No. 24-

IN THE

SUPREME COURT OF THE UNITED STATES

QUENTIN FREEMAN,

Petitioner,

v.

DANIEL DEAS,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Under this Court's long-standing holding in *Whitley v. Albers*, a prison official cannot inflict "unnecessary and wanton" pain on a prisoner. 475 U.S. 312, 319 (1986) (citation omitted). That question turns on whether the "force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm." *Id.* at 320–21 (citation omitted). To decide that question, courts are required to look at several factors, including the need to use force, whether the amount of force was proportional to that need, the extent of the injury, and efforts made to limit the severity of the force. *Id.* at 321. And when courts analyze these factors at the summary judgment stage, they must draw all reasonable inferences in the nonmoving party's favor. In this case, the respondent repeatedly punched the petitioner in the head while he was handcuffed, cornered in a small holding cell, and surrounded by five prison officials. The question presented is:

Whether the decision below should be summarily reversed because the Fourth Circuit misapplied the *Whitley* factors by viewing the evidence in the light most favorable to the moving party.

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INTRODUCTION

Prison officials violate the Eighth Amendment whenever they use force "maliciously and sadistically to cause harm." *Hudson v. McMillian*, 503 U.S. 1, 7 (1992). A reasonable jury could easily conclude that Respondent Officer Daniel Deas used force maliciously when he repeatedly punched Petitioner Quentin Freeman in retaliation for an attempted headbutt—all while Mr. Freeman was handcuffed, in leg shackles, and surrounded by multiple correctional officers. After being pulled off Mr. Freeman by other officers and escorted away, Officer Deas attempted to attack Mr. Freeman again. He charged back toward Mr. Freeman, pushing and shoving *his fellow officers* in an attempt to inflict more pain on Mr. Freeman.

The Fourth Circuit acknowledged that Officer Deas's "charge down the hall" could be "evidence supporting an inference of malicious motivation," but it nonetheless affirmed the district court's grant of summary judgment to Officer Deas. The court below misapplied the factors this Court laid out in *Whitley* to assess an officer's intent. As a threshold matter, the court below did not view the facts in the light most favorable to Mr. Freeman, failing to draw numerous inferences in his

favor. And more specifically, the Fourth Circuit focused on the fact that Mr. Freeman was seemingly lucky enough to escape without significant injury, while simultaneously ignoring strong evidence that Officer Deas acted maliciously. Those errors warrant summary reversal.

OPINIONS BELOW

The decision of the U.S. Court of Appeals for the Fourth Circuit (App. 1a – 9a) is unreported and can be found at 2023 WL 8230805. The order of the district court (App. 9a–19a) is unreported and can be found at 2020 WL 5491690.

JURISDICTION

The Fourth Circuit, exercising jurisdiction under 28 U.S.C. § 1331, entered judgment on November 28, 2023. Petitioner filed a timely petition for panel rehearing and en banc review on December 12, 2023. The Fourth Circuit denied panel rehearing and declined to hear the case en banc on December 28, 2023. App. 20a. This Court granted petitioner's motion for a 14-day extension of time, making the petition due on Wednesday, April 10, 2024. This Court has jurisdiction under 28 U.S.C. § 1254(1).

RELEVANT CONSTITUTIONAL AND STATUTORY PROVISIONS

The Eighth Amendment to the Constitution states:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

U.S. Const. Amend. VIII.

Section 1983 of Title 42 of the U.S. Code states, in relevant part:

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

42 U.S.C. § 1983.

STATEMENT OF THE CASE

1. Mr. Freeman is incarcerated by the state of North Carolina. On November 30, 2017, several correctional officers escorted Mr. Freeman to his cell at Maury Correctional Institution. App. 3a. Mr. Freeman was handcuffed and his legs were shackled. App. 3a; 39a. On the way to his cell, he asked the officers for his cane, which he needed to walk. App. 3a; 39a. The officers placed him in a small holding cell, and two officers went to retrieve his cane. App. 3a; 39a. Mr. Freeman stood on the seat that was in the cell. App. 3a. The remaining officers, including Officer Deas, waited with him at the holding cell. App. 3a.

While Mr. Freeman was waiting for his cane, Officer Deas opened the holding cell door. App. 39a. According to Mr. Freeman, Officer Deas—who was standing just outside the holding cell in the hallway—began to call him "all types of disrespectful [and] profane names." App. 39a. One officer asked Mr. Freeman to step down and leave the holding cell, but Mr. Freeman refused. App. 4a. A video shows that Officer Deas then entered the cell and tried grabbing Mr. Freeman's right forearm. App. 4a; 12a. Mr. Freeman pulled away. App. 4a. Next, Officer Deas grabbed Mr. Freeman by his handcuffs and yanked him down off the

chair. App. 12a; 39a. Mr. Freeman pulled away again. App. 4a. Officer Deas then backed out of the holding cell into the hallway. Mr. Freeman stepped out of the holding cell and attempted to headbutt Officer Deas, before quickly retreating back into the holding cell. App. 4a; 12a.

Officer Deas pursued Mr. Freeman into the holding cell. App. 12a. He cocked his right arm and struck Mr. Freeman. App. 12a. The two men struggled in the corner of the holding cell, which is not entirely visible on video, but Mr. Freeman avers that during this time Officer Deas threw a "flurry of closed fisted punches to [his] face, head, and neck." App. 4a; 40a. Another officer stepped in between Officer Deas and Mr. Freeman, and then several officers forcibly pulled Officer Deas out of the cell. App. 12a; 40a.

Two officers walked Officer Deas down the hall, away from the holding cell. App. 4a. As Officer Deas was walking away, he continued to exchange words with Mr. Freeman. App. 4a. Officer Deas was almost at the end of the hallway when he suddenly pushed past the officers escorting him and rushed back towards Mr. Freeman. App. 4a; 40a. Several other officers tried to intercept Officer Deas, but tried to fight through them, "thrashing" and pushing to get back to Mr. Freeman. App.

4a; 40a. Multiple officers were needed to restrain Officer Deas, and they were eventually able to subdue him and carry him out of the hallway. App. 12a; 40a. During this time, Mr. Freeman remained in the holding cell.

2. Mr. Freeman filed a grievance against Officer Deas and exhausted his administrative remedies. App. 36a–38a. Mr. Freeman then sued Officer Deas under 42 U.S.C. 1983, alleging that Officer Deas violated his Eighth Amendment rights by using excessive force. App. 21a–31a. Officer Deas filed a motion for summary judgment. App. 9a. Applying the factors outlined in *Whitley*, the district court concluded that Officer Deas did not violate the Eighth Amendment. App. 13a–19a.

3. Mr. Freeman, proceeding pro se, filed a timely notice of appeal in the Fourth Circuit. The court appointed undersigned counsel to represent him. Counsel argued that Officer Deas violated the Eighth Amendment because he maliciously used force to punish Mr. Freeman for his attempted headbutt. After full briefing and oral argument, the Fourth Circuit affirmed in an unpublished per curiam opinion. App. 1a.

The court analyzed the *Whitley* factors. App. 5a. First, it concluded that Officer Deas needed to use force to extract Mr. Freeman from the

holding cell and to address a threat to officer safety. App. 6a. The court determined that "*some* use of force" was necessary to respond to Mr. Freeman's attempted headbutt. App. 6a (emphasis added). Second, the court determined that the amount of force Officer Deas used—multiple punches to the head and face—was proportionate to the need for force because Mr. Freeman "suffered no injury." App. 6a. Third, the court concluded that Officer Deas had made efforts to temper the severity of his use of force by making preliminary efforts to remove Mr. Freeman from the cell. App. 7a. Finally, the court acknowledged that Officer Deas's alleged insults before the use of force, and the video evidence of him charging down the hall after, could support "an inference of malicious motivation," but the evidence was not enough to support a verdict in Mr. Freeman's favor. App. 8a.

REASONS FOR GRANTING THE WRIT

The decision below merits summary reversal because the Fourth Circuit misapplied the *Whitley* factors. In *Whitley*, the Supreme Court identified several nonexclusive factors for determining an officer's intent. The factors include (1) "the need for the application of force," (2) "the relationship between the need and the amount of force that was used,"

(3) "the extent of the injury inflicted," (4) any reasonably perceived "threat to the safety of staff and inmates," and (5) "any efforts made to temper the severity of a forceful response." *Whitley*, 475 U.S. at 321 (citation omitted).

The court below misapplied the *Whitley* factors in two key ways. First, it gave too much weight to the fact that Officer Deas did not inflict a severe injury on Mr. Freeman when he punched Mr. Freeman multiple times. Second, in analyzing the *Whitley* factors the court below "failed to adhere to the axiom that in ruling on a motion for summary judgment, '[t]he evidence of the nonmovant is to be believed, and all justifiable inferences are to be drawn in his favor.'" *Tolan v. Cotton*, 572 U.S. 650, 651 (2014) (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986)). The court made several inferences in Officer Deas's favor, and it also minimized, or flat out ignored, strong evidence of his malicious intent.

1. The Fourth Circuit placed inordinate weight on the extent of the injury in this case. The court below acknowledged that the lack of injury is not "dispositive," but it then cited Mr. Freeman's lack of injury as the only basis for concluding that Officers Deas's use of force was

proportional. *See* App. 6a. That conclusion directly contradicts this Court's holding in *Hudson*. This Court rejected a rule that barred excessive force claims when an "inmate does not suffer serious injury." *Hudson*, 503 U.S. at 4; *cf. Lombardo v. City of St. Louis*, 594 U.S. 464, 468 (2021) (rejecting a lower court's adoption of a *per se* rule in a Fourth Amendment excessive-force case because it "would contravene the careful, context-specific analysis required by this Court's excessive force precedent"). *Hudson* reaffirmed that while the severity of the injury is a factor, prison officials violate the Eighth Amendment when they use force maliciously and sadistically "whether or not significant injury is evident." 503 U.S. at 9.

A correct application of *Hudson* shows that the lower court got it wrong. The force Officer Deas used—multiple punches to the head and face—was excessive when compared to the need to use force against Mr. Freeman. The court below concluded that Mr. Freeman "continued to pose a threat" because he had attempted to headbutt Officer Deas. App. 7a. But after the attempted headbutt, the threat Mr. Freeman posed was minimal: when Officer Deas unleashed his punches, Mr. Freeman was trapped in the corner of a small holding cell, surrounded by multiple

correctional officers, and handcuffed. Courts, including this one, have held that punching a restrained and defenseless person constitutes excessive force. *See, e.g.*, *Hudson*, 503 at 4 (reversing dismissal of Eighth Amendment claim where a handcuffed and shackled prisoner was punched in the "mouth, eyes, chest and stomach"); *Cowart v. Erwin*, 837 F.3d 444, 453–54 (5th Cir. 2016) (concluding that an officer used excessive force when she punched an inmate while the inmate was "restrained and non-threatening"); *cf. Hadley v. Gutierrez*, 526 F.3d 1324, 1330 (11th Cir. 2008) (concluding that an officer violated the Fourth Amendment's prohibition against excessive force when the officer "punched [an arrestee] in the stomach while he was handcuffed and not struggling or resisting").

The court below also fixated on the extent of Mr. Freeman's injury but ignored the gratuitous nature of Officer Deas's use of force. This Court has emphasized that excessive force claims are "based on the nature of the force rather than the extent of the injury." *Wilkins v. Gaddy*, 559 U.S. 34, 34 (2010). The nature of the force applied in this case—several punches—is more than enough to raise an inference of malicious intent, even if Mr. Freeman had "the good fortune to escape

without serious injury." *See id.* at 38. The lower court's failure to adhere to *Wilkins* and *Hudson* warrants summary reversal.

2. The court below also failed to fully credit the strong circumstantial evidence that Officer Deas acted with malicious intent. Officer Deas insulted Mr. Freeman before the altercation, calling him disrespectful and profane names. App. 39a. To be sure, as the Fourth Circuit noted, Officer Deas's insults came before he yanked Mr. Freeman off the chair in the holding cell and before Mr. Freeman attempted to headbutt him. But a reasonable jury could conclude that Officer Deas provoked the confrontation by insulting Mr. Freeman and yanking him off his chair before the other officers had returned with his cane.

More importantly, the court below downplayed Officer Deas's conduct immediately after the use of force. *See Lombardo*, 594 U.S. at 468 (summarily reversing decision where court "failed to analyze" key evidence or "characterized it as insignificant"). While the court acknowledged that Officer Deas "charge[d] down the hall" to attack Mr. Freeman a second time, it concluded that was not enough, on its own, to get Mr. Freeman past summary judgment. App. 8a. The Fourth Circuit, however, did not view the facts in the light most favorable to Mr.

Freeman. First, it failed to mention that before the charge, the video shows that the other officers in the hallway pulled Officer Deas off Mr. Freeman and escorted him away from the holding cell. App. 40a. A reasonable factfinder might conclude that the officers would not have needed to forcibly extract Officer Deas from the situation if he was simply using force in a good faith effort to maintain order and discipline.

Second, the court below also did not grapple with the shocking nature of Officer Deas's conduct. He did not just "charge" down the hall. He pushed and struggled against his own colleagues as he tried to get back to attack Mr. Freeman. It took several other correctional officers to subdue *him*, not Mr. Freeman, and the other officers had to physically remove him from the hallway. App. 12a. A jury viewing that scene could conclude that Officer Deas had a malicious intent when he punched Mr. Freeman moments earlier. In concluding otherwise, the court below "neglected to adhere to the fundamental principle that at the summary judgment stage, reasonable inferences should be drawn in favor of the nonmoving party." *Tolan*, 572 U.S. at 660.

CONCLUSION

This Court should summarily reverse the erroneous decision below.

Respectfully submitted,

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