

QUESTION(S) PRESENTED

- I WHETHER THE SIXTH CIRCUIT COURT OF APPEALS ENTERED A DECISION IN CONFLICT WITH THE DECISION OF ITS COURT ON THE SAME IMPORTANT MATTER
- II WHETHER THE DISTRICT COURT DECISION CONFLICTS WITH THE SIXTH CIRCUIT COURT

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:

RELATED CASES

Johnson v Austin, 2023 U.S. Dist. LEXIS 212318
Eastern District

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Ciavarella v Streicher, 434 F.3d 461, 464 (6th Cir. 2006) ...	5
Estelle, 429 U.S. at 99	5
Johnson, 2023 U.S. Dist. LEXIS 212314	5
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STATUTES AND RULES

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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[] is unpublished.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 _____; 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[] is unpublished.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[] is unpublished.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[] is unpublished.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 Case No. 23-2080.

[] 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: October 21, 2024, and a copy of the order denying rehearing appears at Appendix A.

[] 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

The Eighth Amendment to the United States Constitution provides in relevant part: "Nor cruel and unusual punishment inflicted."

STATEMENT OF THE CASE

Petitioner asserts that the district court erred in holding that, under the objective prong, his back pain was not a serious medical need as a matter of law. Johnson asserted in his complaint and states that he was in extreme pain due to his chronic back condition and the defendants ignored his complaint causing him to fall and collapse from the top of the bunk causing him to further injure and pain and want unnecessary infliction of pain continuously. See also Johnson v. Austin, 2023 U.S. Dist LEXIS 212318 at ¶17 - ¶17

Petitioner requested a extension of his bottom bunk detail but was denied by Physician Assistant (PA) Austin, which denied Petitioner a reasonable requests for medical treatment in the face of an obvious need for such attention where Johnson is thereby exposed to undue suffering, or the threat of possible residual injury.

The District Court failed to assume the truth on Johnson and granted summary judgment in the defendants favor despite in the light most favorable to Johnson he has shown that there is a genuine issue of material fact on the objective prong and subjective prong of his deliberate indifference claim.

Johnson timely appealed to the 8th Circuit who affirmed the district court error and then denied Johnson Petition for rehearing and/or rehearing en banc.

REASONS FOR GRANTING THE PETITION

The District Court, and Sixth Circuit Court of Appeals decision conflicts with the United States Supreme Court and Sixth Circuit Court of Appeals holdings. Rule 10 (a), (c).

Pursuant to Federal Rules of Civil Procedure 56, the Court will grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. (a) 1. In determining whether a genuine issue of material fact exists, the court assumes the truth of the non-movant's evidence and construes all reasonable inferences from that evidence in the light most favorable to the non-movant party. See Ciminiello v. Stretcher, 434 F. 3d 461, 464 (6th Cir. 2006).

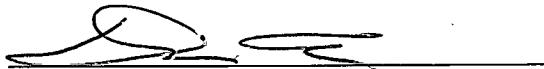
Johnson has provided evidence of medical records showing that he has a serious medical need or chronic back condition that caused him to fall and collapse which the defendants were aware of and failed to provide any treatment, care, and/or accommodations for such as bottom bunk detail. See Johnson v. Austin, 2023 U.S. Dist. LEXIS 212318 at ¶24 - ¶37, which is contrary to the Sixth Circuit decision in Murphy v. Greiner, 406 Fed. Appx. 972 (Murphy claims that the district court erred in holding that, under the objective prong, his back pain was not a serious medical need as a matter of law). Murphy alleges in his complaint complaints for failing five days under estoppel which also involved inadequate treatment of back injury. 429 U.S. at 99,

Murphy Presented sufficient evidence of an objective serious medical condition to survive summary judgment); West Lake v. Lucas, 539 F.3d 857 at [¶860] (we believe that a prisoner states a proper cause of action when he alleges that prison authorities have denied reasonable requests for medical treatment in the face of an obvious need for such attention where the inmate is thereby exposed for undue suffering or the threat of tangible residual injury), which the district court agreed and still denied Johnson's complaint and granting summary judgment for the defendants. See Johnson v. Austin, 2023 U.S. Dist. Lexis 212318 at [¶117] (while true that not all back pain qualifies as a serious medical need, the law is clear that sufficient evidence of "extreme pain due to [¶] back condition" or back injury" can constitute "objectively serious medical condition to survive summary judgment" even in Eighth Amendment claim. See e.g., Murphy v. Grueter, 466 F. App'x 972, 975 (6th Cir. 2011) ("Under Estelle v. Gamble, 429 U.S. 97, 97 S.Ct. 2851, L.Ed. 2d 21251 (1976)); Johnson supra at [¶27] (in his complaint, Johnson alleges that on October 24, 2021, Austin and Stricklin were deliberate indifferent to his 1) serious medical need or chronic back pain); Johnson supra at [¶10] (as an initial matter, the parties dispute whether Johnson's chronic [¶17] back condition constituted a "serious medical need"), which shows the decision was contrary and conflict with the Sixth Circuit decisions and holdings in Estelle, and also shows that the court did not assume the truth in the 11 sth on the evidence for Johnson.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Doe".

Date: 12/10/24