintiff/petitioner's initial Brief for appeal in 2d Circuit, he had NEVER brought up the issue of his competence to stand trial in his criminal case. 2d Circuit had taken to itself to read plaintiff/petitioner's initial complaints in this civil case and to dig into petitioner's criminal case to discover petitioner's competence to stand trial had become a significant issue in his criminal case which had lasted for seven years. By doing so, 2d Circuit had also already found that the petitioner/plaintiff had been "restored" to "being competent to stand trial" in his criminal case, more than two years before the district court dismissed petitioner's civil case. Therefore, it is not exaggerated to say that 2d Circuit had known before the appeal ever started the conclusion of the appeal the judges were going to reach: It is harmless for District Court to violate Rule 17(c). Therefore, 2d Circuit's final rulings are rigged, riddled with conspiracy.

9. In petitioner's Motion for Rehearing asking the 2d Circuit to rehear his appeal en banc, Appellant/Petitioner had pointed out that in his initial Brief for appeal, he had NOT wanted to argue about the Rule 17(c).He had argued about his basic, fundamental constitutional rights to filing lawsuit against Mr. Ramos and Mr. Gould and to a jury trial. Both Dis-Court and Plaintiff had NEVER bothered themselves with Rule 17(c). And it was the Appeals Court (2d Circuit) "entrapping" Appellant to only argue about whether or not the District Court had violated Rule 17(c). And that is especially flragrant for 2d Circuit to do such injustice to the Appellant/Plaintiff as by being creating the question of incompetence to stand trial, 2d Circuit had already known plaintiff had already been restored to "being competent to stand trial" in his criminal case, well before the civil case being dismissed by District Court. Thus, before the start of the appeal, 2d Circuit had already had the final conclusion in their minds against the appellant/plaintiff(Appendix K Doc# 134-1, Page 5). There are evidence to prove that 2d Circuit had written off appellant's appeal and signed the death certificate from the beginning of the appeal to appellant's case: The medicine being used by Whiting had unusual effects in debilitating and paralysing plaintiff's mental and physical health, making him become really incompetent to stand trial. And the adverse effects of the medicine were prolonged and some of them are permanent. It is NOT harmless, and if 2d Circuit were really concerned about appellant's competence to stand trial and its effect on his competence in handling his civil case, it would have found that the medicine had continued to compromise mental health long after he was "allegedly restored to being competent"; and a hearing by District Court regarding Rule 17(c) indeed was warranted. However, 2d Circuit has denied appellant/petitioner's motion for a rehearing. And 2d Circuit's conclusion that petitioner/appellant's other arguments are meritless proves that it is pointless to even worry about Rule 17(c).

IN THE CIVIL CASE, CAN THE APPEALS COURT(2d CIRCUIT) DICTATE APPELLANT TO ONLY ARGUE THE EFFECTS OF AN ISSUE RAISED IN APPELLANT'S CRIMINAL CASE AND THE ISSUE WHICH U.S. SUPREME COURT HAD ALREADY REFUSED TO REVIEW? (The issue is petitioner's incompetence to stand trial raised in his criminal case which then on appeal U.S. Supreme Court had(APPENDIX ____P) refused to review and later when this civil case was filed the District Court had refused to address such issue and any other issues which can be construed as interfering with criminal court's rulings or as overstepping the procedure of the criminal court.)

10. It can conclude that the appeals court(2d Circuit) had premeditated to rule against the appellant when it dictated the court-appointed counsel to only argue about the Rule 17(c), and its summarily dismissing appellant's other arguments about his basic constitutional rights to filing a lawsuit and to a jury trial as "meritless" has rendered the court-dictated argument of Rule 17(c) meaningless and pointless, as, if there is no merit in plaintiff's claims, what is the point to appoint a lawyer when appellant prevails on his Rule 17(c) right? A lawyer can NOT make plaintiff's claims meritorious if 2d Circuit considered there is no fact to support the claims.

11. Petitioner is a prisoner lacking adequate access to a law library or any other resources for legal research. Therefore, it is impossible to list and refer to all relevant case laws in the District Court or/and Appeals Courts. Regarding the arguments about the violations of his constitutional rights by the district Court and the 2d circuit, please refer to the **Opening Brief for Plaintiff-Appellant Lishan Wang in the United States Court of Appeals for the Second Circuit(No. 21-397)** presented by the court-appointed counsel to the 2d Circuit(Appendix[Doc# _____, Page1-5[).

ARGUMENTS ABOUT THE LAW ON PLAINTIFF'S RIGHTS TO SUING MR. RAMOS AND MR. GOULD, TO JURY TRIAL

12. Petitioner is an indigent prisoner. English is his secondary language. He has no background of legal training. And at DOC there is no access to a rudimentary law library. Therefore, he will NOT be able to make a better argument than the one made by the 2d Cir.-appointed counsel in the opening Brief(Appendix J Doc# _____, Page 1-57). However, he is going to try his best to argue his right to sue Mr. Ramos and Mr. Gould, and to prove to U.S. Supreme Court that his case should be reviewed, sent back to District Court for a trial, and to uphold U.S. Supreme Court's previous ruling(Justice Powell's decision on qualified immunity in Harlow v. Fitzgerald, 457 U.S. 800, 1982 that qualified immunity now depends entirely on the objective reasonableness of an official's conduct) because Appeals Court for 2d Cir had preemptively limited appellant's apeal to Rule 17(c).

A. In District Court's initial ruling(Appendix D, Doc# 120, Page 12) to exclude Mr. Ramos and Mr. Gould from being sued as defendants, Hon. Judge AVC stated that there is no evidence to prove that Mr. Ramos and Mr.Gould had intentionally been indifferent to plaintiff Mr.Wang's safety in not enforcing the curfew rule on patient Mr. Green and standing idly when Mr. Green had become agitated, angry with two fists in the air hissing menacingly at Mr. Wang. The District Court ruling is conclusory and is wrong because at the early stage of "Summary Judgment", the District Court did NOT have factual evidence to support such conclusion: The Judge had no chance to read their minds and had NOT held any pretrial hearing in this regard, while plaintiff's evidence presented to the court in his complaint convincingly suggests undisputed facts that Mr. Ramos and Mr. Gould didn't do their duty to enforce curfew rule on Mr. Green and there was plenty of time for them to stop Mr. Green well before the assault.

B. In Harlow v. Fitzgerald (457 U.S. 800, 1982) Justice Powell explained that qualified immunity now depends entirely on "the objective reasonableness of an official's conduct"[id, at 818].

C. To prove their subjective intention is difficult for Hon. Judge AVC. Without holding any pretrial hearing to examine the evidence and to observe the performance of both assailant, defendants, and the victim/plaintiff, District Court was NOT in position to determine objectively which parties were telling the truth. The cell phone videos and police body cams have proved that even one-sided stories from the law enforcement and government can NOT be trusted in numerous police brutality cases. Petitioner's personal experience in his criminal case and civil cases in the State of Connecticut shows that government employees often lie and the state attorney general office is more than happy to use state employees' lies to defend them, even under oath. Since the District Court had assumed plaintiff's head injuries were serious, plaintiff's complaint was NOT frivorous. Therefore, petitioner/plaintiff's right to a trial must be honoured. Plaintiff had asked for a jury trial. The presiding judge can not preemptively make a decision to dismiss the case.

D. The trend of the law is: Qualified immunity is becoming less and less a valid and viable defence for state employees as states, one by one, gradually abolish the qualified immunity for government employees(i.e. in the State of New Mexico). In Batista, Johan v. Sanchez, Officer, et al. (Case# HHD-cv-19-5059451-S, Appendix S Doc# _____, Page /),a state superior court had refused to dismiss a case at the "Summary Judgment" about DOC guards neglecting prison policy to let an inmate get out of his cell to attack another inmate in the day room. The decision was made after a pretrial hearing, proving it is important for a judge to hear both parties in person. The victim in that case is a sentenced inmate. Mr. Wang, the petitioner and the plaintiff, was an unsentenced prisoner when he was assaulted by Mr. Green. Mr. Wang should have more right to

the state protection. Mr. Ramos, Mr. Gould and many Whiting staff members know they had been dealing with many patients who were unsentenced prisoners and if the patients' mental and physical health were compromised due staff's negligence of their duty, it would cause great miscarriage of the justice by the judicial system. U.S. Courts are supposed to give a plaintiff more protection because they can use both state and federal laws to uphold a person's civil rights and constitutional rights.

E. Most notably, petitioner/plaintiff's case occurred on the eve of the outbreak of the most horrifying, atrocious patient abuse in the history of the state of Connecticut(Appendix T Doc# _____, Page 1, 2): More than 40 state employees at Whiting had participated in the most horrendous patient abuse, and no one reported it! Ten (10) of them were criminally charged. At Whiting, staff members routinely rotated working in different units and knew each other well in a small community. It is NOT exaggerated to say that most of the staff members knew the patient abuse which had lasted a long time(months). Petitioner/plaintiff had recognized that one of the staff members Benjamin had worked in the unit where petitioner was housed, too. Such facility-wide patient abuse is so flagrant that it is a miscarriage of justice for District Court to hastily exclude Mr. Ramos and Mr. Gould from the list of defendants in petitioner's case. Hon. Judge AVC's lack of acuity of discernment had also displayed in Petitioner's another case (Case# 3:21-cv-1133-AVC, Appendix O Doc# 19, Page 15, 17) in which he decided that drinking water is a proper treatment of plaintiff/petitioner's unstable vital signs caused by COVID-19 and Diarrhea, and summarily dismissed plaintiff's **claim** against nurse Marie Charles for her indifference to plaintiff's life-threatening tachycardia, hypotention, dihydration, fainting, etc. Nurse Charles had NOT even re-checked plaintiff's vital signs when he told her his medical complaints.

F.Therefore, it is indefensible for Hon. Judge AVC to self-servingly, conclusorily decide that Mr. Ramos and Mr. Gould had no intention to be indifferent to Mr. Wang's right to safety. The objective facts are: Mr.Green as a patient had been violating curfew rule daily for months, had been known to be violent to both patients and staff members(female staff members were scared of him), on the night of assaulting Mr. Wang had been violating curfew rule for a while wandering in the hallway harassing other patients who were sleeping, and the staff members on duty had NEVER bothered to tell Mr. Green that he needed to observe curfew rule which started at 10:00 PM every night. Why did other patients need to obey the curfew rule whereas Mr. Green didn't have to? Petitioner/plaintiff had also repeatedly moved the District Court to let him file claim of discrimation against the defendants, because after assaulting Mr. Wang, Mr. Green had NEVER being restrained, just being walked by staff member to the quiet room to cool down, while on 02/22/17 Whiting staff members, nurses, and doctors had 4-point restrained non-violent Mr. Wang and illegally injected him with two large doses of sedatives simply because they falsely alleged that Mr. Wang might assault others physically. Hon. Judge AVC had repeatedly denied Mr. Wang's such motions. While even the State Government had been condemning Whiting's widespread, atrocious patient abuse and taking game-changing measures (like installing cameras in treatment rooms) to address the patient **abuse** cancer at Whiting, how could the District Court dismiss petitioner's non-frivolous case about the similar patient **abuse** and negligence so carelessly? **Worse**, because Mr. Ramos and Mr. Gould, the two staff members of lower rank (minions), were not among defendants, District Court had dismissed all claims against their supervisors. The Chain-Reaction of violating petitioner/plaintiff's right to suing minions is profound and detrimental to the plaintiff.

G. Derek Chauvin, a Minnesota policeman, didn't intend to kill George Floyd. And yet, he was charged for killing Floyd. The policewoman "Kim" in the same state didn't intend to kill "Daute Wright" who tried to flee police. She meant to pull a taser but in a split of second she pulled out a gun and killed the deliquent by a split-second mistake. Kim was in jail now. A six-year old student shot his teacher, and the superintendant of the school district in Virginia had been fired. Chauvin, Kim, and the Superintendant had no history of chronically neglecting their duties or failing to enforce the policies of their respective institutions. And yet, they had to pay the price for something out of their control. In petitioner's case, Mr. Ramos, Mr. Gould, and Ms. Williams had chronically failed to enforce curfew policy on patient Mr. Green, and the State Attorney General Office defended them; U.S. District Court protected them. Chauvin, Kim were trying to do their jobs respectively, whereas Mr. Gould, Mr. Ramos, and Ms. W illiams were flagrantly neglecting their job duties.

H. In the State of Connecticut, the case laws also uphold an inmate' plaintiff's rights to filing lawsuits against state employees for Eighth Amendment and Fourteen Amendment violations due to employees' negligence of their duties, violations of state policies, and indifference to inmates' safety deliberately. All the cases are based on "objective reasonableness" of their conducts according to Harlow v. Fitzgerald(457 U.S. 800, 1982). In Batista v. Sanchez, et al.(similar to this Petitioner's case in defendants' violation of DOC's policy to let an inmate out of his cell), State Superior Court had refused to "Summarily Dismiss" the case. In Williams v. Marinelli, 987 F. 3d 188, 2d Cir. 2021, (similar to this petitioner's case in defendant's deliberate indifference to plaintiff's safety by placing a violent gand member in his cell), both District Court and 2d Cir. had upheld the "objective reasonableness" doctrine and jury had sided with plaintiff. In State of Connecticut v. Diaz(Appendix U, Page 1), policeman Diaz was even criminally indicted for violating Department's policy(put seatbelt on inmate and wait on scene for EMS when the inmate needed emergency medical care).

I. As being shown in State of Connecticut v. Mark Cusson, the endemic of patient abuse at Whiting(Appendix T , Doc#_____, Page 3) and widespread staff indifference to patient safety suggests there was institutional cruelty to inmate patients at Whiting at the time this lawsuit(Petitioner's case) arose . According to Reynolds v. Arnone, et al.(Appendix Q, Doc#_____, Page 2), the institutional cruelty to inmates is also a violation of their Eighth Amendment Right, and the jury concurred!For the staff and the defendants (Mr. Ramos, Mr. Gould, and Ms. Williams) in Petitioner's case to fail to enforce the curfew policy(a safety and security measure) on Mr. Green routinely is same as to place patients under the constant harassment and threat of physical harm from the violent Ralph Green who behaved like a skinhead all the time terrorizing both patients and at least female staff members, who also had planned to injure other patients so he could be considered as "being incompetent" in order to stay at Whiting rather than serving time in prison (Many patients had tried to manipulate the judicial system by malingering mental "craziness"). Whiting's negligence and its staff's indifference to the safety threat caused by Ralph Green to other patients was like creating a cruel housing condition as in the case Reynolds v. Arnone, et al.

REASONS FOR GRANTING THE PETITION

1. To uphold U.S. Supreme Court's precedent in Harlow v. Fitzgerald, 457 U.S. 800, 1982 in which Justice Powell explained that Qualified Immunity now depends entirely on "the objective reasonableness of an official' conduct".
2. Which in turn will protect petitioner's constitutional right to filing lawsuit against state employees for their negligence of their duty and their indifference to unsentenced inmates' right to safety;
3. Which in turn will stop district court from dismissing Eighth Amendment cases on subjective intention and deliberativeness and thus will protect a plaintiff's right to a jury trial.
4. U.S. Court of Appeals for the Second Circuit had dictated appellant to appeal on District Court's failure of holding a hearing on the competency of the plaintiff(Fed.R.Civ.P. 17c) while conclusorily dismissed without any explanation plaintiff/appellant's Eighth & Fourteenth Amendment Rights claims as meritless. If plaintiff/appellant's factual claims were meritless, the Appeal Court had prejudiced itself by limiting appellant's appeal to Rule 17(c), because even if appellant had prevailed on the appeal, appointment of a pro bono counsel to the plaintiff will NOT have changed the fact that his claims were "meritless". The Appeals Court had prejudiced itself against the Appellant from the beginning.
5. Petitioner/Appellant/Plaintiff was an unsentenced prisoner at the time the original claims arose.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

LISHAN WANG

Date: February 2, 2023

DECLARATION UNDER PENALTY OF PERJURY
PURSUANT TO 28 USC § 1746

I, Lishan Wang, declare and state as follows:

1. I have read the foregoing answers to the questions from the court(s) and the statements I have made to the court(s).
2. I have answered truthfully, to the best of my knowledge and belief. I have made each my statement truthfully, to the best of my knowledge and belief. Any document(s) I attach to support my answers and/or statements is a true and genuine copy from its source(s) to the best of my knowledge and belief.

I declare under penalty of perjury that the foregoing answers and/or statements are true and correct.

Executed on February 2, 2023.

Lishan Wang, #375805

Notary:

Subscribed and sworn to before me
This day of 2 Feb, 2023
Notary Public
My Commission Expires 10/31/24

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

WANG, LISHAN — PETITIONER
(Your Name)

VS.

Delphin-Rittmon, et al. — RESPONDENT(S)

PROOF OF SERVICE

I, LISHAN WANG, do swear or declare that on this date, March 21, 2023, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Atty. Mary Lenehan, Assistant Attorney General, Connecticut Office of the Attorney General, 165 Capitol Avenue, Hartford, CT 06106

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 21, 2023

LS

(Signature)

CERTIFICATION OF INMATE LISHAN WANG'S INDIGENT STATUS

This is to prove that Inmate Lishan Wang, #375805, is an indigent inmate in last two years. Enclosed please find a copy of inmate Wang's account balance in last two years. He is currently incarcerated at Cheshire CI, 900 Highland Avenue, Cheshire, CT 06410. Please contact Cheshire CI or this officer(Title:CTO) for further verification if there is any questions about Mr. Wang's indigent status.

Print Name: C. Smith

Title: Correctional Counselor

Signature: [signature]

Date: 5-1 ,2023

TRUST ACCOUNT STATEMENT

DOC#: 0000375805 Name: WANG, LISHAN [Birth_Date]: 01/23/1966
LOCATION: 125-A

ACCOUNT BALANCES Total: 0.00 CURRENT: 0.00 HOLD: 0.00

SUB ACCOUNT	04/25/2021 START BALANCE	04/25/2023 END BALANCE
SPENDABLE BALANCE	0.00	0.00
DISCHARGED SAVINGS		
BONDS		
PLRA		
HOLIDAY PACKAGES		
COST OF INCARCERATION		
REENTRY ID		

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
OEYE	MED EYE OBLIGATION	125-08/02/19	2.83	0.17	0.00

TRANSACTION DESCRIPTIONS -- SPENDABLE BALANCE SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- DISCHARGED SAVINGS SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- BONDS SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- PLRA SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- HOLIDAY PACKAGES SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- COST OF INCARCERATION SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

TRANSACTION DESCRIPTIONS -- REENTRY ID SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE

CTO

21-397
Wang v. Delphin-Rittmon

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

Rulings by summary order do not have precedential effect. Citation to a summary order filed on or after January 1, 2007, is permitted and is governed by Federal Rule of Appellate Procedure 32.1 and this court's Local Rule 32.1.1. When citing a summary order in a document filed with this court, a party must cite either the Federal Appendix or an electronic database (with the notation "summary order"). A party citing a summary order must serve a copy of it on any party not represented by counsel.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 23rd day of November, two thousand twenty-two.

PRESENT: Jon O. Newman,
Guido Calabresi,
Steven J. Menashi,
Circuit Judges.

LISHAN WANG,

Plaintiff-Appellant,

v. No. 21-397-cv

MIRIAM DELPHIN-RITTMON, HELEN VARTELAS, CEO, Connecticut Valley Hospital, THOMAS WARD-MCKINLAY, Psychologist, Director of Whiting, FRANK VALDEZ, Unit 2 Director, FRANKEL, DR., (1ST NAME), Physician, (Possible First Name: "Irene"), KATHY BURNESS,

APRN, WANDA WILLIAMS, Staff Member, MISTY DELCIAMPO, Nurse,

Defendants-Appellees,

MICHAEL A. NORKA, Psychiatrist, MARK COTTERELL, Principal Psychiatrist, TAIYA OGUNDIPE, Dr., Psychiatrist, LORI L. HAUSER, Psychologist, SUSAN MCKINLAY, Forensic Monitor, SANDRA MALDONADO, Staff Member, WILL FERNANDEZ, Staff Member, SARYN EVANS, Staff Member, NURSE HEATHER MADISON, ODETTE BOGLE, Clinical Social Worker, CAESAR RIVERA, Policeman, IRENE FRNAKEL, Dr., (1st Name?), Physician,

Defendants.

For Plaintiff-Appellant: JON ROMBERG & KEGAN SHEEHAN (Michelle Kostyack & Jessica Kriegsfeld, *on the brief*), Seton Hall University Law School, Center for Social Justice, Newark, NJ.

For Defendants-Appellees: MARY K. LENEHAN, Assistant Attorney General (Elizabeth H. Bannon, Assistant Attorney General, *on the brief*), *for* William Tong, Attorney General of the State of Connecticut, Hartford, CT.

Appeal from a judgment of the United States District Court for the District of Connecticut (Covello, J.).

Upon due consideration, it is hereby **ORDERED, ADJUDGED,** and **DECREED** that the judgment of said district court is **AFFIRMED.**

Plaintiff-Appellant Lishan Wang appeals the judgment of the United States District Court for the District of Connecticut dismissing his claims against state employees of the Whiting Forensic Unit of Connecticut Valley Hospital ("Whiting"). We assume the parties' familiarity with the factual and procedural history of the case.

On appeal, Wang argues that the district court erred by not conducting a competency hearing for him while he was proceeding pro se. We agree. The Federal Rules of Civil Procedure require a district court to "appoint a guardian *ad litem*—or issue another appropriate order—to protect a[n] ... incompetent person who is unrepresented in an action." Fed. R. Civ. P. 17(c)(2). In *Ferrelli v. River Manor Health Care Center*, we said that Rule 17(c) does not impose on a district court "an obligation to inquire *sua sponte* into a pro se plaintiff's mental competence, even when the judge observes behavior that may suggest mental incapacity." 323 F.3d 196, 201 (2d Cir. 2003). But we continued:

> If a court were presented with evidence from an appropriate court of record or a relevant public agency indicating that the party had been adjudicated incompetent, or if the court received verifiable evidence from a mental health professional demonstrating that the party is being or has been treated for mental illness of the type that would render him or her legally incompetent, it likely would be an abuse of the court's discretion not to consider whether Rule 17(c) applied.

Id.

In this case, the district court received such evidence from a mental health professional just days after Wang filed his first complaint. *See* Exhibit B ("Dr. Cotterell and Dr. Hauser's Original Report About Mr. Wang's Mental Health"), *Wang v. Delphin-Rittmon*, No. 3:16-CV-01207 (D. Conn. July 19, 2016), ECF No. 5. The report noted that Wang had been adjudicated incompetent by the Connecticut Superior Court in which Wang was being prosecuted for murder. It also stated that "the unanimous opinion of [Wang's] treatment team and the writers [of the report is] that Mr. Lishan Wang has not yet demonstrated sufficient understanding of the [criminal] proceedings and does not yet have the ability to assist in his defense." *Id.*at 13. Yet the district court never conducted a competency hearing, as *Ferrelli* requires.

It is possible that the district court did not conduct a hearing because it was waiting to see the results of Wang's treatment plan—which included forcible

psychiatric medication by Whiting employees—before ruling on the merits of his claims. The district court did not enter any decisions on the merits until after the Connecticut Superior Court determined that Wang was competent. If that had been the reason for the district court's failure to investigate Wang's competency, then there would not have been error. But the record does not establish that the district court was waiting for that determination, and the district court never said it was.

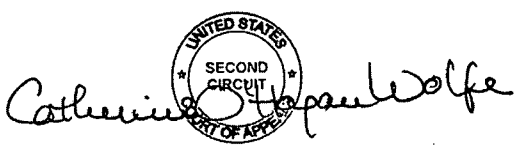
But even if the district court erred, that error was harmless. *See United States v. Cummings*, 858 F.3d 763, 771 (2d Cir. 2017) (holding that errors reviewed for abuse of discretion are subject to harmless error analysis); 28 U.S.C. § 2111 (requiring a court of appeals to disregard errors that "do not affect the substantial rights of the parties"). On June 5, 2017, approximately one year after Wang first began this civil action, the Superior Court found that he had been restored to competence. The record does not make clear that the district court was aware of the Superior Court's finding. But had the district court been aware of it, it would have been entitled to rely on it. Such a finding would have terminated the district court's obligation under *Ferrelli* to investigate Wang's competence.

The district court ruled on the merits of Wang's claims only after June 5, 2017, when the Superior Court adjudicated him competent. The defendants moved to dismiss Wang's claims on June 7, 2017. Wang did not respond to that motion. The district court granted the motion in part on September 12, 2017. The defendants did not move for summary judgment until March 2020, and the district court did not grant the summary judgment motion until November 2020. These are unique circumstances: the state court determined Wang to be competent while the federal civil suit was ongoing, and the federal district court did not rule on the merits of the civil suit until after that determination. Given that series of events, we conclude that any error in failing to conduct a competency hearing was harmless.

* * *

We have considered Wang's remaining arguments, which we conclude are without merit. For the foregoing reasons, we **AFFIRM** the judgment of the district court.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court



UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 27th day of February, two thousand twenty-three.

Before: Jon O. Newman,
Guido Calabresi,
Steven J. Menashi,
Circuit Judges.

Lishan Wang,

Plaintiff - Appellant,

v.

Miriam Delphin-Rittmon, Helene Vartelas, CEO, Connecticut Valley Hospital, Thomas Ward-McKinlay, Psychologist, Director of Whiting, Frank Valdez, Unit 2 Director, Frankel, Dr., (1st name), Physician, (Possible First Name: "Irene"), Kathy Burness, APRN, Wanda Williams, Staff Member, Misty Delciampo, Nurse,

Defendants - Appellees,

Michael A. Norka, et al.,

Defendants.

ORDER

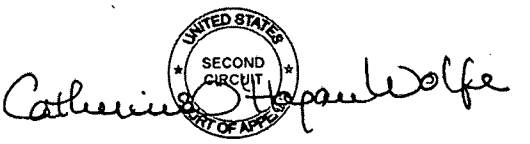
Docket No. 21-397

Appellant, pro se, moves to recall the mandate and for leave to file a petition for rehearing or rehearing en banc.

IT IS HEREBY ORDERED that the motion is DENIED.

For the Court:

Catherine O'Hagan Wolfe,
Clerk of Court



Additional material from this filing is available in the Clerk's Office.