

17-8151 BUCKLEW V. PRECYTHE

DECISION BELOW: 883 F.3d 1087

LOWER COURT CASE NUMBER: 17-3052

QUESTION PRESENTED:

Should a court evaluating an as-applied challenge to a state's method of execution based on an inmate's rare and severe medical condition assume that medical personnel are competent to manage his condition and that the procedure will go as intended?

Must evidence comparing a state's proposed method of execution with an alternative proposed by an inmate be offered via a single witness, or should a court at summary judgment look to the record as a whole to determine whether a factfinder could conclude that the two methods significantly differ in the risks they pose to the inmate?

Does the Eighth Amendment require an inmate to prove an adequate alternative method of execution when raising an as-applied challenge to the state's proposed method of execution based on his rare and severe medical condition?

IN ADDITION TO THE QUESTIONS PRESENTED IN THE PETITION, THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTION: WHETHER PETITIONER MET HIS BURDEN UNDER *GLOSSIP v. GROSS*, 576 U.S. ____ (2015), TO PROVE WHAT PROCEDURES WOULD BE USED TO ADMINISTER HIS PROPOSED ALTERNATIVE METHOD OF EXECUTION, THE SEVERITY AND DURATION OF PAIN LIKELY TO BE PRODUCED, AND HOW THEY COMPARE TO THE STATE'S METHOD OF EXECUTION.

CHERYL A. PILATE, ESQ., OF KANSAS CITY, MISSOURI, IS APPOINTED TO SERVE AS COUNSEL FOR THE PETITIONER IN THIS CASE.

CERT. GRANTED 4/30/2018