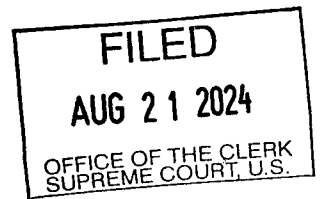


No. 24-5516



IN THE
SUPREME COURT OF THE UNITED STATES

Christopher Harry West — PETITIONER
(Your Name)

vs.

MARK EMIG, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Christopher Harry West
(Your Name)

1181 Paddock Road
(Address)

Smyrna, Delaware near 19977
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

Where a seriously mentally ill pretrial detainee is kept for months without a mattress in solitary confinement due to manifestation of untreated mental illness and addiction withdrawal, has the District Court abused its discretion in applying qualified immunity in violation of due process and the eighth Amendment along with the holding of *Ashcroft v. al-Kidd*, 563 U.S. 731 (2011)?

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:

Mark Emig, ("Emig")
Jeffrey Carrothers, ("Carrothers")

RELATED CASES

West v. Emig, 787 F. App'x 812, 814 (3d Cir. 2019)

West v. Emig, No. 22-3205, U.S. Court of Appeals for the Third Circuit.
Judgment entered December 5, 2023

West v. Emig, No. 22-3205, U.S. Court of Appeals for the Third Circuit.
Rehearing En banc denied April 4, 2024

TABLE OF AUTHORITIES CITED

CASES

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Ashcroft v. al-Kidd, 563 U.S. 731, 741 (2011)	5

STATUTES AND RULES

I declare under penalty of perjury that the foregoing is true and correct.
Executed on: August 21, 2021

OTHER West is a Private Citizen, American national. West's name and names of other actual people, places, and things appear with the first letter Capitalized, followed by lower case letters, as opposed to names in all CAPITAL letters denoting corporate entity. West is a citizen of Delaware first, then as a consequence a Citizen of the United States. - 
signature

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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 _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

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

- ☐ reported at (West had counsel who are unresponsive); or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

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

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

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

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

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was December 5, 2023.

☐ 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 4, 2024, and a copy of the order denying rehearing appears at Appendix _____. (Clerk has only copy)

☒ An extension of time to file the petition for a writ of certiorari was granted to and including September 1, 2024 (date) on August 7, 2024 (date) in Application No. 24 A 140.

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).

UNITED STATES OF AMERICA
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

AMENDMENT VI: In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and District wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

AMENDMENT VIII: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

STATEMENT OF THE CASE

In July of 2011, Petitioner Christopher Harry West, herein ("West"), was detained at Howard R. Young Correctional Center, ("HRYCC") in Wilmington, Delaware on a slew of charges including several bank robberies. Almost immediately West began to exhibit strange behavior, including swallowing non-edible objects. He gave varying reasons for that, but the reason later confirmed was to obtain pain medication. About a month prior to arrest, West was hospitalized in a psychiatric setting. He was diagnosed with major depression, PTSD and polysubstance abuse disorder. Upon discharge from the hospital he was awaiting bed space at the state hospital dual diagnosis methadone program. West's behavior was almost entirely due to untreated drug withdrawal. At one point, August 13, 2011 West swallowed a small amount of foam from a mattress. The hospital refused to perform any procedure as it was harmless. However, the deputy Warden Mark Emig removed West's mattress for a month. West was sent to the mental health unit in the prison, and after 2 weeks relapsed into swallowing a pencil but no foam. Again the mattress was taken, until January 3, 2012. The bench trial in district court got the facts mixed up or incorrect. The key evidence overlooked was the dates documenting the return of the mattress. For it to be taken, it first had to be removed from his cell. Then it had been returned. The phase two section in appendix C shows all details that were specifically laid out. About two months the second removal lasted. Again in 2013 at James T. Vaughn prison the mattress was removed.

REASONS FOR GRANTING THE PETITION

In the third circuit, the party raising the Qualified Immunity defense bears the burden of persuasion at the summary judgement phase. *Halsey v. Pfeiffer*, 750 F.3d 273, 288 (3d Cir. 2014). The District Court erred in denying West's claims based on Qualified Immunity on the principle of *Res Judicata* because a previous order by Judge Noreika denied defendants defense on those grounds during summary judgement. The denial was based upon the claim that no case law existed at that time to match West's claims. However, that analysis fails to account for the fact that any civilized person would find sleeping for a month or more without any mattress to be cruel and unusual. Defendants never claim that was "treatment." They do acknowledge West's diagnosed serious mental illness of Major Depression and PTSD. As this happened prior to, and interfered with West's access to counsel and discovery evidence, it amounts to both a sixth and eighth Amendment violation. The deprivation also occurred at JTVCC in 2013, yet the records fail to establish the length as the HRYCI records do. As a society we are increasingly aware of those experiencing issues with addiction and mental illness. We do not lock them in a bare room for months and make them at will. That happened to West. Assuming in *arguendo*, no case law exists for this, it is high time for the Court to address or revisit these issues. *Ashcroft v. al-Kidd*, 563 U.S. 731, 741 (2011).

The defendants do not claim West ever ingested foam beyond the one incident on August 13, 2011. The hospital released West immediately without any procedure performed, deeming the foam harmless. Thus, defendants never had a legitimate penological goal in depriving West a mattress. It was punishment and low grade torture. Also, West was able to be monitored by staff one-on-one, so any failure to prevent self-harm partially fell upon defendants, and their embarrassment was the real reason for the punishment.

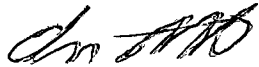
In fact, West's public defender Bradley Manning, ESQ. came to see him while under those strip cell conditions, and told him defendant Mark Emig contacted the Attorney General of Delaware, the Honorable Joseph R. Biden III, and persuaded him to enhance West's sentence to the maximum allowed under law, 25 years. Emig also told West he did so. Several attempts were made by counsel and the deputy attorney general, Ms. Kathryn Keller, ESQ. to shorten the plea proffer and they were overridden. The punishment of incarceration should be based upon the offense the defendant is charged with, not their conduct while in prison. Especially when it is directly related to mental illness and drug withdraw while in solitary confinement without any treatment. Thankfully, no longer are addicted prisoners forced to go "cold turkey" in prison. Medication tapers ease the transition to sobriety.

These facts are unpleasant and embarrassing for West. Several errors occurred in the behavior plan. Such as West was not a daily drinker by age 11. However the facts West's petition present are the truth. Justice speaks to the truth, however unpleasant. And the truth should always have its day in Court.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 8/21/2024