No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

JOHN DAVID WILSON JR., — PETITIONER
(Your Name)

VS.

SEC. DEPT. OF CORR. "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):
ELEVENTH CIRCUIT (11TH CIR.); FLORIDA SUPREME COURT; SECOND DISTICT COURT OF APPEAL; STATE OF FLORIDA 13TH JUDICAL CIRCUIT; FED. COURT OF APPEAL

☐ 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: _____
COMPLEXITY OF THE CASE, NEED FOR EXPERT TESTIMONY, IMPORTANCE OF THE ISSUE, or

☑ a copy of the order of appointment is appended. EXHIBIT (EX) D

(Signature)

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

I, JOHN DAVID WILSON JR, 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	Spouse	You	Spouse
Employment	$ 0	$ NOT APPLICABLE (N/A)	$ 0	$ N/A
Self-employment	$ 0	$ N/A	$ 0	$ N/A
Income from real property (such as rental income)	$ 0	$ N/A	$ 0	$ N/A
Interest and dividends	$ 0	$ N/A	$ 0	$ N/A
Gifts	$ 0	$ N/A	$ 0	$ N/A
Alimony	$ 0	$ N/A	$ 0	$ N/A
Child Support	$ 0	$ N/A	$ 0	$ N/A
Retirement (such as social security, pensions, annuities, insurance)	$ 0	$ N/A	$ 0	$ N/A
Disability (such as social security, insurance payments)	$ 165/MO	$ N/A	$ 165/MO	$ N/A
Unemployment payments	$ 0	$ N/A	$ 0	$ N/A
Public-assistance (such as welfare)	$ 0	$ N/A	$ 0	$ N/A
Other (specify): 0	$ 0	$ N/A	$ 0	$ N/A
Total monthly income:	$ 165/MO	$ N/A	$ 0	$ N/A

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
INCARCERATED N/A	N/A	N/A	$ N/A
N/A	N/A	N/A	$ N/A
N/A	N/A	N/A	$ N/A

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	$ N/A
N/A	N/A	N/A	$ N/A
N/A	N/A	N/A	$ N/A

4. How much cash do you and your spouse have? $ 0
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

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

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

☐ Home
Value NONE

☐ Other real estate
Value NONE

☐ Motor Vehicle #1
Year, make & model NONE
Value NONE

☐ Motor Vehicle #2
Year, make & model NONE
Value NONE

☐ Other assets
Description NONE
Value NONE

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
NONE	$ NONE	$ NONE
NONE	$ NONE	$ NONE
NONE	$ NONE	$ NONE

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
NONE	NONE	NONE
NONE	NONE	NONE
NONE	NONE	NONE

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 Is property insurance included? ☐ Yes ☑ No	$ 0	$ N/A
Utilities (electricity, heating fuel, water, sewer, and telephone)	$ 0	$ N/A
Home maintenance (repairs and upkeep)	$ 0	$ N/A
Food	$ 165/mo	$ N/A
Clothing	$ 0	$ N/A
Laundry and dry-cleaning	$ 0	$ N/A
Medical and dental expenses	$ 0	$ N/A

	You	Your spouse
Transportation (not including motor vehicle payments)	$ 0	$ N/A
Recreation, entertainment, newspapers, magazines, etc.	$ 0	$ N/A
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	$ 0	$ N/A
Life	$ 0	$ N/A
Health	$ 0	$ N/A
Motor Vehicle	$ 0	$ N/A
Other: N/A	$ 0	$ N/A
Taxes (not deducted from wages or included in mortgage payments)		
(specify): N/A	$ 0	$ N/A
Installment payments		
Motor Vehicle	$ 0	$ N/A
Credit card(s)	$ 0	$ N/A
Department store(s)	$ 0	$ N/A
Other: N/A	$ 0	$ N/A
Alimony, maintenance, and support paid to others	$ 0	$ N/A
Regular expenses for operation of business, profession, or farm (attach detailed statement)	$ 0	$ N/A
Other (specify): 0	$ 0	$ N/A
Total monthly expenses:	$ 165/mo	$ N/A

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 A 80% DISABLED HONORABLY DISCHARGED VETERAN WHO GETS 165/MO

ALSO SEE, THIS CASE REDUCES MY DISABILITY RATE TO 10%

DUE TO BEING INCARCERATED. I'VE BEEN INCARCERATED FOR 24 CONTINUAL YEARS

WITHOUT PAYMENT FOR THE WORK I DO IN PRISON

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

Executed on: _____, 20 24

(Signature)

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

JOHN DAVID WILSON JR — PETITIONER
(Your Name)

vs.

SEC. DEPT. OF CORR, "ET. AL" — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

ELEVENTH CIRCUIT COURT OF APPEALS (11th CIR)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JOHN DAVID WILSON JR #0-F21940
(Your Name)

1150 S.W. ALLAPATTAH RD.
(Address)

INDIANTOWN FL. 34956
(City, State, Zip Code)

(772) 597-3700
(Phone Number)

QUESTION(S) PRESENTED

A DISABLED AMERICAN FIGHTING QUESTION 1 MAN SLEEP SHOULD BE PEACEFULLY KNOWING THAT CONGRESSIONALLY EXEMPTED OF 38 USC § 5301 PROTECT HIS MONEY EVEN IF HE IS IN PRISON, COUNTY JAILS, MENTAL INSTITUTION OR NURSING HOMES.

QUESTION #2

FLORIDA ADMINISTRATIVE CODE 33-203.201 (2) (b) IS VOID UNDER THE SUPREMACY CLAUSE OF THE CONSTITUTION (CONST.), THAT IT REQUIRES VETERANS TO MAIL THERE DISABILITY CHECK TO THEM SO THEY COULD GET INTEREST ON IT FOR APPOX 10-18 DAYS THEN GIVE IT TO THE VETERANS

QUESTION #3

RESPONDENT SUPERIOR - ALOT OF CASES PERTAINS TO A PRIOR SUPERVISOR DECISIONS. SUPREME COURT INTERVENTION IN NEED TO CLEARIFY THE LAW AND PROCEDURE OF WHEN AND HOW... A NEW SUPERVISOR ANSWERS FOR A FORMER SUPERVISOR DECISIONS.

LIST OF PARTIES

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

[✓] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

SECRETARY, DEPARTMENT OF CORRECTIONS, ATTORNEY GENERAL, STATE OF FLORIDA, WARDEN, (RESPONDENT SUPERIOR), WARDEN, ZEPHYRHILLS CORRECTIONAL INSTITUTION (ZCI), T. VANANTWERP, LAW LIBRARY, MAIL ROOM SUPERVISOR, AND; LIBRARIAN SUPERVISOR, CORIZON HEALTH CARE SERVICES, PRISONERS HEALTH CARE PROVIDER, ET. AL

RELATED CASES

PURVIS VS. CROSBY, 2006 WL 1836834 (N.D. FLA. JUNE 30, 2006)

PORTER VS. AETNA CAS. CO. 370 U.S. 159 (1962)

LAWRENCE VS. SHAW, 300 U.S. 245 (1937)

NELSON VS. HEISS, 271 F.3d 891 (9th CIR. 2001)

TABLE OF CONTENTS

INDEX TO APPENDICES

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

STATUTES AND RULES

OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

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

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

[✓] reported at 54 F.4, 652, (11th CIR. 2022); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

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

[✓] reported at U.S. DIST. LEXIS 239928, 2018 WL 1100 (M.D. FL. MARCH 2018); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished. (UNAVAILABLE - DUE TO A DENIAL OF ACCESS TO LEGAL STORAGE)

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

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

The opinion of the _____ court appears at Appendix _____ to the petition and is

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

JURISDICTION

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

The date on which the United States Court of Appeals decided my case was NOV 30, 2022.

[ ] No petition for rehearing was timely filed in my case.

[✓] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: APRIL APRIL 3, 2023, and a copy of the order denying rehearing appears at Appendix B. (UNAVAILABLE)

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts:**

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

38 USC §5301 NON-ASSIGNABILITY: PROVIDES IN PERTAIN PART.

"PAYMENT OF BENEFIT DUE OR TO BECOME DUE UNDER ANY LAW DMINISTERED BY THE SECRETARY SHALL NOT BE ASSIGNABLE EXCEPT TO THE XTENT SPECIFICALLY AUTHORIZED BY LAW, AND SUCH PAYMENT MADE TO OR ON CCOUNT OF, A BENEFICIARY SHALL BE EXEMPT FROM TAXATION, SHALL BE EXEMPT FROM THE CLAIM OF CREDITORS, AND SHALL NOT BE LIABLE TO ATTACHMENT LEVY, OR SEIZURE BY OR UNDER ANY LEGAL OR EQUITABLE PROCESS WHATEVER, EITHER BEFORE OR AFTER RECEIPT BY THE BENEFICIARY."

FLORIDA ADMINSTRATIVE CODE RULE; 33-203.201(2)(b): PROVIDES IN PERTAIN PART.

"IN ACCORDANCE WITH 38 USC §5301 VETERAN ADMINISTRATION (VA) BENEFITS HECKS ARE EXEMPT FROM ATTACHMENT, LEVY OR SEIZURE. THE DEPARTMENT HALL NOT DEDUCT PAYMENT FOR LEINS ON THE INMATE' TRUST FUND ACCOUNT OR MEDICAL CO-PAYMENT, LEGAL COPIES, OR OTHER DEPARTMENT GENERATED IENS FROM VA BENEFITS CHECKS MAILED DIRECTLY TO THE BUREAU OF INANCE AND ACCOUNTING INMATE TRUST FUND SECTION, CENTERVILLE STATION P.O. BOX 12100, TALLAHASSEE FL. 32317-2100

STATEMENT OF THE CASE

FACTUAL BACKGROUND TAKEN FROM OPINION PAGE 4-10; SEE, EXHIBIT "A" COURT OPINION

I

BACKGROUND

(a) FACTUAL BACKGROUND

WILSON IS A FLORIDA INMATE AND VETERAN WHO RECIEVES MONTHLY VA DISABILITY BENEFITS. BEFORE AUGUST 2012, THE VA WOULD SEND WILSON'S DISABILITY BENEFIT PAYMENT TO HIS ACCOUNT TO NAVY FEDERAL CREDIT UNION, WHICH, AT WILSON DIRECTION, WOULD THEN ISSUE AND MAIL CHECKS TO THE FLORIDA DEPARTMENT OF CORRECTION'S ("DOC") INMATE TRUST FUND ADDRESS, AT WHICH POINT PRISON OFFICIALS WOULD DEPOSIT THE CHECKS IN WILSON'S INMATE ACCOUNT.

BEFORE AUGUST 2012, THE DOC PUT MULTIPLE LIENS ON WILSON'S INMATE ACCOUNT FOR MEDICAL COPAYMENTS AND LEGAL COPYING SERVICES[3]; PRISON OFFICALS THEN COLLECTED ON THE LIENS WITH THE FUNDS SENT TO WILSON'S INMATE ACCOUNT FROM THE CREDIT UNION, NOT REALIZING THE MONEY CONSISTED OF VA BENEFITS.

IN NOVEMBER 2011, WILSON FILED A WRITTEN GRIEVANCE WITH THE DOC ASSERTING THAT PRISON OFFICALS USED HIS VA BENEFITS TO SATISFY

[3] ACCOUNT SUPERVISOR AT THE DOC ATTESTED THAT THE PRISON APPLIES TO E ACCOUNT OF INMATES RECEIVING VA BENEFITS. UNLIKE A HOLD - WHICH IS TOMATICALLY SATIFIED WHEN SUFFICIENT FUNDS BECOMES AVAILABLE - A LIEN IS ST AUTOMATICALLY SATISFIED BECAUSE OF THE RISK THAT SOME (OR ALL OF) HE NOW AVAILABLE FUNDS ARE PROTECTED VA BENEFITS

CONT... PAGE 4>

LIENS ON HIS INMATE ACCOUNT "IN VIOLATION OF" 38 USC § 5301, WHICH PROVIDES, IN RELEVANT PART, THAT [P]AYMENTS OF BENEFITS DUE OR TO BECOME DUE UNDER ANY LAW ADMINISTED BY THE SECRETARY SHALL NOT BE ASSIGNABLE EXCEPT TO THE EXTENT SPECIFICALLY AUTHORIZED BY LAW, AND SUCH PAYMENTS MADE TO, OR ON ACCOUNT OF, A BENEFICIARY SHALL BE EXEMPT FROM TAXATION, SHALL BE EXEMPT FROM THE CLAIM OF CREDITORS, AND SHALL NOT BE LIABLE TO ATTACHMENT, LEVY, OR SEIZURE BY OR UNDER ANY LEGAL OR ~~EQUIT~~ EQUITABLE PROCESS WHATEVER, EITHER BEFORE OR AFTER RECEIPT BY THE BENEFICIARY.
THE PRECEDING SENTENCE SHALL NOT APPLY TO CLAIMS OF THE UNITED STATES ARISING UNDER SUCH LAWS NOR SHALL THE EXEMPTION THEREIN CONTAINED AS TO TAXATION EXTEND TO ANY PROPERTY PURCHASED IN PART OR WHOLLY OUT OF SUCH PAYMENTS.

38 USC. § 5301(a)(1). THE DOC RESPONDED IN WRITING TO WILSON'S GRIEVANCE BY ACKNOWLEDGING THAT VA BENEFITS ARE EXEMPT FROM ATTACHMENT, LEVY, OR SEIZURE UNDER FEDERAL LAW, BUT CLAIMING THAT WILSON'S "VETERANS BENEFITS CHECK ~~HAD~~ HA[D] NOT BEEN TOUCHED."
WILSON APPEALED HIS DENIAL TO JULIE JONES, THE SECRETARY OF THE FLORIDA DEPARTMENT OF CORRECTIONS (THE SECRETARY").
THE SECRETARY DENIED THE APPEAL, EXPLAINING THAT

CONTINUED PAGE (c)

"VA CHECKS MUST BE DIRECTLY DEPOSITED INTO YOUR [NAME] ACCOUNT IN ORDER TO BE CONSIDERED VA PAYMENTS"

IN DENYING WILSON'S APPEAL, THE SECRETARY RELIED ON FLORIDA ADMINISTRATIVE CODE RULE 33-203.201(2)(b), WHICH PROVIDES THAT,

[I]N ACCORDANCE WITH 38 USC. §5301 VETERANS ADMINISTRATION (VA) BENEFITS CHECKS ARE EXEMPT FROM ATTACHMENTS, LEVY OR SEIZURES. THE DEPARTMENT SHALL NOT DEDUCT PAYMENT FOR LIENS ON THE INMATE'S TRUST FUND ACCOUNT FOR MEDICAL CO-PAYMENT, LEGAL COPIES OR OTHER DEPARTMENT GENERATED LIENS FROM VA BENEFITS CHECKS MAILED DIRECTLY TO THE BUREAU OF FINANCE AND ACCOUNTING, INMATE TRUST FUND SECTION, CENTERVILLE STATION, P.O. BOX 12100, TALLAHASSEE FL. 32317-2100.

FLA. ADMIN. CODE ANN. R. 33-203.201(2)(b) (THE "FLORIDA DIRECT DEPOSIT RULE") (EMPHASIS ADDED)

FOLLOWING THE DENIAL OF HIS ADMINISTRATIVE APPEAL, WILSON DIRECTED THE VA TO MAIL HIS BENEFITS TO THE ADDRESS ASSOCIATED WITH HIS INMATE ACCOUNT. CONSEQUENTLY, WILSON HAD TWO ADDRESSES ON FILE WITH THE VA - ONE FOR HIS VA BENEFITS CHECKS AT THE INMATE TRUST FUND DEPARTMENT AND ANOTHER FOR ALL OTHER VA CORRESPONDENCES AT HIS PRISON. HE CLAIMS, HOWEVER, THAT BECAUSE HE HAD TWO ADDRESSES, THE VA MISTAKENLY SENT CORRESPONDENCE TO THE ADDRESS

CONTINUED PAGE (d)

ASSOCIATED WITH HIS INMATE ACCOUNT IN THE SPRING OF 2013 AND THAT THE ENSUING CONFUSION CAUSED HIM TO MISS UNSPECIFIED DEADLINES AND RECIEVE SEVERAL DISABILITY CHECKS MONTHS LATE.

DESPITE WILSON INITIAL ISSUES WITH RECIEVING MAIL, THE NEW ARRANGEMENT APPEARED TO WORK FOR A COUPLE OF YEARS. BUT ON FEBURARY 20, 2015, WILSON SIGNED AN "INMATE PAYMENT AGREEMENT FOR COPY OF PROTECTED HEALTH INFORMATION" AUTHORIZING THE DOC TO "BILL [HIS] ACCOUNT" FOR $37.95 FOR "A COPY OF [WILSON'S] MENTAL HEALTH RECORD," AND INDICATING THAT HE HAD "REQUESTED" THE COPY. AT THE TIME, WILSON'S INMATE ACCOUNT HAD A $0.03 BALANCE, AND, ON MARCH 4, 2015, PRISON OFFICIALS PLACED A HOLD ON IT TO PAY FOR THE MEDICAL COPIES. ON APRIL 14, 2015, EIGHT DAYS AFTER WILSON RECIEVED HIS MONTHLY VA BENEFITS, $37.95 WAS PAID FROM HIS INMATE ACCOUNT TO CORIZON HEALTH, A PRIVATE SUBCONTRACTOR FOR THE PRISON.

AFTER THESE FUNDS WERE REMOVED FROM HIS ACCOUNT, WILSON FILED MULTIPLE GRIEVANCES, COMPLAINING THAT CORIZON HEALTH UNLAWFULLY SEIZED HIS VA BENEFITS AND SEEKING THE RETURN OF THE 37.95 THAT HAD BEEN EXTRACTED FROM HIS ACCOUNT. THE PRISON RESPONDED TO ONE OF HIS GRIEVANCE BY REQUESTING ADDITIONAL DOCUMENTATION. INSTEAD OF PROVIDING IT, WILSON APPEALED THE PRISON RESPONSE TO THE SECRETARY'S OFFICE, WHICH SUBSEQUENTLY DENIED HIS APPEAL BECAUSE "[T]HE WITHDRAWAL WAS DONE

(CONTINUED PAGE (e))

AT [WILSON'S] REQUEST"

b

PROCEDURAL HISTORY

ON MAY 15, 2015, WILSON FILED THIS §1983 ACTION IN FEDERAL COURT, ASSERTING THAT FLORIDA OFFICIALS AND CORIZON HEALTH VIOLATED HIS CONSTITUTIONAL RIGHT UNDER THE FOURTEENTH AMENDMENT BY SEIZING HIS VA BENEFITS IN VIOLATION OF 38 USC § 5301. IN HIS AMENDED COMPLAINT, WILSON ASSERTED CLAIMS AGAINST THE PRISON WARDEN, THE PRISON LAW LIBRARIAN; THE PRISON MAIL ROOM SUPERVISOR, CORIZON HEALTH, SECRETARY JONES, AND THEN-ATTORNEY GENERAL OF FLORIDA PAM BONDI.

WILSON ALLEGED THAT THE DEFENDANTS VIOLATED 38 USC § 5301 BY SEIZING HIS VA BENEFITS TO PAY FOR, AMONG OTHER THINGS, LEGAL AND MEDICAL COPYING SERVICE AND MEDICAL COPAYMENTS. HE SOUGHT "RETURN OF ALL SEIZED FUNDS" DERIVED FROM HIS VA BENEFITS, APPOINTMENT OF COUNSEL, LITIGATION COSTS AND ATTORNEY'S FEES, NOMINAL DAMAGE FOR EMOTIONAL INJURY, AND TO ENJOIN THE FLORIDA DIRECT DEPOSIT RULE TO THE EXTENT IT EMP EXEMPTS FROM SEIZURE ONLY VA BENEFITS MAILED DIRECTLY TO A PRISONER'S INMATE ACCOUNT.

THE DISTRICT COURT SUA SPONTE DISMISSED ATTORNEY GENERAL BONDI AS A DEFENDANT. WILSON THEN FILED A MOTION

CONTINUED PAGE (f)

FOR SUMMARY JUDGMENT, DESCRIBING (FOR THE FIRST TIME), THE HARM CAUSED BY KEEPING TWO MAILING ADDRESSES WITH THE VA - NAMELY THAT HE MISSED IMPORTANT CORRESPONDENCE AND RECIEVED VA CHECKS LATE, THE DISTRICT COURT STRUCK THE "PREMATURE" MOTION FOR SUMMARY JUDGMENT BECAUSE THE DEFENDANTS HAD NOT YET HAD A CHANCE TO CONDUCT DISCOVERY, LET ALONE RESPOND TO THE AMENDED COMPLAINT.

CORIZON HEALTH THEN FILED A RULE 12(b)(6) MOTION TO DISMISS, ARGUING THAT WILSON FAILED TO STATE A CLAIM AGAINST IT BECAUSE THE FLORIDA DOC - NOT CORIZON - SEIZED THE MONEY FROM WILSON'S INMATE ACCOUNT TO PAY FOR HIS $37.95 IN COPYING COSTS.

IN RESPONSE WILSON POINTED TO HIS INMATE ACCOUNT STATEMENT, WHICH LISTED CORIZON HEALTH AS THE "PAYEE" OF THE $37.95 WITHDRAWN FROM HIS ACCOUNT.

SECRETARY JONES, THE PRISON WARDEN, AND THE LAW LIBRIARIN ALSO MOVED TO DISMISS WILSON'S ACTION UNDER 12(b)(6) CONTENDING, IN PART, THAT THE WARDEN WAS NOT LIABLE AS A SUPERVISOR BECAUSE RESPONDEAT SUPERIOR LIABILITY IS UNAVAILABLE IN A §1983 ACTION; THAT THE STATUTE OF LIMITATIONS BARRED CLAIMS FOR REIMBURSEMENT OF FUNDS EXTRACTED FROM WILSON'S INMATE ACCOUNT TO SATISFY LIENS BEFORE MAY 19, 2011; THAT THE DEFENDANTS WERE ENTITLED TO "ELEVENTH AMENDMENT IMMUNITY" TO THE EXTENT WILSON SOUGHT MONEY DAMAGES FROM THEM IN THEIR OFFICAL

CONTINUED ON PAGE (g)

CAPACITIES; AND THAT THE DEFENDANTS WERE ENTITLED TO QUALIFIED IMMUNITY FROM DAMAGES IN THEIR INDIVIDUAL CAPACITIES.

IN A CONSOLIDATED ORDER, THE DISTRICT COURT GRANTED CORIZON'S MOTION TO DISMISS WITHOUT EXPLANATION. IT ALSO GRANTED, IN PART THE OTHER DEFENDANTS' MOTION TO DISMISS, FINDING, THAT 1) WILSON "FAILED TO ALLEGE ANY FACTS SHOWING A CAUSAL CONNECTION BETWEEN THE WARDEN AND THE ALLEGED VIOLATION"; (2) WILSON'S CLAIMS ~~HEH~~ ARISING BEFORE MAY 15, 2011 (THE DAY WILSON FILED HIS INITIAL ACTION IN THIS CASE), WERE BARRED BY THE STATUTE OF LIMITATIONS; (3) THE ELEVENTH AMENDMENT BARRED WILSON'S MONETARY CLAIMS ~~ARISING BEFORE MAY 15, 2011~~ AGAINST THE DEFENDANTS IN THEIR OFFICAL CAPACITIES; AND (4) THE DEFENDANTS WERE ENTITLED TO QUALIFIED IMMUNITY FOR WITHDRAWING FUNDS FROM HIS PRISON ACCOUNT TO SATISFY LIENS BEFORE AUGUST 2012, AND FOR WITHDRAWING $37.95 FROM WILSON'S ACCOUNT ON APRIL 14, 2015, TO SATISFY THE ACCOUNT HOLD BECAUSE "THE COURT CANNOT SAY THAT DEFENDANTS WERE PLAINLY INCOMPETENT OR KNOWINGLY VIOLATED 38 USC § 5301."

HOWEVER, THE DISTRICT COURT FOUND THAT THE DEFENDANTS FAILED TO ADDRESS WILSON'S CONTENTION THAT THE FLORIDA DIRECT DEPOSIT RULE CONFLICTED WITH 38 USC § 5301 AND ALLOWED WILSON TO PROCEED AGAINST SECRETARY JONES ON THAT CLAIM ONLY.

CONTINUE ON PAGE (h)

SECRETARY JONES SUBSEQUENTLY MOVED FOR SUMMARY JUDGMENT, ARGUING THAT WILSON LACKED STANDING TO CHALLENGE THE FLORIDA DIRECT DEPOSIT RULE BECAUSE THE VA WAS NOW SENDING HIS BENEFITS DIRECTLY TO HIS INMATE ACCOUNT (AND HENCE, THE BENEFITS WERE PROTECTED UNDER THE REGULATION), AND THAT, IN ANY EVENT, THE RULE WAS CONSISTENT WITH §5301 AND WAS NOT INVALID UNDER THE SUPREMACY CLAUSE OF THE U.S. CONSTITUTION.

WILSON DISAGREED, CONTENDING THAT HE HAS MISSED DEADLINES AND CORRESPONDENCES IN THE PAST BECAUSE OF HIS DVAC ADDRESS(ES), AND THAT HE WAS LIKELY TO FACE SIMILAR HARM IN THE FUTURE.

THE DISTRICT COURT AGREED WITH THE SECRETARY THAT WILSON LACKED STANDING AND GRANTED HER MOTION FOR SUMMARY JUDGMENT. WILSON TIMELY APPEALED

REASONS FOR GRANTING THE PETITION

A UNITED STATES COURT OF APPEAL HAS ENTERED A DECISION IN CONFLICT WITH THE DECISION OF ANOTHER UNITED STATES COURT OF APPEALS ON THE SAME IMPORTANT MATTER SEE, SUPREM COURT RULE 10 (a)

A.

CONFLICTING OPINIONS

THE PRESENT OPINION, SEE, EXHIBIT (Ex) "A" 11th CIR-OPINION CONFLICTS WITH NELSON VS. HEISS., 271 F.3d 891 (Ca 11th CIR. 2001).

Ex "A" 11th CIR-OPINION HIGHLIGHTS THIS CONFLICT BY STATING, (MAJORITY)

" IN NELSON, OUR SISTER CIRCUIT HELD THAT PRISON OFFICIALS VIOLATED §5301 WHEN, AFTER AN INMATE AUTHORIZED THE PRISON TO WITHDRAW MONEY FROM HIS ACCOUNT DUE TO INSUFFICIENT FUNDS AND SUBSEQUENTLY WITHDREW THE OVERDRAWN AMOUNT FROM THE INMATE'S VA BENEFITS. SEE, NELSON., 271 F.3d AT 895.

THE PRISON OFFICIALS ARGUED THAT THEY DID NOT VIOLATE THE STATUTE BECAUSE THE INMATE CONSENTED TO THE WITHDRAWL OF FUNDS. THE NINTH CIRCUIT REJECTED THIS ARGUMENT, CONCLUDING THAT "CONSENT TO A TAKING OF FUTURE BENEFITS" IS AN INVALID ASSIGNMENT UNDER §5301. Id. THE NINTH CIRCUIT GRANTED QUALIFIED IMMUNITY TO THE PRISON OFFICIALS, HOWEVER, BECAUSE, GIVEN THE INMATE CONSENT TO THE HOLD, A REASONABLE OFFICAL MIGHT HAVE THOUGHT TAKING THE LATER-RECIEVED FUNDS DID NOT VIOLATE THE STATUTE. Id AT 896-97.

B.

HOW NELSON CONFLICT WITH THE INSTANT ~~PE~~ OPINION

SEE, MAJORITY ON PAGE

ALTHOUGH NELSON INVOLVED A SIMILAR FACTUAL SCENARIO TO THIS CASE, IT IS NOT A DECISION FROM THE SUPREME COURT ~~OR~~ OUR COURT, OR THE FLORIDA SUPREME COURT AND IS THEREFORE INSUFFICIENT TO PLACE PRISON OFFICIALS ON NOTICE THAT THE HOLD AND WITHDRAWL VIOLATED WILSON'S "CLEARLY ESTABLISHED" RIGHT.

THE FACT THAT A DISTRICT COURT IN OUR CIRCUIT CITED NELSON IS IRRELEVANT. SEE, ECHOL VS. LAWTON., 913 F. 3d 1313, 1324 (11th CIR 2019)"

C

DISSENTING OPINION - BY THE HONORABLE JUDGE GRANT.

SEE, DISSENTIN ON PAGE

"STILL, I RESPECTFULLY DISAGREE THAT 38 USC §5301 DID NOT PROTECT THOSE FUNDS IN THE FIRST PLACE., SEE OP. AT 14-19. FACIALLY NONDESCRIPT BANK DEPOSITS MADE UP OF VA FUNDS ARE EXEMPT UNDER §5301. LAWRENCE VS SHAW, 300 U.S. 245, 250 (1937).

IN LAWRENCE VS SHAW, WHERE THE SUPREME COURT

CONTINUED ON PAGE (C)

THIS RULE, A VETERAN'S VA FUNDS HAD BEEN DEPOSITED INTO HIS BANK ACCOUNT LABELED ONLY AS "DEPOSIT IN BANK." Id AT 247. THE MISSING VA IDENTIFIER DID NOT STRIP THE FUNDS OF THEIR EXEMPT STATUS. Id AT 250. SO TOO HERE.

THE MAJORITY SAYS THIS CASE IS DIFFERENT BECAUSE WILSON'S PERSONAL-CHECK DEPOSITS INVOLVED ANOTHER STEP, ONE THE SUPREME COURT HAS NEVER ADDRESSED—A TRANSFER BETWEEN TWO BANK ACCOUNTS. OP. AT 16-17. BUT ALL THAT TRANSFER DID WAS MAKE THE VA FUNDS NONDESCRIPT, REDUCING THEM FROM LABELED VA FUNDS TO "DEPOSITS IN BANK"—JUST LIKE IN LAWRENCE. LABELING DOES NOT MATTER—THE RULE IS THAT HOWEVER VA FUNDS ARE STORED, THEY ARE PROTECTED IF THEY REMAIN "SUBJECT TO DEMAND AND USE AS THE NEEDS OF THE VETERAN FOR SUPPORT AND MAINTENANCE REQUIRE[]" PORTER VS. AETNA CAS. AND SUR. CO., 370 U.S. 159, 160-61 (1962). I SEE NO REASON THAT WILSON'S BENEFITS WOULD NOT BE PROTECTED BY §5301 SIMPLY BECAUSE HE TRANSFERRED THEM TO A NEW ACCOUNT.

D.

DISSENTING OPINION - BY THE HONORABLE JUDGE GRANT

SEE, DISSENTING ON PAGE

I MUST ALSO RESPECTFULLY DISAGREE WITH THE

CONTINUED PAGE (d)

MAJORITY'S CONCLUSION THAT VETERANS CAN SIGN AWAY VA FUNDS THROUGH CONSENT FORMS LIKE THE ONE WILSON USED HERE. OP. AT 22-23. SECTION §5301 PROHIBITS NEARLY ALL ASSIGNMENT ~~WHERE~~ OF FUTURE VA BENEFITS, INCLUDING ANY AGREEMENT WHERE A VETERAN RELINQUISHES HIS "RIGHT TO RECEIVE" VA BENEFITS. 38 USC §5301(a)(1), (a)(3)(A).

THE CONSENT FORM HERE IS PLAINLY AN ASSIGNMENT. WILSON SIGNED OVER $37.95 FROM HIS INMATE ACCOUNT - A COMMITMENT THAT INCLUDED FUTURE DEPOSITS OF VA FUNDS. PRISON OFFICIALS TREATED THE AGREEMENT AS AN ASSIGNMENT, AND THE NINTH CIRCUIT HAS ALSO HELD THAT THIS EXACT KIND OF INMATE AGREEMENT IS AN UNLAWFUL ASSIGNMENT. SEE NELSON VS HEISS., 271 F.3d 891, 895 (9th CIR. 2001).

THE OPINION APPEARS TO HOLD THAT §5301 APPLIES ONLY TO AGREEMENTS THAT USE MAGIC WORDS LIKE "VA BENEFITS." OP. AT 23. IF THIS INTERPRETATION IS CORRECT, §5301 IS IMPOTENT - ANY ASSIGNMENT OF VA BENEFITS CAN EASILY BE WRITTEN WITH GENERAL LANGUAGE. I WOULD NOT CARVE A NEW EXCEPTION OUT OF §5301 FOR ARTFULLY DRAFTED ASSIGNMENTS OF FUTURE VA BENEFITS.

IN MY VIEW, THE ONLY STRAIGHTFORWARD READING IS THAT THE STATUTE ~~BANS~~ BANS AGREEMENTS EXCHANGING A SPECIFIC KIND OF CONSIDERATION: FUTURE VA BENEFITS. "PAYMENTS OF BENEFITS," §5301(a)(1) SAYS "SHALL NOT BE ASSIGNABLE" ONLY VETERANS MAY SPEND THESE FUNDS - THEY ARE ALSO EXEMPT FROM TAXATION, CREDITORS

CONTINUE PAGE (e)

CLAIMS, ATTACHMENT, AND SEIZURES, 38 USC § 5301 (a) (1). NONE OF THOSE PROHIBITIONS CONSIDER WORDING OR PHASING; THEY BROADLY TARGETS ACTS THAT DEPRIVE A VETERAN OF HER BENEFITS.

THE SAME IS TRUE FOR ASSIGNMENT OF FUTURE VA BENEFITS.

~~(e)~~(e)

VETERAN'S SLEEP

IN QUESTION #1. THAT A SERVICE CONNECTED VETERANS SLEEP SHOULD BE PEACEFULLY, DUE TO KNOWING THAT HIS MONEY IS CONGRESSIONALLY PROTECTED BY 38 USC § 5301.

THAT DUE TO INJURIES SUSTAINED IN WAR TIME OR PEACE TIME VETERANS COME TO SLEEP INTO UNDESIRABLE PLACES. i.e. PRISONS, COUNTY JAILS, MENTAL HOSPITAL, NURSING HOMES.

WHILE IN THESE PLACES THERE ARE ALOT OF THINGS TO WORRY ABOUT. ESPECIALLY MONEY.
MANY OF THESE PLACES CHARGE DISABLED VETERANS DAILY FOR INCARCERATION IN VIOLATION OF 38 USC § 5301.

I RESPECTFULLY REQUEST THAT THE SUPREME COURT ACCEPT RESPONSIBLE, AND ENFORCE 38 USC ~~NATIONALLY~~ § 5301 - NATIONALLY.

TO STOP LOCAL MUNICIPALITY FOR STAFFING FOR DISABLE VETERANS TO FILL THERE JAIL, PRISONS, MENTAL INSTITUTION FOR A RECIABLE INCOME. IT IS SAFE TO SAY THAT ~~HILLSBURO~~ HILLSBROUGH COUNTY FLORIDA DID THE SAME

CONTINUE ON PAGE (f)

THING TO ME, WHEN IT DISCOVERED THAT I PAID OFF PROBATION. HILLSBOROUGH COUNTY MADE UP FAKE AGGRAVATED STALKING CHARGES TO MAKE MY PAY FOR PROBATION. NOT REALIZING I HAVE PTSD FOR A REASON, AND; SHOT MY DAUGHTER AND MYSELF.

(f)

IN QUESTION #2 - THAT FLORIDA ADMINISTRATIVE CODE, RULE 33-203. 201 (2) (b) (2017) IS VOID UNDER THE SUPREMACY CLAUSE OF THE U.S. CONSTITUTION.

THAT 38 USC § 5301 TRUMPS OVER FLORIDA ADMINISTRATIVE CODE LAW. THAT § 5301 ~~IS~~ EXEMPT VA BENEFITS WHERE THEY ARE MAILED, WHERE FAC 33-203.201 (2)(b) SAYS THAT INMATE MUST MAIL THERE VA CHECKS TO DOC.

IT IS FAIR AND REASONABLE TO CONCLUDE THAT DOC KEEPS THESE MONIES FROM THE FIRST OF THE MONTH, AND COMPOUND IT DAILY FOR INTEREST, AND THEN GIVES IT TO INMATE ON THE 8th - 18 TO ACCURE THE INTEREST.

WHERE FEDERAL LAW SAY BANKS HAS 4 DAYS TO GIVE VETERANS THERE MONEY. DOC HAS GAVE ME MY MONEY SOMETIME IN THE 20 IES OF THE MONTH TO COLLECT THE INTEREST.
THE ADMINISTRATIVE CODE IN VOID UNDER SUPREMACY.
I'M BLOCKED FROM GOING TO THE LAW LIBRARY TO BETTER ARGUE THIS POINT, PLEASE LITERLY CONSTRUE THIS POINT.

CONTINUES (g)

IN QUESTION #3 RESPONDENT SUPERIOR.
LET THE CURRENT WARDEN ANSWER FOR THE WRONGDOING OF THE PRIOR WARDEN.

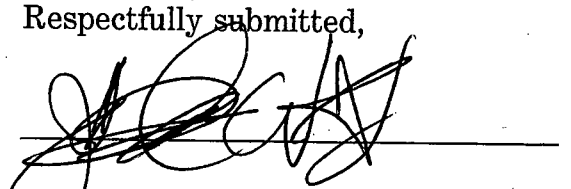
THANK YOU
RESPECTFULLY SUBMITTED

JOHN DAVID WILSON JR ~~#0-T21940~~ 0-T21940
MARTIN CORRECTIONAL INSTITUTION
1150 S.W. ALLAPATTAH RD
INDIANTOWN FL, 34956

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: JAN 22, 2024

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

_____ — PETITIONER
(Your Name)

VS.

_____ — RESPONDENT(S)

PROOF OF SERVICE

I, JOHN DAVID WILSON JR _____, do swear or declare that on this date, _____, 2024, 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:

_____

_____

_____

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

Executed on JAN 30, 2024

_____
(Signature)

EXHIBIT

A

U.S. COURT OF APPEALS

11th CIR PUBLISHED OPINION

[PUBLISH]

In the United States Court of Appeals

For the Eleventh Circuit

No. 18-11842

JOHN DAVID WILSON, JR.,

Plaintiff-Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,
ATTORNEY GENERAL, STATE OF FLORIDA,
WARDEN, (Respondent Superior), Warden, ZCI,
T. VANANTWERP, Law Librarian, Mail Room Supervisor,
CORIZON HEALTH CARE SERVICES,
Prisoners Health Care Provider, et al.,

Defendants-Appellees.

54 F.4th 652; 2022 (11th Cir. 2022)

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:15-cv-01207-CEH-AAS

Before BRANCH, GRANT, and BRASHER, Circuit Judges.

BRANCH, Circuit Judge:

Since 1873, Congress has protected veterans' benefits from claims by creditors, tax authorities, and even judicial orders. *See Porter v. Aetna Cas. Co.*, 370 U.S. 159, 160 n.2 (1962) (collecting the various statutes Congress enacted to protect veterans' benefits). Those protections are presently codified in 38 U.S.C. § 5301, which provides, in part, that VA benefits "due or to become due . . . shall not be assignable . . . shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary."

John Davis Wilson Jr., a veteran currently imprisoned by the state of Florida, sued prison and state officials under 42 U.S.C. § 1983, alleging that they violated his rights under § 5301 by taking his VA benefits from his inmate account to satisfy liens and holds stemming from medical, legal, and copying expenses he had incurred in prison. Wilson also sought to enjoin a Florida administrative rule requiring that inmates have their VA benefits

sent directly to their inmate accounts for prison officials to honor the funds' protected status, which Wilson contended violates § 5301, thereby running afoul of the Supremacy Clause of the United States Constitution.

Wilson claims that prison officials violated § 5301 in two ways. Initially, Wilson had the VA send his benefits to an outside credit union, which would then transfer the funds into his inmate account. Prison officials placed liens on Wilson's inmate account and satisfied them with the funds transferred from the outside account, which included VA benefits. Second, Wilson subsequently directed the VA to send his benefits directly to his inmate account. After Wilson requested copies of medical records, he signed an inmate payment form authorizing payment for those copies from his inmate bank account. Because his inmate account was nearly empty, prison officials placed a "hold" on the account.[1] After his VA benefits were deposited directly into the account, prison officials paid Corizon Health for the requested copies with those funds.

After dismissing some of the defendants, the district court granted qualified immunity to those remaining. It also found that Wilson lacked standing to challenge Florida's administrative rule directing inmates who receive VA benefits to have the VA send

[1] A hold is satisfied when sufficient funds become available in the inmate account regardless of whether those funds contain VA benefits.

payment directly to the inmate's prison account or risk losing their funds' exempt status because he failed to allege sufficiently a threat of future injury.

After careful consideration and with the benefit of oral argument, we agree that the prison officials are entitled to qualified immunity for the alleged violations of § 5301 and that Wilson lacks standing to challenge Florida's administrative rule. Accordingly, we affirm.[2]

I. Background

(a) Factual Background

Wilson is a Florida inmate and veteran who receives monthly VA disability benefits. Before August 2012, the VA would send Wilson's disability benefit payment to his account at Navy Federal Credit Union, which, at Wilson's direction, would then issue and mail checks to the Florida Department of Corrections's ("DOC") Inmate Trust Fund address, at which point prison officials would deposit the checks in Wilson's inmate account.

Before August 2012, the DOC put multiple liens on Wilson's inmate account for medical copayments and legal copying services.[3] Prison officials then collected on the liens with the funds

---

[2] Wilson's appeal presents various other issues, but, as explained below, our decisions on qualified immunity and standing resolve the appeal.

[3] An account supervisor at the DOC attested that the prison applies liens to the accounts of inmates receiving VA benefits. Unlike a hold—which is automatically satisfied when sufficient funds become available—a lien is not

sent to Wilson's inmate account from the credit union, not realizing the money consisted of VA benefits.

In November 2011, Wilson filed a written grievance with the DOC asserting that prison officials used his VA benefits to satisfy liens on his inmate account "in violation of" 38 U.S.C. § 5301, which provides, in relevant part, that

> [p]ayments of benefits due or to become due under any law administered by the Secretary shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary. The preceding sentence shall not apply to claims of the United States arising under such laws nor shall the exemption therein contained as to taxation extend to any property purchased in part or wholly out of such payments.

38 U.S.C. § 5301(a)(1). The DOC responded in writing to Wilson's grievance by acknowledging that VA benefits are exempt from attachment, levy, or seizure under federal law, but claiming that Wilson's "veterans benefit checks ha[d] not been touched." Wilson appealed this denial to Julie Jones, the Secretary of the Florida

---

automatically satisfied because of the risk that some (or all of) the now-available funds are protected VA benefits.

Department of Corrections (the "Secretary"). The Secretary denied the appeal, explaining that "VA checks must be directly deposited into your [inmate] account in order to be considered VA payments." In denying Wilson's appeal, the Secretary relied on Florida Administrative Code Rule 33-203.201(2)(b), which provides that,

> [i]n accordance with 38 U.S.C. 5301, Veterans Administration (VA) benefit checks are exempt from attachment, levy or seizure. The Department shall not deduct payments for liens on the inmate's trust fund account for medical co-payments, legal copies, or other Department generated liens from VA benefits checks *mailed directly* to the Bureau of Finance and Accounting, Inmate Trust Fund Section, Centerville Station, P.O. Box 12100, Tallahassee, FL 32317-2100.

Fla. Admin. Code Ann. r. 33-203.201(2)(b) (the "Florida Direct Deposit Rule") (emphasis added).

Following the denial of his administrative appeal, Wilson directed the VA to mail his benefits to the address associated with his inmate account. Consequently, Wilson had two addresses on file with the VA—one for his VA benefit checks at the Inmate Trust Fund department and another for all other VA correspondence at his prison. He claims, however, that because he had two addresses, the VA mistakenly sent correspondence to the address associated with his inmate account in the spring of 2013 and that the ensuing

confusion caused him to miss unspecified deadlines and receive several disability checks months late.

Despite Wilson's initial issues with receiving mail, the new arrangement appeared to work for a couple of years. But on February 20, 2015, Wilson signed an "Inmate Payment Agreement for Copy of Protected Health information" authorizing the DOC to "bill [his] account" for $37.95 for "a copy of [Wilson's] mental health record," and indicating that he had "requested" the copy. At the time, Wilson's inmate account had a $0.03 balance, and, on March 4, 2015, prison officials placed a hold on it to pay for the medical copies. On April 14, 2015, eight days after Wilson received his monthly VA benefits, $37.95 was paid from his inmate account to Corizon Health, a private subcontractor for the prison.

After these funds were removed from his account, Wilson filed multiple grievances, complaining that Corizon Health unlawfully seized his VA benefits and seeking the return of the $37.95 that had been extracted from his account. The prison responded to one of his grievances by requesting additional documentation. Instead of providing it, Wilson appealed the prison's response to the Secretary's office, which subsequently denied his appeal because "[t]he withdrawal was done at [Wilson's] request."

(b) Procedural History

On May 15, 2015, Wilson filed this § 1983 action in federal court, asserting that Florida officials and Corizon Health violated

his constitutional rights under the Fourteenth Amendment by seizing his VA benefits in violation of 38 U.S.C. § 5301. In his amended complaint, Wilson asserted claims against the prison warden, the prison law librarian, the prison mail room supervisor, Corizon Health, Secretary Jones, and then-Attorney General of Florida, Pam Bondi. Wilson alleged that the defendants violated 38 U.S.C. § 5301 by seizing his VA benefits to pay for, among other things, legal and medical copying services and medical copayments. He sought "return of all seized funds" derived from his VA benefits, appointment of counsel, litigation costs and attorney's fees, nominal damages for emotional injury, and to enjoin the Florida Direct Deposit Rule to the extent it exempts from seizure only VA benefits mailed directly to a prisoner's inmate account.

The district court *sua sponte* dismissed Attorney General Bondi as a defendant. Wilson then filed a motion for summary judgment, describing (for the first time) the harm caused by keeping two mailing addresses with the VA—namely that he missed important correspondence and received VA checks late. The district court struck the "premature" motion for summary judgment because the defendants had not yet had a chance to conduct discovery, let alone respond to the amended complaint.

Corizon Health then filed a Rule 12(b)(6) motion to dismiss, arguing that Wilson failed to state a claim against it because the Florida DOC—not Corizon—seized the money from Wilson's inmate account to pay for his $37.95 in copying costs. In response,

Wilson pointed to his inmate account statement, which listed Corizon Health as the "payee" of the $37.95 withdrawn from his account.

Secretary Jones, the prison warden, and the law librarian also moved to dismiss Wilson's action under Rule 12(b)(6), contending, in part, that the warden was not liable as a supervisor because respondeat superior liability is unavailable in a § 1983 action; that the statute of limitations barred claims for reimbursement of funds extracted from Wilson's inmate account to satisfy liens before May 19, 2011; that the defendants were entitled to "Eleventh Amendment immunity" to the extent Wilson sought money damages from them in their official capacities; and that the defendants were entitled to qualified immunity from damages in their individual capacities.

In a consolidated order, the district court granted Corizon's motion to dismiss without explanation. It also granted, in part, the other defendants' motion to dismiss, finding that: (1) Wilson "failed to allege any facts showing a causal connection between the warden and the alleged violations"; (2) Wilson's claims arising before May 15, 2011 (the day Wilson filed his initial action in this case), were barred by the statute of limitations; (3) the Eleventh Amendment barred Wilson's monetary claims against the defendants in their official capacities; and (4) the defendants were entitled to qualified immunity for withdrawing funds from his prison account to satisfy liens before August 2012, and for withdrawing $37.95 from Wilson's account on April 14, 2015, to

satisfy the account hold because "the court cannot say that defendants were plainly incompetent or knowingly violated 38 U.S.C. § 5301." However, the district court found that the defendants failed to address Wilson's contention that the Florida Direct Deposit Rule conflicted with 38 U.S.C. § 5301 and allowed Wilson to proceed against Secretary Jones on that claim only.

Secretary Jones subsequently moved for summary judgment, arguing that Wilson lacked standing to challenge the Florida Direct Deposit Rule because the VA was now sending his benefits directly to his inmate account (and hence, the benefits were protected under the regulation), and that, in any event, the rule was consistent with § 5301 and was not invalid under the Supremacy Clause of the U.S. Constitution. Wilson disagreed, contending that he had missed deadlines and correspondences in the past because of his dual addresses, and that he was likely to face similar harm in the future. The district court agreed with the Secretary that Wilson lacked standing and granted her motion for summary judgment. Wilson timely appealed.[4]

II. Discussion

(a) Qualified Immunity

---

[4] On appeal, Wilson does not contest the district court's determination that "to the extent [Wilson] seeks monetary damages against Defendants in their official capacities, his claim for monetary damages is barred by Eleventh Amendment immunity." In addition, Wilson does not challenge the district court's dismissal of Attorney General Bondi as a defendant.

On appeal, Wilson challenges the district court's conclusion that the Florida officials were entitled to qualified immunity for withdrawing funds from his prison account to satisfy liens before August 2012, and for withdrawing $37.95 from Wilson's account on April 14, 2015, to satisfy the account hold. "We review *de novo* a district court's decision to grant or deny the defense of qualified immunity on a motion to dismiss, accepting the factual allegations in the complaint as true and drawing all reasonable inferences in the plaintiff's favor." *Davis v. Carter*, 555 F.3d 979, 981 (11th Cir. 2009).

As an initial matter, the parties do not dispute that § 1983 provides a means for Wilson to enforce § 5301 against the state and that the prison officials here acted within the scope of their discretionary authority.[5] Therefore, we turn to whether the Florida defendants are entitled to qualified immunity. Because the defendants were acting within the scope of their discretionary authority, "the burden shifts to the plaintiff to show that qualified immunity is not appropriate." *See Penley v. Eslinger*, 605 F.3d 843, 849 (11th Cir. 2010) (quotation omitted).

---

[5] We note that the parties dispute whether the prison warden has supervisory liability for the prison officials' conduct in connection with Wilson's VA benefits. As explained in more detail below, because we conclude that, even if the warden was vicariously liable for the other officials' conduct, she would be entitled to qualified immunity, we do not address the supervisory liability issue.

"The doctrine of qualified immunity protects government officials 'from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'" *Pearson v. Callahan*, 555 U.S. 223, 231 (2009) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). An official enjoys qualified immunity unless: (1) the plaintiff alleges facts establishing that "the defendant's conduct violated a constitutional or statutory right"; and (2) the violated right was clearly established at the time of the defendant's alleged misconduct. *Mann v. Taser Int'l, Inc.*, 588 F.3d 1291, 1305 (11th Cir. 2009). We have discretion in deciding which of these two prongs to address first "in light of the circumstances in the particular case at hand." *Pearson*, 555 U.S. at 236. While some courts might find it beneficial to analyze these elements in sequence, *see, e.g.*, *Case v. Eslinger*, 555 F.3d 1317, 1326 (11th Cir. 2009), it is not necessary to decide both prongs where it is plain that the right is not clearly established, *Pearson*, 555 U.S. at 236–37. That is the case here. The statutory right that Wilson alleges has been violated was not clearly established.[6] Accordingly, we begin with the second prong.

---

[6] Our colleague in dissent agrees with our ultimate conclusion that defendants are entitled to qualified immunity—but for a different reason. We conclude that defendants are entitled to qualified immunity because the right at issue was not clearly established. In the dissent's view, however, defendants are entitled to qualified immunity "[b]ecause the officials were not aware that they were handling VA benefit money."

The "dispositive inquiry in determining whether a right is clearly established is whether it would be clear to a reasonable officer that his conduct was unlawful in the situation he confronted." *Saucier v. Katz*, 533 U.S. 194, 202 (2001), overruled on other grounds by *Pearson*, 555 U.S. at 236. We therefore confine our inquiry to "the facts that were knowable to the defendant officers" at the time they engaged in the conduct at issue. *White v. Pauly*, 137 S. Ct. 548, 550 (2017) (per curiam). "Facts an officer learns after the incident ends—whether those facts would support granting immunity or denying it—are not relevant." *Hernandez v. Mesa*, 137 S. Ct. 2003, 2007 (2017). Accordingly, government officials "will not be liable for mere mistakes in judgment, whether the mistake is one of fact or one of law." *See Butz v. Economou*, 438 U.S. 478, 507 (1978).[7]

A plaintiff can show that a right is "clearly established" for qualified immunity purposes in three ways: (1) pointing to a "materially similar case" decided by the Supreme Court, the Eleventh Circuit, or the Florida Supreme Court that clearly establishes the statutory right, *see Echols v. Lawton*, 913 F.3d 1313, 1324 (11th Cir. 2019) (quotation omitted); (2) showing that "a

[7] The Supreme Court stated this rule in connection with the mistakes of "[f]ederal officials," but it applies to state officials just the same. *See Pearson*, 555 U.S. at 231 (noting, in a case involving state officials, that "[t]he protection of qualified immunity applies regardless of whether the government official's error is a mistake of law, a mistake of fact, or a mistake based on mixed questions of law and fact" (quotation omitted)).

broad statement of principle within the Constitution, statute, or case law . . . clearly establishes [the] constitutional right"; and (3) demonstrating that the defendants engaged in "conduct so egregious that a constitutional right was clearly violated, even in the total absence of case law," *Hill v. Cundiff*, 797 F.3d 948, 979 (11th Cir. 2015).

As we explain further below, the officers are entitled to qualified immunity on both of Wilson's claims, albeit for different reasons.

1. The pre-August 2012 liens

Wilson argues that his rights were "clearly established" by the text of 38 U.S.C. § 5301, as interpreted by the Supreme Court in *Porter v. Aetna Casualty Co.*, 370 U.S. 159 (1962).[8] The defendants respond that *Porter* was insufficient to put officials on notice because it did not involve funds deposited first into an outside bank account and later transferred to a prison inmate account.

For the reasons explained below, we hold that the defendants are entitled to qualified immunity for their debiting of Wilson's inmate account to satisfy liens prior to August 2012

[8] In *Porter*, the Supreme Court explained that the test to determine whether VA funds retain their exempt status is "whether as so deposited the benefits remained subject to demand and use as the needs of the veteran for support and maintenance required" and "actually retain the qualities of moneys, and have not been converted into permanent investments." *Id.* at 161–162.

because he has failed to show that the officials violated his "clearly established" rights under § 5301.

The statute at issue—38 U.S.C. § 5301(a)(1)—sets forth a clear rule: VA benefits "due or to become due . . . shall not be assignable . . . and such payments . . . shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure . . . ." Under this provision, VA benefits are neither assignable nor subject to seizure or attachment, even before the veteran receives the funds. The statute does not, however, tell us what happens to VA funds' exempt status after they are deposited into an account or transferred between a series of accounts.

The Supreme Court subsequently addressed one aspect of this open question in *Porter*. *See* 370 U.S. at 161. In *Porter*, the plaintiff's VA funds were deposited into a federal savings and loan association account that had various restrictions associated with it, including a 30-day demand requirement for withdrawing funds. *Id.* at 159–61. Holding that the VA funds retained their exempt status after being deposited in the account, the Court stated that the relevant test is: "whether as so deposited the benefits remained subject to demand and use as the needs of the veteran for support and maintenance required." *Id.* at 161 (citing *Lawrence v. Shaw*, 300 U.S. 245 (1937)). The Court explained that VA benefit funds are protected "regardless of the technicalities of title and other formalities" if they "are readily available as needed for support and

maintenance, actually retain the qualities of moneys, and have not been converted into permanent investments." *Id.* at 162.

To be sure, like *Porter*, this case involves the deposit of VA funds into an account, where they do not lose "the qualities of money" and are not "converted into permanent investments." *See id.* at 162. But *Porter* focused on whether, under the Supreme Court's precedent, VA benefits lose exempt status after a veteran places them in a certain type of savings account (*i.e.*, a savings and loan account with specific withdrawal requirements). It did not address what happens when VA benefits are transferred between two accounts, arriving in the second one as a "money order" or credit union check with no indication that VA benefits were included.[9]

Because the text of § 5301 does not address this situation and Wilson has not pointed us to any "materially similar case" from the United States Supreme Court, the Eleventh Circuit, or the Florida Supreme Court, he has failed to show that his rights under the statute were "clearly established" when prison officials satisfied

[9] As discussed above, before August 2012, Wilson's VA benefits arrived at the prison in the form of a credit union check or money order, and the inmate account statements for the relevant period merely list the deposits as "Money Order" and name the "remitter/payee" as "Wilson, John," "Navy Federal," or "Unknown." The record before us contains no copies of the credit union checks, and, consequently, we cannot know whether they listed "VA benefits" or something similar on the memo line. Instead, there is nothing in the record to indicate that a reasonable prison official would have known that the credit union checks contained VA benefits.

liens on his inmate account with VA funds transferred from the outside credit union.[10]

---

[10] Our dissenting colleague disagrees that § 5301 "did not protect" Wilson's VA funds "in the first place." The dissent emphasizes that the funds deposited in *Lawrence* were labelled "deposits in bank," and thus "facially nondescript bank deposits made up of VA funds are exempt under § 5301" despite lacking any indication that such funds were VA benefits. Accordingly, "[l]abeling does not matter." The dissent contends that we are wrong to consider the significance of the transfer of funds because, under *Lawrence*, "however VA funds are stored, they are protected" so long as "they remain 'subject to demand and use as the needs of the veteran for support and maintenance require[].'" The result, according to the dissent, is that § 5301 protects Wilson's benefits despite the transfer of the VA funds from one account to another because "all that transfer did was make the VA funds nondescript . . . just like in *Lawrence*."

Indeed, we seem to agree that if the question at issue were whether § 5301(a)(1) applies to an inmate checking account, such as Wilson's, *Lawrence* and *Porter* would certainly answer "yes." However, *Lawrence* and *Porter* leave open the operative question in this case; namely, whether it was clearly established that unmarked funds transferred between liquid accounts retain their protected status after the transfer so as to foreclose the availability of qualified immunity to the defendants in this case.

Because *Lawrence* and *Porter* are silent on this issue, they are not "materially similar" to this case and, accordingly, cannot "clearly establish" Wilson's rights under § 5301. *See Echols*, 913 F.3d at 1324; *Hill v. Cundiff*, 797 F.3d 948, 979 (11th Cir. 2015) (identifying "case law with *indistinguishable facts*" as a means of showing clearly established law) (emphasis added) (quotation omitted)); *see also City of Tahlequah v. Bond*, 142 S. Ct. 9, 11 (2021) ("We have repeatedly told courts not to define clearly established law at too high a level of generality.").

Wilson contends, however, that he can still show that his rights were "clearly established" because § 5301(a)(1) applies with "obvious clarity" to his case. It is true that a right may be "clearly established" even in the absence of on-point case law. "General statements of the law . . . are not inherently incapable of giving fair and clear warning." *United States v. Lanier*, 520 U.S. 259, 271 (1997). Therefore, in some instances, a rule "already identified in the decisional law may apply with *obvious clarity* to the specific conduct in question, even though the very action in question has not previously been held unlawful" in a judicial decision. *Id.* (quotation omitted) (emphasis added).[11] Obvious clarity is a "narrow exception," however, *Lee v. Ferraro*, 284 F.3d 1188, 1199 (11th Cir. 2002), and such cases "will be rare," *Coffin v. Brandau*, 642 F.3d 999, 1015 (11th Cir. 2011) (en banc).

Wilson's argument centers on language in § 5301(a)(1) exempting VA benefits from "attachment, levy, or seizure," which he says applies with "obvious clarity" and renders his rights "clearly established." We disagree. Wilson's obvious clarity argument fails because the officials had no way of knowing that the funds transferred into Wilson's inmate account from the credit union were VA benefits. The Supreme Court has repeatedly made clear that officials "will not be liable for [a] mere mistake[] . . . of

[11] We also use the "obvious clarity" descriptor for cases where a right is clearly established because the conduct involved "so obviously violate the constitution that prior case law is unnecessary." *See Gaines v. Wardynski*, 871 F.3d 1203, 1208–09 (2017) (quotation omitted).

fact . . . ." *See Butz*, 438 U.S. at 507. And confining our inquiry to "the facts that were knowable to the defendant officers," as we are required to do, *see White*, 137 S. Ct. at 550, we cannot say that § 5301(a)(1) applies with "obvious clarity" to a situation where a reasonable person would not have known VA benefits were implicated.

In sum, Wilson has failed to show that officials violated a "clearly established" right under § 5301 when they withdrew the VA funds transferred from Wilson's credit union account to his prison account to satisfy liens before August 2012. Accordingly, the officials are entitled to qualified immunity.

2. The March and April 2015 account hold and withdrawal

Wilson argues that prison officials violated his "clearly established" rights by placing a hold on his inmate account until they could withdraw later-deposited VA funds. He points to a Ninth Circuit decision[12] that purportedly placed prison officials on notice that his written agreement to pay for the medical copies out of his inmate account was an unenforceable "assignment" of VA benefits, and that subsequently withdrawing the VA funds to pay for his medical copies was a prohibited "seizure" under § 5301.

We turn first to Wilson's argument that his instruction to prison officials to bill his nearly empty inmate account was an unenforceable "assignment" of VA funds. The text of § 5301(a)(1)

---

[12] *See Nelson v. Heiss*, 271 F.3d 891 (9th Cir. 2001).

says that the "[p]ayments of benefits due or to become due . . . shall not be *assignable.*" (Emphasis added). A later subprovision "clarif[ies]" that a prohibited assignment is "an agreement with another person under which agreement such other person acquires for consideration the right to receive such benefit by payment of such compensation, pension, or dependency and indemnity compensation," including by "deposit into a joint account from which such other person may make withdrawals." § 5301(a)(3)(A).[13] Accordingly, the kind of "assignment" prohibited

---

[13] We note, in passing, that the plain meaning of another subprovision, § 5301(a)(3)(B), which provides an exception to the general prohibition on assignment, is consistent with our reading of the statute. Section 5301(a)(3)(B) says "nothing in this paragraph is intended to prohibit a loan involving a beneficiary *under the terms of which the beneficiary may use the benefit to repay such other person*" as long as the beneficiary repays the loan through separately executed periodic payments or a preauthorized electronic funds transfer ("EFT"). § 5301(a)(3)(A) (emphasis added). Far from simply clarifying that veterans may use their benefits to repay a loan, this subprovision exempts a certain type of agreement that would otherwise be prohibited by the statute because it identifies and transfers the right to future VA payments: loan agreements "under the terms of which" the beneficiary is entitled to use VA funds to repay the loan. § 5301(a)(3)(B).

The dissent appears to read § 5301(a)(3)(B)'s exception differently. According to the dissent, Congress provided this exception to "allow[] veterans to use electronic funds transfers to send loan payments" generally. And so, the dissent argues, because "an EFT transaction draws from the sender's bank account regardless of the source of those funds, [§ 5301(a)(3)(B)] would be unnecessary if the statute only banned agreements that mention VA funds." The dissent argues, therefore, that we should not "carve a new exception out of § 5301" for agreements that make no mention of VA benefits at all. But § 5301(a)(3)(B)'s reference to EFT relates solely to making payments pursuant

by the statute is an assignment of "*the right to receive*" VA benefits.[14] *Id.* (emphasis supplied).

---

to the exception discussed in the preceding paragraph, *i.e.*, a loan agreement "under the terms of which" the beneficiary may use VA funds to repay the lender. It is not a freestanding provision permitting veterans to make EFT payments generally. Rather, as explained above, pursuant to § 5301(a)(3)(B), a veteran has two repayment options under the loan agreement exception contained in § 5301(a)(3)(A): execute separate agreements for each periodic payment or repay the loan through a preauthorized EFT. § 5301(a)(3)(B). The dissent is correct that an EFT payment draws funds from the sender's account regardless of the source of those funds, but the EFT payments contemplated by this statutory exception occur only as part of a loan agreement "under the terms of which" a veteran agreed to repay the loan with future VA benefits.

[14] That an assignment necessarily involves the transfer of an identifiable right—in this case the right to receive future VA benefits—to another person is confirmed by the Restatement of Contracts. The Restatement says that "an assignment of a right is a manifestation of the assignor's intention to transfer it by virtue of which the assignor's right to performance by the obligor is extinguished in whole or in part and the assignee acquires a right to such performance," and requires that "the obligee manifest an intention to transfer the right to another person." Restatement (Second) of Contracts §§ 317(1), 324. As both § 5301 and the Restatement make clear, an assignment requires a manifestation of the intent to transfer a right—in this case the right to receive VA benefits "due or to become due"—to another person. So, contrary to our dissenting colleague's assertion otherwise, we are not inventing an exception for "vaguely worded assignments." The consent form Wilson signed did not mention VA benefits nor did it evince Wilson's intent to transfer his right to them to anyone. Indeed, it is difficult to see how a consent agreement containing no mention of VA benefits could "manifest [Wilson's] intention to transfer" his right to such benefits to the defendants. The words "VA benefits" are not "magic" at all, as the dissent correctly contends. Rather, where it is not evident from the four corners of an agreement, such as the one at issue in this case, that a veteran intends to assign his right to future VA benefits to

The agreement Wilson signed instructing prison officials to "bill [his] inmate bank account" for copies of the mental health records he had requested was not an assignment prohibited by § 5301. Wilson did not, in any way, assign his VA benefits within the meaning of the statute, having never made an "agreement" under which the prison officials "acquire[d] for consideration the right to receive . . . by payment," his VA benefits. *See* § 5301(a)(1)(A). The consent form made no mention of VA benefits at all. Nor did it mention the possibility of officials placing a "hold" on Wilson's account if the funds were insufficient. Far from an assignment of VA benefits, this agreement merely indicated Wilson's consent to prison officials billing his inmate account to pay for the copies he requested, thereby authorizing the prison to take $37.95 from Wilson's inmate bank account, without consideration of how those funds got there in the first place. The form gave Wilson two options to pay for the medical copies, stating, "[y]our inmate bank account can be billed for these charges or a bill can be sent to your family requesting payment. Please check the box below to let us know how you will pay for the copy." Wilson checked the box labeled "[b]ill my inmate account." Such an agreement—one that does not mention VA benefits nor indicate

---

another, we decline to deem such an agreement an unlawful assignment. For that reason, and for the reasons articulated above, Wilson's voluntary agreement to pay for his mental health records from his inmate bank account, was simply not a prohibited assignment of VA benefits under § 5301, despite the fact that the account was funded in part by Wilson's VA benefits.

any intent to transfer Wilson's right to them to anyone—is not a prohibited assignment of VA benefits under § 5301.

We turn next to Wilson's argument that the defendants—either the prison officials or Corizon Health—unlawfully "seized" his VA benefits by transferring $37.95 from his account to Corizon Health when the VA funds arrived. This argument likewise fails. Section 5301(a)(1) states that VA benefits "shall not be liable to attachment, levy, or *seizure* by or under any legal or equitable process whatever." (Emphasis added). Although the statute does not define "seizure," in 1935 (when Congress added the word to the statute protecting VA benefits),[15] "seizure" meant the "[a]ct of seizing, or state of being seized," and "seize" meant, among other things, "[t]o take possession of, or appropriate, in order to subject to the force or operation of a warrant, order of court, or other legal process." *Webster's New International Dictionary of the English Language* 2268 (2d ed. 1935).

When $37.95 was debited from Wilson's account to pay for his medical copies, the defendants were merely carrying out Wilson's instruction as embodied in the February 2015 authorization form. In that agreement, Wilson authorized officials to bill his account, and when sufficient funds existed in the account, prison officials did just that. Acting on an agreement to pay a specified sum (*i.e.*, $37.95) by a specific means (*i.e.*, "bill my inmate account") surely is not a "seizure" within the meaning of

---

[15] Act of Aug. 12, 1935, Pub. L. No. 74-262, § 3, 510 Stat. 607, 609.

§ 5301(a)(1). Wilson's only response on this front is that his authorization to "bill [his] inmate account" was an unenforceable assignment under § 5301. But as discussed previously, Wilson's authorization was *not* an assignment of VA benefits under § 5301. So the defendants did not seize Wilson's funds when they withdrew $37.95 from his account.

Wilson has therefore failed to show that the defendants violated his rights under § 5301 for the March and April 2015 hold and debit. Accordingly, the officials are entitled to qualified immunity.

In the alternative, assuming *arguendo* that the consent form was an unenforceable assignment of VA benefits, Wilson has failed to show that a decision from the Supreme Court, our Court, or the Florida Supreme Court put officials on notice of his "clearly established" rights under § 5301.[16] *See Echols*, 913 F.3d at 1324.

---

[16] If the hold placed on Wilson's account and the prison official's subsequent withdrawal of funds did not constitute a prohibited assignment or seizure under § 5301, we need not decide whether the district court properly dismissed Corizon Health as a defendant. Wilson's only allegations against Corizon Health stem from the account hold and debit, which, as a matter of law, did not violate § 5301.

We note, however, that under our alternative reasoning—that the prison officials are entitled to qualified immunity because Wilson has failed to show the violation of a "clearly established" right—we must address whether the district court erred in dismissing Corizon Health because private contractors are generally not entitled to the protections of qualified immunity. *See, e.g.*,

Wilson argues that officials were on notice because a district court in our Circuit, in an unrelated case, cited the Ninth Circuit's 2001 decision in *Nelson v. Heiss*. *See Purvis v. Crosby*, 2006 WL 1836034, at *8 (N.D. Fla. June 30, 2016) (citing *Nelson v. Heiss*, 271 F.3d 891 (9th Cir. 2001)). In *Nelson*, our sister circuit held that prison officials violated § 5301 when, after an inmate authorized

---

Hinson v. Edmond, 192 F.3d 1342, 1345 (11th Cir. 1999) (declining to extend qualified immunity to a privately employed prison physician).

But even under this reasoning, the district court did not err in granting Corizon Health's motion to dismiss for failure to state a claim. We review de novo a Rule 12(b)(6) dismissal of a complaint for failure to state a claim. See *Speaker v. U.S. Dep't of Health & Human Servs. Ctrs. for Disease Control & Prevention*, 623 F.3d 1371, 1379 (11th Cir. 2010). For a claim to survive a motion to dismiss for failure to state a claim, the plaintiff's allegations "'must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 557 (2007)). In assessing the plausibility of a claim, we may also consider exhibits attached to and referenced in the complaint. *See Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007).

In his amended, *pro se* complaint Wilson alleged that "Corizon Health Care seized §5301(a)" VA benefits "that are federally and state protected from seizure," citing "Exhibit C" in support of his claim. Exhibit C of Wilson's amended complaint is a copy of the account statement covering the hold and subsequent debit of $37.95 from his inmate account. It lists "Corizon Health" as the "payee" for the $37.95 debited from Wilson's account. This exhibit merely shows that Corizon Health received the payment. It does not demonstrate that Corizon Health actually seized the funds, had any access to Wilson's inmate account, or did anything beyond passively receiving money. Therefore, Wilson has failed to state a plausible claim that Corizon Health "seized" his VA benefits. *See Iqbal*, 556 U.S. at 678.

the prison to withdraw money from his account, prison officials placed a hold on his account due to insufficient funds and subsequently withdrew the overdrawn amount from the inmate's VA benefits. *See Nelson*, 271 F.3d at 895. The prison officials argued that they did not violate the statute because the inmate consented to the withdrawal of funds. The Ninth Circuit rejected this argument, concluding that "consent to a taking of future benefits" is an invalid assignment under § 5301. *Id.* The Ninth Circuit granted qualified immunity to the prison officials, however, because, given the inmate's consent to the hold, a reasonable official might have thought taking the later-received funds did not violate the statute. *Id.* at 896–97.

Although *Nelson* involved a similar factual scenario to this case, it is not a decision from the Supreme Court, our Court, or the Florida Supreme Court and is therefore insufficient to place prison officials on notice that the hold and withdrawal violated Wilson's "clearly established" rights. The fact that a district court in our Circuit cited *Nelson* is irrelevant. *See Echols*, 913 F.3d at 1324. Accordingly, the officials are entitled to qualified immunity.[17]

---

[17] Because we conclude that the state officials are entitled to qualified immunity, we need not reach two additional issues raised on appeal: (1) whether the prison warden was vicariously liable for the actions of the other prison officials and (2) which of Wilson's claims in connection with the credit union transfer and liens fall within the four-year statute of limitations. First, we need not decide whether the warden is vicariously liable because she would be entitled to qualified immunity even if she was subjected to supervisor liability. Second, it is irrelevant which liens fall within the statute

(b) Standing

We now consider whether the district court erred in granting summary judgment to the Secretary as to Wilson's claim that Florida's Direct Deposit Rule violates § 5301 and the Supremacy Clause. The district court found that Wilson lacked standing to challenge the rule because he did not allege a "sufficient likelihood that he will suffer injury" from complying with the rule in the future. Florida's Direct Deposit Rule provides that

> [i]n accordance with 38 U.S.C. [§] 5301, Veterans Administration (VA) benefit checks are exempt from attachment, levy or seizure. The Department shall not deduct payments for liens on the inmate's trust fund account for medical co-payments, legal copies, or other Department generated liens from VA benefits checks *mailed directly to the Bureau of Finance and Accounting, Inmate Trust Fund Section, Centerville Station, P.O. Box 12100, Tallahassee, FL 32317-2100.*

Fla. Admin. Code Ann. r. 33-203.201(2)(b) (emphasis added). Consequently, under this rule, Florida will respect the protected status of VA benefits pursuant to § 5301 only if the funds are sent directly to an inmate account.

We review the grant or denial of summary judgment *de novo*, "applying the same legal standards used by the district

---

of limitations period because the defendants are entitled to qualified immunity as to all of them.

court." *Yarbrough v. Decatur Housing Auth.*, 941 F.3d 1022, 1026 (11th Cir. 2019). And when standing is raised in a motion for summary judgment, "the plaintiff[] can no longer rest on their allegations, but must set forth by affidavit or other evidence specific facts which for the purpose of summary judgment will be taken as true." *Wilson v. State Bar of Ga.*, 132 F.3d 1422, 1427 (11th Cir. 1998) (quotation omitted).

Wilson argues that he has standing to challenge the Florida Direct Deposit Rule because he sufficiently alleged a threat of future harm from having to keep separate addresses for VA benefits and VA correspondence in his opposition to summary judgment. Wilson claimed that after changing his address, he was late in receiving several VA benefits checks. He attached an account statement reflecting that he missed at least two payments in April and May 2013. Wilson now claims that because he is forced to keep two addresses, it is "inevitable" that he will miss a VA benefit check or important correspondence in the future.

The Florida officials respond that there is no real immediate threat of future injury to Wilson because Wilson's VA benefits are sent directly to the DOC, so "[t]here have been no issues or complaints for approximately seven years."

A party has standing to sue for injunctive relief "where the threatened injury is real, immediate, and direct." *Davis v. FEC*, 554 U.S. 724, 734 (2008). Accordingly, Wilson must show a "real or immediate threat that [Wilson] will be wronged again," or, in other words, a "'likelihood of substantial and immediate irreparable

injury.'" *City of Los Angeles v. Lyons*, 461 U.S. 95, 111 (1983) (quoting *O'Shea v. Littleton*, 414 U.S. 488, 502 (1974)). Accordingly, the threat of injury, to suffice for prospective relief, must be imminent. *Elend v. Basham*, 471 F.3d 1199, 1207 (11th Cir. 2006); *see also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 564 n.2 (1992) (noting the Court's insistence that "the injury proceed with a high degree of immediacy" to establish standing to seek prospective relief).

Wilson lacks standing because he has failed to show a "real" and "immediate" threat of future injury from complying with the Florida Direct Deposit Rule, pointing only to injuries in the distant past. Although it appears that Wilson initially suffered concrete harm when he transitioned to keeping two addresses on file with the VA (*i.e.*, receiving VA checks several months late in the spring of 2013), that harm occurred only in the immediate aftermath of the address change—over nine years ago. Wilson tells us that it is "inevitable" that he will miss VA correspondence and benefit checks in the future—despite nine years of complying with the direct deposit rule without issue—but he says little else on the matter. In cases where a plaintiff seeks injunctive relief, pointing only to past injuries and speculating that such harm will "inevitabl[y]" occur again is insufficient to establish standing. *See Lyons*, 461 U.S. at 102 ("[P]ast exposure to illegal conduct does not in itself show a present case or controversy regarding injunctive relief . . . if unaccompanied by any continuing, present adverse effects." (quotation omitted)); *Bowen v. First Fam. Fin. Servs., Inc.*,

233 F.3d 1331, 1340 (11th Cir. 2000) (holding that a "perhaps or maybe chance" of future harm is "not enough" to establish standing for a claim seeking injunctive relief from an arbitration agreement (quotation omitted)). Because Wilson has not shown a "real or immediate threat" of future injury from keeping two addresses to comply with the Florida's administrative rule, he lacks standing to challenge it. *See Lyons*, 461 U.S. at 111.

AFFIRMED.

GRANT, Circuit Judge, concurring in part and dissenting in part:

I agree with the majority that the prison officials who executed the pre-August 2012 liens are entitled to qualified immunity. The checks from Wilson's personal bank account (though made up of VA funds) gave "no indication that VA benefits were included." Op. at 16. And we must confine the qualified immunity "inquiry to 'the facts that were knowable to the defendant officers' at the time they engaged in the conduct at issue." Op. at 13 (quoting *White v. Pauly*, 137 S. Ct. 548, 550 (2017)). For purposes of § 1983, then, we consider only what the officials knew about the checks when they received them—that they were personal checks. Because the officials were not aware that they were handling VA benefit money, they are entitled to qualified immunity.

Still, I respectfully disagree that 38 U.S.C. § 5301 did not protect those funds in the first place. *See* Op. at 14–19. Facially nondescript bank deposits made up of VA funds are exempt under § 5301. *Lawrence v. Shaw*, 300 U.S. 245, 250 (1937). In *Lawrence v. Shaw*, where the Supreme Court established this rule, a veteran's VA funds had been deposited into his bank account labeled only as "deposits in bank." *Id.* at 247. The missing VA identifier did not strip the funds of their exempt status. *Id.* at 250. So too here.

The majority says this case is different because Wilson's personal-check deposits involved another step, one the Supreme Court has never addressed—a transfer between two bank accounts. Op. at 16–17. But all that transfer did was make the VA funds

nondescript, reducing them from labeled VA funds to "deposits in bank"—just like in *Lawrence*. Labeling does not matter—the rule is that however VA funds are stored, they are protected if they remain "subject to demand and use as the needs of the veteran for support and maintenance require[]." *Porter v. Aetna Cas. & Sur. Co.*, 370 U.S. 159, 160–61 (1962). I see no reason that Wilson's benefits would not be protected by § 5301 simply because he transferred them to a new account.

I must also respectfully disagree with the majority's conclusion that veterans can sign away VA funds through consent forms like the one Wilson used here. Op. at 22–23. Section 5301 prohibits nearly all assignments of future VA benefits, including any agreement where a veteran relinquishes his "right to receive" VA benefits. 38 U.S.C. § 5301(a)(1), (a)(3)(A). The consent form here is plainly an assignment. Wilson signed over $37.95 from his inmate account—a commitment that included future deposits of VA funds. Prison officials treated the agreement as an assignment, and the Ninth Circuit has also held that this exact kind of inmate agreement is an unlawful assignment. *See Nelson v. Heiss*, 271 F.3d 891, 895 (9th Cir. 2001).

The opinion appears to hold that § 5301 applies only to agreements that use magic words like "VA benefits." Op. at 23. If this interpretation is correct, § 5301 is impotent—any assignment of VA benefits can easily be written with general language. I would not carve a new exception out of § 5301 for artfully drafted assignments of future VA benefits.

In my view, the only straightforward reading is that the statute bans agreements exchanging a specific kind of consideration: future VA benefits. "Payments of benefits," § 5301(a)(1) says, "shall not be assignable." Only veterans may spend these funds—they are also exempt from taxation, creditors' claims, attachment, and seizure. 38 U.S.C. § 5301(a)(1). None of those prohibitions consider wording or phrasing; they broadly target acts that deprive a veteran of her benefits. The same is true for assignment of future VA benefits.

And "if Congress wanted to create exceptions" to § 5301, "it knew how to do so. In fact, it did provide for some." *Nelson*, 271 F.3d at 896. Section 5301(a)(3)(B), for example, allows veterans to use electronic funds transfers to send loan payments. When a veteran authorizes an EFT, he permits a company to automatically withdraw money from his bank account. *See* 15 U.S.C. §§ 1693a(7), (10). Given that an EFT transaction draws from the sender's bank account regardless of the source of those funds, this exception would be unnecessary if the statute only banned agreements that mention VA funds. In contrast, an exception for vaguely worded assignments is nowhere to be found.

* * *

I concur with much of the majority's opinion. But I part ways on these two important points. We should not deprive veterans of the protections Congress provides them. It has long been established that VA funds are protected by § 5301 even if they are not so labeled. And any agreement by which a veteran signs

away future VA benefits is prohibited by § 5301. On these grounds, I respectfully dissent.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

JOHN DAVID WILSON, JR.,

Plaintiff,

v. Case No. 8:15-cv-1207-T-36AAS

JULIE L. JONES, SECRETARY,
FLORIDA DEPARTMENT
OF CORRECTIONS, et al.,

Defendants.
_____/

ORDER

Before the Court are Defendant, Secretary, Department of Corrections's Motion for Summary Judgment (Dkt. 50), and Plaintiff's opposition (Dkt. 55). In her Motion for Summary Judgment, Defendant Jones contends that: (1) Rule 33-203.201(2)(b), F.A.C. is consistent with the Federal Statute and does not violate the Supremacy Clause; and (2) Plaintiff has no standing to challenge the Rule in this case. Upon consideration of the parties' submissions, including the amended declaration of Rita Odom and exhibits, the Motion for Summary Judgment will be **GRANTED**.

I. Facts and Procedural History[1]

Plaintiff, a Florida prisoner, receives United States veterans disability benefits. Prior to August 2012, Plaintiff's veterans benefits checks were deposited into his personal account with Navy Federal Credit Union (Dkt. 10, p. 22; Dkt. 39-2, pp. 2-8). Plaintiff then would direct the Credit Union to issue

[1] In considering the motion for summary judgment, the facts are derived from the sworn amended complaint, affidavits, and other evidence submitted by Plaintiff and Defendant Jones in support of, or in opposition to, the dispositive motion. For the purposes of ruling on Defendant's Motion for Final Summary Judgment, the Court construes the facts in the light most favorable to Plaintiff. *See Davis v. Williams*, 451 F.3d 759, 763 (11th Cir. 2006) (in deciding a summary judgment motion, the court views the facts in the light most favorable to the non-moving party and draws all reasonable inferences in that party's favor).

checks and send them to the Department of Corrections (DOC) Inmate Trust Fund (ITF) for deposit into his inmate trust account (Dkt. 39-1, p. 2; Dkt. 39-2, pp. 2-8; Dkt. 10, pp. 7, 25-26).

In November 2011, Plaintiff filed a grievance with the DOC complaining that the imposition and collection of liens on his inmate account for medical co-payments and legal copying services violated 38 U.S.C. § 5301 (Dkt. 10, pp. 34-35).[2] In response, Plaintiff was told that veterans benefits are exempt from the liens, but no veterans benefits had been seized to pay the liens (*Id.*, p. 32). Petitioner appealed the response to the DOC Secretary's office (*Id.*, pp. 37-41). The appeal was denied, and Petitioner was informed that "VA checks must be directly deposited into [his] ITF account in order to be considered VA payments." (*Id.*, p. 42).

Beginning in August 2012, Plaintiff had his veterans benefits checks directly deposited into his inmate trust fund (Dkt. 39-2, pp. 8-26). Those funds were not seized by the DOC to pay the numerous liens on Plaintiff's trust account (*Id.*). However, on April 14, 2015, $37.95 from Plaintiff's veterans benefits were taken from Plaintiff's inmate trust fund to pay Corizon Health for the cost of preparing copies of Plaintiff's medical records, which Plaintiff had requested on February 20, 2015 (Dkt. 10, pp. 30, 51). When he requested the copies, Plaintiff directed the DOC to bill his inmate trust account to pay for the copies (*Id.*, p. 51). Plaintiff filed grievances complaining that Corizon illegally seized his veterans benefits to pay for the medical records (*Id.*, pp. 44-50). The DOC Secretary's Office denied Plaintiff's grievance and stated that "[t]he withdrawal was done at your request." (*Id.*, p. 50).

Plaintiff filed his amended complaint alleging that Defendants violated 38 U.S.C. § 5301(a) by

---

[2]38 U.S.C. § 5301(a) provides in pertinent part:

> Payments of benefits due or to become due under any law administered by the Secretary shall not be assignable except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, shall be exempt from the claim of creditors, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary.

seizing money derived from his veterans disability benefits to pay liens for legal copies, legal postage, medical co-payments or medical records. As relief, he requested: 1) repayment of all seized funds that were derived from his veterans disability benefits; 2) nominal damages for emotional injury; and 3) an order "striking" Rule 33-203.201(2)(b), Florida Administrative Code, to the extent it exempts from seizure only veterans benefits that are mailed directly to the DOC Inmate Trust Fund.[3]

Defendants filed a motion to dismiss the amended complaint (*see* Dkt. 39). The motion was granted with regard to all claims except Plaintiff's claim against Defendant Jones, in her official capacity as the Secretary of the Florida Department of Corrections, for injunctive relief "striking" Rule 33-203.201(2)(b), F.A.C., as void under the Supremacy Clause (*see* Dkt. 45).[4] Defendant Jones now moves for summary judgment as to the remaining claim. (*see* Dkt. 50).

II. Legal Standards

"Summary judgment is appropriate when the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." *Jean-Baptiste v. Gutierrez*, 627 F.3d 816, 820 (11th Cir. 2010) (citing Fed. R. Civ. P. 56). At this stage of the proceedings, "the evidence and all reasonable inferences from that evidence are viewed in the light most favorable to the nonmovant, but those inferences are drawn

---

[3]Rule 33-203.201(2)(b) provides:

> In accordance with 38 U.S.C. 5301, Veterans Administration (VA) benefit checks are exempt from attachment, levy or seizure. The Department shall not place liens on the inmate's trust fund account for medical co-payments, legal copies, or other Department generated liens for VA benefits checks mailed directly to the Bureau of Finance and Accounting, Inmate Trust Fund Section, Centerville Station, P. O. Box 12100, Tallahassee, FL 32317-2100.

[4]In their motion to dismiss, Defendants failed to make any argument specific to Plaintiff's contention that Rule 33-203.201(2)(b) is void under the Supremacy Clause.

'only to the extent supportable by the record.'" *Id.* (quoting *Penley v. Eslinger*, 605 F.3d 843, 848 (11th Cir. 2010)). The burden of establishing that there is no genuine issue of material fact lies on the moving party, and it is a stringent one. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

Rule 56(c)(1) provides as follows:

> A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:
>
> (A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or
>
> (B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

The nonmoving party, so long as that party has had an ample opportunity to conduct discovery, must come forward with affirmative evidence to support its claim. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 257 (1986). "A mere 'scintilla' of evidence supporting the opposing party's position will not suffice; there must be enough of a showing that the jury could reasonably find for that party." *Walker v. Darby*, 911 F.2d 1573, 1577 (11th Cir. 1990). "An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated." Fed. R. Civ. P. 56(c)(4). If, after the movant makes its showing, the nonmoving party brings forth evidence in support of its position on an issue for which it bears the burden of proof at trial that "is merely colorable, or is not significantly probative, summary judgment may be granted." *Anderson*, 477 U.S. at 249-50 (citations omitted).

III. Analysis

A. Standing

Defendant argues that Plaintiff lacks standing to challenge Rule 33-203.201(2)(b), F.A.C. The

Court agrees.

Constitutional standing requires the plaintiff to "have (1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016) (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992)). The central purpose of this requirement is to ensure that the parties before the court have a concrete interest in the outcome of the proceedings such that they can be expected to frame the issues properly. *See Harris v. Evans*, 20 F.3d 1118, 1121 (11th Cir. 1994) (citing *Saladin v. City of Milledgeville*, 812 F.2d 687, 690 (11th Cir. 1987)). Standing is determined at the time the plaintiff files the complaint. *Arcia v. Fla. Sec'y of State*, 772 F.3d 1335, 1340 (11th Cir. 2014). If a district court determines that there is no standing and, thus, no subject matter jurisdiction, it cannot hear the merits of the case. *See Bochese v. Town of Ponce Inlet*, 405 F.3d 964, 974-75 (11th Cir. 2005) (citing *Univ. of S. Ala. v. Am. Tobacco Co.*, 168 F.3d 405, 410 (11th Cir. 1999)). Consequently, a plaintiff invoking federal jurisdiction bears the burden of clearly alleging facts demonstrating each element of standing. *Spokeo*, 136 S. Ct. at 1547 (citing *Warth v. Seldin*, 422 U.S. 490, 518 (1975)).

Additionally, a plaintiff seeking injunctive relief must show not only that he or she has suffered a past injury, but also "a sufficient likelihood that he [or she] will be affected by the allegedly unlawful conduct in the future." *Houston v. Marod Supermarkets, Inc.*, 733 F.3d 1323, 1328 (11th Cir. 2013) (quoting *Wooden v. Bd. Of Regents of Univ. Sys. of Ga.*, 247 F.3d 1262, 1284 (11th Cir. 2001)). "Because injunctions regulate future conduct, a party has standing to seek injunctive relief only if the party shows 'a real and immediate—as opposed to a merely conjectural or hypothetical—threat of future injury.'" *Id.* (quoting *Shotz v. Cates*, 256 F.3d 1077, 1081 (11th Cir. 2001)). Therefore, to have standing, Plaintiff most show past injury and a real immediate threat of future injury.

Viewing the evidence and the allegations in the amended complaint in the light most favorable to Plaintiff, the Court concludes that Plaintiff has not shown a sufficient likelihood that he will suffer injury from Rule 33-203.201(2)(b), F.A.C., in the future. Beginning in August 2012, and continuing to the present, Plaintiff's veterans benefits checks were directly deposited into his inmate trust fund (*see* Dkt. 50-1, docket pp. 3-5). Therefore, there is no real immediate threat of future injury to Plaintiff, since those funds are exempt from any liens on his trust account (*Id.*, docket pp. 2-3). Although at the time he filed his complaint Plaintiff had standing to sue defendants for damages associated with the funds that were taken from his inmate trust fund in the past, he lacked standing with respect to his request for injunctive relief regarding Rule 33-203.201(2)(b), F.A.C., since his veterans benefits checks were being directly deposited into his inmate trust fund.[5] *See Friends of Earth v. Laidlaw*, 528 U.S. 167, 185 (2000) (a plaintiff must separately demonstrate standing for each form of relief sought including claims for injunctive relief and a declaratory judgment) (citing *Los Angeles v. Lyons*, 461 U.S. 95, 109 (1983) (notwithstanding the fact that plaintiff had standing to pursue damages, he lacked standing to pursue injunctive relief)). Accordingly, Defendant Jones is entitled to summary judgment.

B. Merits

Because Plaintiff lacks standing with respect to his challenge to Rule 33-203.201(2)(b), F.A.C., this Court cannot address the merits of his claim that the Rule violates the Supremacy Clause. *See Strickland v. Alexander*, 772 F.3d 876, 883 (11th Cir. 2014) (explaining that a federal court lacks

---

[5]The amended complaint makes no allegation that Plaintiff intends to stop having the veterans funds deposited into his inmate trust fund. Moreover, to the extent Plaintiff alleges in his response that he "missed several [approximately 10] DVA checks" while he changed the mailing address to where the checks were required to be mailed at the Department of Corrections (Dkt. 55, pp. 3-4, 10, 13), these additional facts do not appear in the amended complaint. Plaintiff may not amend the amended complaint in his response. *GeorgiaCarry.Org, Inc v. Georgia*, 687 F.3d 1244, 1258 n.27 (11th Cir. 2012) ("a plaintiff may not amend the complaint through argument at the summary judgment phase of proceedings.") (citing *Gilmour v. Gates, McDonald & Co.*, 382 F.3d 1312, 1315 (11th Cir. 2004) (per curiam) ("A plaintiff may not amend [his or her] complaint through argument in a brief opposing summary judgment.")). And even if the Court were to consider these new facts, they do not establish standing, since they do not show a real threat of future injury.

subject-matter jurisdiction over a plaintiff's claim if the plaintiff lacks standing); *Bochese v. Town of Ponce Inlet*, 405 F.3d 964, 974 (11th Cir. 2005) (absent standing, a district court cannot reach the merits of a claim).[6]

It is therefore **ORDERED** and **ADJUDGED** that:

1. Defendant's Motion for Summary Judgment (Dkt. 50) is **GRANTED**.

2. The **Clerk** is directed to **ENTER JUDGMENT** in favor of Defendants, terminate any pending motions, and **CLOSE** this case.

DONE AND ORDERED in Tampa, Florida on March 20, 2018.

Charlene Edwards Honeywell

Charlene Edwards Honeywell
United States District Judge

Copies to: *Pro Se* Plaintiff
Counsel of Record

[6]Plaintiff continues to argue that Defendants improperly took $37.95 of his VA benefits to pay for medical records (Dkt. 55, pp. 17-19). Although at the time he filed his complaint Plaintiff had standing to assert that claim, the claim was previously dismissed against Defendants in their individual capacities based on qualified immunity (Dkt. 45, p. 8), and in their official capacities based on Eleventh Amendment Immunity (*Id.*, pp. 6-7).

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 18-11842-JJ

JOHN DAVID WILSON, JR.,

Plaintiff - Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,
ATTORNEY GENERAL, STATE OF FLORIDA,
WARDEN,
(Respondent Superior), Warden, ZCI,
T. VANANTWERP,
Law Librarian, Mail Room Supervisor,
CORIZON HEALTH CARE SERVICES,
Prisoners Health Care Provider, et al.,

Defendants - Appellees.

Appeal from the United States District Court
for the Middle District of Florida

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

BEFORE: BRANCH, GRANT, and BRASHER, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. (FRAP 35) The Petition for Rehearing En Banc is also treated as a Petition for Rehearing before the panel and is DENIED. (FRAP 35, IOP2)

ORD-42

EXHIBIT

B

RE HEARING

CORY IS INSIDE MY LEGAL STORAGE AND ACCESS IS BEING DENIED TO MY LEGAL STORAGE

EXHIBIT C

DISTRICT COURT OF APPEAL

DECISION 8:15-CV-01207-CEH-ASS

COPY IS INSIDE MY LEGAL STORAGE
AND ACCESS IS BEING DENIED TO
MY LEGAL STORAGE

EXHIBIT

D

APPOINTMENT OF COUNSEL

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 18-11842-JJ

JOHN DAVID WILSON, JR.,

Plaintiff - Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,
ATTORNEY GENERAL, STATE OF FLORIDA,
WARDEN,
(Respondent Superior), Warden, ZCI,
T. VANANTWERP,
Law Librarian, Mail Room Supervisor,
CORIZON HEALTH CARE SERVICES,
Prisoners Health Care Provider, et al.,

Defendants - Appellees.

Appeal from the United States District Court
for the Middle District of Florida

ORDER:

Appellant's motion for appointment of counsel having been granted by order dated September 7, 2018, the Court hereby appoints the following attorney as counsel for the appellant:

MARC SEITLES, ESQUIRE
SEITLES & LITWIN, P.A.
40 N.W. 3RD STREET
PENTHOUSE ONE
MIAMI, FL 33128

(305) 403-8070
mseitles@seitleslaw.com

UNITED STATES CIRCUIT JUDGE