

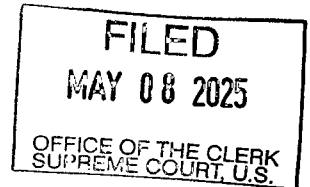
24-7233

No. \_\_\_\_\_

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES



JOSEPH A. DANIELS - PETITIONER  
(Your Name)

VS.

VINCENT GORE, M.D. - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON THE MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joseph A. Daniels

(Your Name)

Greensville Correctional Center  
901 corrections Way

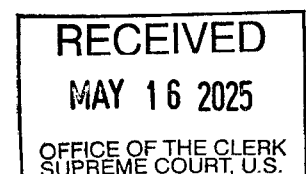
(Address)

Jarratt, Virginia 23870

(City, State, Zip Code)

N/A

(Phone Number)



## QUESTIONS PRESENTED

SHOULD THE APPEALS COURT HAVE ORDERED A PHYSICAL EXAMINATION ON PLAINTIFF TO SUBSTANTIATE HIS CLAIM OF HAVING PROSTATE CANCER, WHICH FACT BECAME EVIDENT BY DEFENDANT, VINCENT GORE, M.D., THROUGH DISCOVERY EVIDENCE PRESENTED BY HIM TO THE COURT?

DID ATTORNEY, ERIKA W. KOPP, ENTER AN APPEARANCE WITH THE COURT TO ACT ON DEFENDANT, VINCENT GORE'S BEHALF, PURSUANT TO THE FEDERAL RULES OF CIVIL PROCEDURE, RULE 11(a), PRIOR TO FILING WITH THE COURT AND FORWARDING PLAINTIFF DOCUMENTS DATED, DECEMBER 18, 2023, WHICH DOCUMENTS WERE "VINCENT GORE, M.D.S MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT", A "ROSEBORO NOTICE" AND "VINCENT GORE, M.D.S MOTION FOR SUMMARY JUDGMENT"?

SHOULD THE COURT HAVE HELD AN EVIDENTIARY HEARING TO REVIEW THE MEDICAL DISK IN PLAINTIFF'S MEDICAL RECORD FROM JOHN RANDOPH HOSPITAL, WHERE HE WAS EVALUATED, WHICH DISK'S RESULTS WOULD HAVE CONFIRMED OR DENIED PLAINTIFF'S CLAIM OF SUBSEQUENT MEDICAL HEALTH ISSUES RESULTING FROM CONTRACTING THE CORONAVIRUS?

## LIST OF PARTIES

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- ☒ 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 subject of this petition is as follows:

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### OTHER

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

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

[X] reported at 2024 U.S. Dist. LEXIS 107521; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

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☐ is unpublished.

## JURISDICTION

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☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was  
April 11, 2025.

N/A ☐ No petition for rehearing was timely filed in my case.

N/A ☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

N/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**: N/A

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

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Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. USCS Const. Amend. 8.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. USCS Const. Amend. 14.



## STATEMENT OF THE CASE

### (Background)

Plaintiff, a state inmate proceeding pro se, commenced this action by filing a complaint on December, 12, 2022, asserting claims of deliberate indifference pursuant to 42 U.S.C. § 1983,

1. The allegation in this complaint arise out of objectively substandard care Daniels received while incarcerated at Greenville Correctional Center ("GCC").

2. At all times relevant to this law suit, Daniels was an inmate at GCC since August 25, 2010.

3. At all time relevant to this law suit, Defendant Vincent Gore, M.D. ("Dr. Gore") and Defendant Michael Gaither, M.D.<sup>1</sup> ("Dr. Gaither") were employed by GCC to provide appropriate and adequate care to those incarcerated at GCC, including Daniels. Dr. Gore's and Dr. Gaither's acts/omissions as discribed herein were done in the scope and course of their employment with GCC.

4.) On September 6, 2022, Daniels was called for a medical appointment held within the gymnasium of GCC.

5.) Upon arriving Daniels met with Dr. Gore to discuss complications regarding Daniels's health.

6.) Daniels explained to Dr. Gore that he had been seeking medical attention from Dr. Gaither and other medical staff since August of 2020 for complications resulting from contracting the Coronavirus, including shortness of breath and loss of smell and taste.

7.) Dr. Gore, though aware of Daniels's serious medical need as early as August 11, 2020, chose not to take any action until over a year later on September 20, 2021 when authorizing an x-ray on Daniels, which results revealed infections within Daniels's lungs, spleen, liver and kidneys and a partial collapsed lung.

8.) Daniels also informed Dr. Gore that he had not fully regained his senses of smell and taste since his intitial loss of these functions.

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<sup>1</sup> Michael Gaither has since been removed from this action.

9.) Dr. Gore, rather than properly assess Daniels's condition and provide any meaningful medical treatment, instead, told Daniels that there was no cure for smell and taste.

10.) Dr. Gaither, who previously was made aware of Daniels's long-Covid status, met with Daniels on a March 10, 2022 appointment to discuss medical concerns of Daniels, where Daniels once again was seeking attention for his loss of smell and taste, but told also by Dr. Gaither that there was no cure for loss of smell and taste.

11.) Daniels, on his September 6, 2022 visit with Dr. Gore, had the doctor to assess the protrusions that had developed within Daniels's neck which was causing him persistent pain. Daniels also told the intake nurse of the pain he was experiencing, on the above date, prior to seeing Dr. Gore. Dr. Gore's assessment of Daniels's neck was that he had swollen lymphnodes, though Daniels on, March 23, 2022, was previously diagnosed as having severe degenerative disk disease by Dr. Gore.

12.) Dr. Gore prescribed Daniels no further medical assistance or treatment regarding the condition of Daniels's neck, though Daniels complained of persistent pain.

13.) Daniels went on to explain to Dr. Gore that there was a disk within his medical file revealing Daniels's health complications, but was told by Dr. Gore that GCC does not have the technology to review the disk's findings. *Daniels submitted a complaint of negligence on October 17, 2022.*

14.) Dr. Gaither also told Daniels that GCC did not have any means by which to review the disk's findings when meeting with Daniels on the March 10, 2022 visit where Daniels was inquiring of the disk's results.

15.) Because of the extreme and objectively unreasonable delay in treatment on both, Dr. Gore's and Dr. Gaither's part in treating Daniels's serious medical condition, Daniels now suffers from complications with body organs, including, but not limited to, infections of his lungs, spleen, liver and kidneys, in addition to whatever the medical disk reveals once reviewed which may prove irreparable.

16. As a result of both Dr. Gore's and Dr. Gaither's deliberate indifference and wanton attitude towards Daniels's serious medical need, and in failing to adequately provide medical assistance violated Daniels's Eighth Amendment Constitutional right to be free of cruel and unusual punishment.

COUNT 1

42 U.S.C. § 1983-Deliberate Indifference  
Dr. Gore and Dr. Gaither

17. Daniels realleges the foregoing paragraphs of this Complaint as if fully alleged herein.

18. At all times referenced herein, Dr. Gore and Dr. Gaither were acting under color of state law and were required to provide Daniels with constitutionally adequate medical care for his objectively serious medical needs within the meaning of controlling decisional law.

19. Daniels, as a convicted inmate at GCC, had a constitutional right to receive the medical care necessary to address his serious medical needs under the Eighth Amendment.

20. Daniels's medical condition was at all times objectively serious while he was under the care of Dr. Gore and Dr. Gaither. In particular, Daniels is a patient with serious and prolonged complications as a result of contracting the coronavirus in August of 2020.

21. Dr. Gore and Dr. Gaither knew that symptoms from the disease does not go away after several hours.

22. Dr. Gore and Dr. Gaither knew that they did not have the necessary diagnostic equipment at Gcc to properly assess Daniels's complications from contracting COVID-19.

23. Dr. Gore and Dr. Gaither knew that they did not have the modalities available at GCC to properly treat the symptoms of the coronavirus.

24. Dr. Gore and Dr. Gaither knew that failure to treat Daniels's symptoms of the coronavirus was likely to cause permanent damage to Daniels's vital organs or even death.

25. Dr. Gore and Dr. Gaither knew that, left untreated, Daniels's symptoms posed an excessive risk of further unnecessary infliction of suffering.

26. Despite this knowledge, and particularly in the face of Daniels's documented and reported symptoms, Dr. Gore and Dr. Gaither disregarded the excessive risk to Daniels's health by failing to assess or evaluate his condition and by failing to provide anything beyond *de minimis* care for Daniels for many days despite the urgency of his condition.

27. Dr. Gore's and Dr. Gaither's refusal to call or to consult with any specialist, refusals to send Daniels offsite, early on, for any evaluation or treatment, and refusals to send Daniels to the hospital occurred with subjective awareness of and deliberate indifference towards Daniels's objectively serious medical needs and agony.

28. As a direct and proximate result of Dr. Gore and Dr. Gaither's refusal to offer Daniels timely, adequate, and compassionate medical care and their punitive and deliberate indifference to Daniels's serious medical need, Daniels has developed additional health complications affecting other vital organs, causing pain and anguish.

29. Further, Daniels respectfully ask that this court award him expenses that he reasonably incurs in this litigation, including reasonable attorney fees and expert fees, pursuant to 42 U.S.C. § 1983 (b) and (c).

COUNT II

Negligence/Gross Negligence  
All Defendants

30. Daniels realleges the foregoing paragraphs of this Complaint as if fully alleged herein.

31. At all times relevant to this action, Dr. Gore and Dr. Gaither were medical providers, as defined by Va. Code § 8.01-581.1, providing Daniels with health care services.

32. At all times and relevant to this action, Dr. Gore and Dr. Gaither, while acting in the course and scope of their employment and/or agency with Authority, owed Daniels a duty to exercise that degree of care, skill, and diligence ordinarily exercised by health care providers in the Commonwealth of Virginia in application of their skills in their profession.

33. Dr. Gore and Dr. Gaither breached their duties of care owed Daniels and, through their individual acts and omissions, committed medical negligence upon Daniels in the following ways:

- a. Failing to evaluate Daniels's condition;
- b. Failing to provide timely or adequate treatment for Daniels's condition;
- c. Failing to exercise reasonable care in promptly identifying and treating Daniels's emergency medical condition;
- d. Denying Daniels access to medical care for his condition;
- e. Failed to review results of CT Scan disk highlighting Daniels's deteriorating health condition;
- f. Unreasonably delay in sending Daniels offsite for emergency and/or specialty evaluation and treatment; and

- g. Other negligents or omissions to be developed in the course of discovery.

34. Each of the above identified breaches of Dr. Gore's and Dr. Gaither's common law duties of care represent independent failures to exercise any care or scant prudence to provide Daniels with adequate medical care for his emergency medical condition.

35. In addition to the above-stated theory of direct liability, each of the individually named defendants' breaches of their common law duties of care were negligent and grossly negligent acts and/or omissions committed by the Authority employees acting within the course and scope of their employment-thereby rendering the Authority liable for those tortious acts and omissions under the doctrine of **respondeat superior**.

#### DAMAGES

36. As a direct and proximate result of Defendants' unconstitutional and tortious conduct as set forth above, Daniels suffered the following physical and emotional injuries and damages; bodily injury, past, present, and that which he may reasonably be expected to suffer in the future; physical pain and mental anguish, past, present, and that which he may reasonably be expected to suffer in the future; inconvenience, past, present, and that he may reasonably be expected to suffer in the future; and disfigurement, deformity, and any associated humiliation or embarrassment; and Daniels has otherwise been damaged.

Accordingly, Daniels demands judgment against Dr. Gore and Dr. Gaither, individually, as well as jointly and severally, in the sum of TWO MILLION AND FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) in compensatory damages and ONE MILLION DOLLARS (\$1,000,000) in punitive damages, plus prejudgment and post-judgment interest, cost, and attorney's fees expended in this action.

#### PLAINTIFF DEMANDS A TRIAL BY JURY

The District Court denied Plaintiff's action on June 17, 2024, and the Fourt Circuit Court of Appeals denied on April 11, 2025.

## REASONS FOR GRANTING THE PETITION

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Certiorari should be granted because the Fourth Circuit Court of Appeals denied Plaintiff his Fourteenth Amendment right to due process when an evidentiary hearing was not held when Plaintiff alleged cruel and unusual punishment claims of deliberate indifference and the intentional denial of adequate medical care, which claims, if proven, would entitle Plaintiff to relief.

Title 42 U.S.C. § 1983 provides:

"Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the Jurisdiction thereof to the deprivation of any rights, privileges, or immunities, secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proceeding for redress."

Under, Questions Presented, Plaintiff asked this Court:

SHOULD THE APPEAL COURT HAVE ORDERED A PHYSICAL EXAMINATION ON PLAINTIFF TO SUBSTANTIATE HIS CLAIM OF HAVING PROSTATE CANCER, WHICH FACT BECAME EVIDENT BY DEFENDANT, VINCENT GORE, M.D., THROUGH DISCOVERY EVIDENCE PRESENTED BY HIM TO THE COURT? See, Daniels v. Gore, 2024 U.S. Dist. LEXIS 107521; "On September 6, 2022, Dr. Gore saw Daniels in the Chronic Care Clinic, where patients with chronic illnesses are seen for routine follow-ups. (Id. ¶ 32) The medical record shows that Daniels' chronic diseases were listed as having prostate cancer in 2021, hypertension, and COVID-19 in 2020 resulting in loss of taste and smell. (Daniels' Med. R. at 11.)" Plaintiff not treated in 2021 for prostate cancer, nor at any future point in time, to date.

Under the law, the Court should grant Plaintiff's petition for certiorari to resolve this issue.

Certiorari should be granted to resolve this issue.

The question was also asked this Court:

DID ATTORNEY, ERIKA W. KOPP, ENTER AN APPEARANCE WITH THE COURT TO ACT ON DEFENDANT, VINCENT GORE'S BEHALF, PURSUANT TO THE FEDERAL RULES OF CIVIL PROCEDURE, RULE 11(a), PRIOR TO FILING WITH THE COURT AND FORWARDING PLAINTIFF DOCUMENTS DATED, DECEMBER 18, 2023, WHICH DOCUMENTS WERE "VINCENT GORE, M.D.S MEMORANDUM IN SUPPORT OF MOTION SUMMARY JUDGMENT", A "ROSEBORO NOTICE" AND "VINCENT GORE, M.D.S MOTION FOR SUMMARY JUDGMENT"?

Within this action, counsel of record for the defendant is, Grace Morse-McNelis, of Frith Anderson & Peake, Glen Allen, VA, but on December 18, 2023, Attorney, Erika W. Kopp, filed with the District Court, Document ##42-44, which were the Defendant's memorandum in support of motion for summary judgment, ROSEBORO NOTICE and Vincent Gore's Motion for Summary Judgment. See, Exhibit 1, Cover Sheet.

At Document #47, filed 01/18/24, by Lead Attorney, Grace Morse-McNelis, at page 6 footnote, stated that Erika Kopp, Esq., "never appeared in this case and is not counsel for Dr. Gore." If this is correct, then Rule 11(a), of the Federal Rules of Civil Procedure has been violated, and the contents of the December 18, 2023 submissions to the Court should not have been taken into consideration and denied.

In Wolfson Freight LLC v. Paccar Inc., 2024 Dist. LEXIS 136858, the District Court there stated: "As an initial matter, the Court notes that Wolfson's Motion has been filed by an attorney of record, in violation of Federal Rule of Civil Procedure 11(a)... . That failure is itself sufficient reason to deny the Motion."

Certiorari should be granted in order to resolve this issue.



Further reason for granting the petition is to have the question resolved:

SHOULD THE COURT HAVE HELD AN EVIDENTIARY HEARING TO REVIEW THE DISK IN PLAINTIFF'S MEDICAL RECORD FROM JOHN RANDOLPH HOSPITAL, WHERE HE WAS EVALUATED, WHICH DISK'S RESULTS WOULD HAVE CONFIRMED OR DENIED PLAINTIFF'S CLAIM OF SUBSEQUENT MEDICAL HEALTH ISSUES RESULTING FROM CONTRACTING THE CORONAVIRUS?

Regarding the disk, Vincent Gore, M.D., stated that Greenville Correctional Center does not have the means to review the disk. See, Daniels v. Gore, 2024 U.S. Dist. LEXIS 107521, at footnote #9.

References to "deliberate indifference" and "intentional" denial of adequate medical care is a criterion for determining whether cruel and unusual punishment had been inflicted. Estelle v. Gamble, 429 U.S. 97 (1976).

The indifference is allegedly manifested, not merely by the failure or refusal to diagnose and treat his injury properly, but also by the conduct of the prison staff. Id. at 429 U.S. 97, 109.

Certiorari should be granted to resolve this issue.

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**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully Submitted,

Joseph A. Daniels

Date: May 5, 2025