No. _____

In the Supreme Court of the United States

RONNIE ALEXANDER,

Petitioner,

v.

PHILIP R. TAFT PSY D AND ASSOCIATES, PLLC., ET AL.,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

APPENDIX

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APPENDIX

TABLE OF CONTENTS

Appendix A
[Filed: Jul. 10, 2025]

United States Court of Appeals
for the Fifth Circuit

No. 24-10663

RONNIE ALEXANDER,

Plaintiff—Appellant,

versus

PHILIP R. TAFT PSY D AND ASSOCIATES, P.L.L.C.; HENDERSON COUNTY TEXAS; NATHANIEL PATTERSON; TAYLOR CALDWELL; MORGAN FAIN; NOAH KREIE; WILLIAM TRUSSEL; DORA MARTINEZ; MELISSA HARMON; PHILIP TAFT,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:22-CV-395

Before DENNIS, OLDHAM, and DOUGLAS, *Circuit Judges*.

DANA M. DOUGLAS, *Circuit Judge*:

Ronnie Alexander was arrested and detained in Henderson County Jail while he awaited trial. Hoping to transfer out of the group holding cell, he falsely informed Jail officials that he was suicidal. The Jail subsequently transferred him to its suicide-prevention cell, known as the "violent cell."

The violent cell has no toilet, running water, or bedding, and the lights run at all hours. Alexander was

housed there for five days, after which he was released from the Jail. He subsequently filed this lawsuit, bringing federal-and state-law claims challenging the conditions of his confinement in the violent cell and the adequacy of the Jail's mental health services. The district court granted the defendants' motions to dismiss. We AFFIRM.

I

A

On March 8, 2021, Ronnie Alexander was booked at the Jail.[1] The next day, he underwent a medical intake screening, during which he reported that he was not suicidal. He showed no signs of intoxication or withdrawal; nevertheless, he was placed on alcohol withdrawal protocol under which he received "a suite of prescriptions." At all relevant times, Southern Health Partners provided non-mental health care at the Jail, while Philip R. Taft, Psy.D & Associates, P.L.L.C., provided mental health care. One of Taft's employees, Jessica Phlips, was assigned to visit inmates.

Shortly after Alexander's booking, Phlips visited him and observed no mental health issues, but noted that he disclosed suffering from post-traumatic stress disorder ("PTSD") and depression. After a follow-up meeting, she identified no concerns regarding his mental status. Soon thereafter, the Jail designated Alexander a maximum-security detainee and placed him in group detention "with some of the most violent and dangerous men being held at the Jail." Alexander

[1] The record does not identify the crime for which he was booked.

alleges that the other inmates consistently threatened him, causing him to fear for his safety and his blood pressure to rise.

Worried by the circumstances, Alexander requested transfer to another cell several times. The guards refused. Eventually, he falsely informed a correctional officer that he was suicidal, "believing that would force the [J]ail to move him out of the group detention cell for medical or mental health evaluation." He was correct. On March 10, officers transferred him to the violent cell. Along the way, they harassed Alexander, calling him a "b****" and telling him that he "really f***** up now, b****."

Alexander paints a grim picture of the violent cell. It has "no bed, sink, toilet, shower, or running water of any kind." The only place for an inmate to urinate or defecate is through a small, grated drain in the middle of the floor. He received no toilet paper, so he used a paper cup to force fecal matter through the drain. And he had no access to running water or utensils, forcing him to eat "with hands that were perpetually contaminated with fecal bacteria." During his five days in the violent cell, "he was never once allowed to leave his cell to use a proper toilet, shower, or wash his hands."[2]

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[2] While Alexander alleges that "[t]he floor had not been cleaned and was covered in dried urine and fecal matter," he incorporated a color image of his cell, which is an off-white color. From review of this image, the cell appears clean—and certainly devoid of fecal matter—discounting any allegation that the cell was covered in waste. We need not accept allegations clearly disproven by photographic evidence incorporated in the complaint. *See Kokesh v. Curlee*, 14 F.4th 382, 385 n.2 (5th Cir. 2021).

He also had no clothing or sheets, and was provided only a "suicide blanket" to cover himself. In lieu of a bed, the violent cell has a concrete slab built into the wall. The lights ran at all hours, "inhibit[ing]" his ability to sleep. He was provided three eight-ounce cups of water per day—one with each meal. And during his time in the violent cell, he received no exercise or recreation time.

To mitigate these deficiencies, Alexander requested water, toilet paper, and an opportunity to shower or wash his hands. The officers almost uniformly rejected the requests, taking "no affirmative steps whatsoever, beyond cursory visual checks, to ensure that [his] physical and mental health were not suffering from the conditions he was subjected to in the violent cell."[3] Instead, the guards often taunted Alexander. One "loudly discussed taking [him] out to a field and unleashing [a police] dog on him." Another threatened to kill him with a "barbed wire guillotine." Yet another stated: "Ronnie Alexander, you are not leaving this facility alive."

On March 12, two days after Alexander's transfer to the violent cell, Phlips visited. Prior to their meeting, she did not review his medical file or other records and did not have access to the officers' suicide screener. She quickly determined that Alexander was "'too confused' to answer her initial questions" and departed, doing "nothing to alleviate the conditions that were causing [his] psychological deterioration" and "fail[ing]

[3] Over the course of his five days in the violent cell, Alexander received "only about three small beverages in total" beyond those he received with his meals.

to report her observations to any medical or mental health professionals." She did not visit again.

Alexander remained in the violent cell until March 15, at which time he was released to the custody of Dallas County.

B

On February 17, 2022, almost one year after his release, Alexander filed this lawsuit against various individuals and entities, alleging violations of 42 U.S.C. § 1983, alongside various state-law claims. He amended his complaint several times, ultimately filing his Third Amended Complaint, in which he alleged claims against Southern Health Partners, Inc.; Philip Taft in his individual capacity and Philip R. Taft, Psy.D & Associates P.L.L.C. ("the Taft defendants"); Henderson County, Texas; and Henderson County Correctional Officers Nathaniel Patterson, Taylor Caldwell, Morgan Fain, Noah Kreie, William Trussell, Dora Martinez, and Melissa Harmon ("the officers").

The defendants individually filed motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). The district court granted the defendants' motions over Alexander's opposition, finding that he failed to state a claim under § 1983 against the Taft defendants, Henderson County, and the officers. It declined to exercise supplemental jurisdiction over Alexander's remaining state-law claims against the Taft defendants and Southern Health Partners and dismissed them without prejudice. Alexander timely appealed the dismissal of his federal claims.

II

"We review a district court's dismissal of claims under Federal Rule of Civil Procedure 12(b)(6) de novo." *Clyce v. Butler*, 876 F.3d 145, 148 (5th Cir. 2017). We "interpret[] the complaint in the light most favorable to the plaintiff," *United States ex rel. Steury v. Cardinal Health, Inc.*, 735 F.3d 202, 204 (5th Cir. 2013) (quoting *United States ex rel. Steury v. Cardinal Health, Inc.*, 625 F.3d 262, 266 (5th Cir. 2010)), accepting all well-pleaded facts as true, *see Cicalese v. Univ. of Tex. Med. Branch*, 924 F.3d 762, 765 (5th Cir. 2019). However, those facts must state "a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

While complaints do "not need detailed factual allegations," speculative or conclusory statements of fact are insufficient. *Cicalese*, 924 F.3d at 765 (quoting *Twombly*, 550 U.S. at 555); *Iqbal*, 556 U.S. at 678. And we "are not bound to accept as true a legal conclusion couched as a factual allegation." *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555).

III

The Fourteenth Amendment's Due Process Clause provides pretrial detainees protections extending beyond those granted to sentenced defendants. *See Bell v. Wolfish*, 441 U.S. 520, 535 n.16 (1979). While "[a] sentenced inmate . . . may be punished" within the strictures of the Eighth Amendment, "[d]ue process requires that a pretrial detainee not be punished." *Id.*;

see also Kingsley v. Hendrickson, 576 U.S. 389, 400–01 (2015) ("[M]ost importantly, pretrial detainees (unlike convicted prisoners) cannot be punished at all, much less 'maliciously and sadistically.'" (citations omitted)); *Graham v. Connor*, 490 U.S. 386, 395 n.10 (1989) (protecting pretrial detainees "from the use of excessive force that amounts to punishment"). Such protection is fundamental to our criminal justice system. "A person lawfully committed to pretrial detention has not been adjudged guilty of any crime." *Bell*, 441 U.S. at 536. Since the detainee has "had only a 'judicial determination of probable cause as a prerequisite to [the] extended restraint of [his] liberty following arrest,'" the Government may only use such conditions necessary "to ensure his presence at trial." *Id.* (alterations in original) (quoting *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975)).

Due process compels us to ask whether the "restrictions and conditions of the detention facility . . . amount to punishment, or otherwise violate the Constitution." *Id.* at 536–37. "Not every disability imposed during pretrial detention amounts to 'punishment' in the constitutional sense . . . ." *Id.* at 537. Therefore, traditional "confinement in a facility which . . . results in restricting the movement of a detainee" is permissible. *Id.* Often, these restrictions arise from the Government's "legitimate interests that stem from its need to manage the facility in which the individual is detained." *Id.* at 540. This means that some "administrative measures that go beyond those that are, strictly speaking, necessary to ensure that the detainee shows up at trial" may be warranted. *Id.* Such is the case "even if they are discomforting and are restrictions that the detainee would not have

experienced had he been released while awaiting trial." *Id.*

Pretrial detainees may bring claims of such violations "either by demonstrating an unconstitutional condition of confinement or by demonstrating an unconstitutional episodic act or omission." *Cadena v. El Paso County*, 946 F.3d 717, 727 (5th Cir. 2020). "For a conditions of confinement claim, 'the proper inquiry is whether those conditions amount to punishment of the detainee.'" *Id.* (quoting *Bell*, 441 U.S. at 535). These conditions "may take the form of 'a rule,' a 'restriction,' 'an identifiable intended condition or practice,' or 'acts or omissions' by a jail official that are 'sufficiently extended or pervasive.'" *Id.* (quoting *Est. of Henson v. Wichita County*, 795 F.3d 456, 468 (5th Cir. 2015)).[4]

To determine whether conditions are constitutionally permissible, we ask whether the restrictions and practices "are rationally related to a legitimate nonpunitive governmental purpose and whether they appear excessive in relation to that purpose." *Bell*, 441

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[4] Alexander alleges that the violent cell's "conditions had no justifiable purpose and were therefore unlawful punishment," and that he "was harmed by intentional acts or omissions, such as the denial of water and toilet paper." The district court acknowledged this duality, but found that Alexander's "harms . . . stem from the barren conditions within the violent cell" and were "best classified as harms relating from his conditions of confinement." It therefore "proceed[ed] analyzing his Section 1983 claims under the Fifth Circuit's conditions-of-confinement framework" in light of the clarity provided by the most recent amended complaint. On appeal, Alexander discusses, but does not challenge, this classification. We agree that his claims challenge the conditions of his confinement, and consider them as such.

U.S. at 561. If there is a related governmental objective, the conditions, "without more, [do not] amount to 'punishment.' Conversely, if a restriction or condition is not reasonably related to a legitimate purpose—if it is arbitrary or purposeless—a court may infer that the purpose of the governmental action is punishment that may not constitutionally be inflicted upon detainees *qua* detainees." *Id.* at 539 (footnote omitted). Therefore, Alexander must demonstrate, *inter alia*, that the restrictions are not reasonably related to a legitimate governmental objective. *See Cadena*, 946 F.3d at 727 (quoting *Duvall v. Dallas County*, 631 F.3d 203, 207 (5th Cir. 2011)). Because Alexander cannot make this showing, as described below, we affirm.

IV

On appeal, Alexander raises the following issues: whether (1) his confinement was an unlawful punishment of a pretrial detainee; (2) the Taft defendants and the County completely deprived him of qualified mental health care, creating an unlawful condition of confinement; (3) Taft is liable in his individual capacity for Alexander's injuries; and (4) he plausibly alleged that the County maintained a custom or practice of punishing inmates through the violent cell. Because we conclude that the violent cell's conditions are reasonably related to a legitimate government interest and are thus not punitive, we do not reach the fourth issue.

A

We begin with Alexander's claims that Henderson County and the officers unconstitutionally punished him through the conditions of his confinement.

Alexander complains that he was subjected to a "barbaric combination of conditions," which he asserts were unjustifiable and therefore punitive. We accept his well-pleaded allegations that he was deprived of a toilet, toilet paper, running water, recreation, bedding, clothing, additional drinking water, or particularly sanitary or clean conditions, and that he was subjected to a 24/7-lights-on policy. We also accept as fact that officers threatened him as alleged.

"Absent a showing of an expressed intent to punish on the part of detention facility officials," we ask whether the "particular condition or restriction . . . is reasonably related to a legitimate nonpunitive governmental objective." *Bell*, 441 U.S. at 538–39. We first consider whether there was an expressed intent to punish, and then ask whether the conditions were reasonably related to a legitimate nonpunitive governmental objective.

1

Alexander argues that the district court failed to credit his well-pleaded allegations that prison officials were aware that he was not actually suicidal. As Alexander frames it, he informed the guards that he was suicidal to escape group housing. But when they moved him to solitary confinement, they did so not to protect him, but to punish him.[5]

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[5] The district court did not consider these allegations. The dissent says that this "should end the analysis." *Post*, at 27. But a district court need only consider well-pleaded allegations of fact, not speculation about others' states of mind. *Cicalese*, 924 F.3d at 765 (noting that we need not accept speculative allegations); *Iqbal*, 556 U.S. at 678 (requiring factual content that leads to "reasonable inferences"). Nor does the failure to consider a

As an initial matter, Alexander was not transferred until he informed correctional officers that he was suicidal. That alone implies that the officers took his statement at face value, even if they did not subjectively believe him. But Alexander points to the vulgar comments the officers made during his transfer, including that he "really f***** up now, b****." This, he claims, gives rise to the inference that "the guards did not care about [his] fear of his cellmates or spiking blood pressure and wanted to punish him for complaining." He asserts that "[i]t can be further inferred that they also knew [he] could expect to suffer while he was in the violent cell." Inappropriate as the officials' statements may be, they do not evince punitive intent, even if they followed several denied requests for relocation. The same is true of any threats directed at Alexander while he was in the violent cell. [6]

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handful of allegations always warrant reversal. Such is especially so here, considering that Alexander's framing requires an inferential leap—from the officers' alleged subjective disbelief to an expressed intent to punish—that we need not accept. Nevertheless, as described below, the allegation does not save his complaint. *See also Gilbert v. Donahoe*, 751 F.3d 303, 311 (5th Cir. 2014) (explaining that we may affirm on any ground supported by the record).

[6] The threats included unleashing a police dog on Alexander and threatening to kill him with a barbed wire guillotine. Officers also stated that Alexander would not "leav[e] this facility alive." We do not endorse such comments. But "[m]ere allegations of verbal abuse do not present actionable claims under § 1983. 'As a rule, "mere threatening language and gestures of a custodial officer do not, even if true, amount to a constitutional violation."'" *Bender v. Brumley*, 1 F.3d 271, 274 n.4 (5th Cir. 1993) (alteration omitted) (quoting *McFadden v. Lucas*, 713 F.2d 143, 146 (5th Cir. 1983)). Therefore, to the extent that Alexander

Alexander alleges no facts of the officers' explicit intent to punish him, or that they outwardly disbelieved him, or that other suicidal inmates received different treatment.[7]

Moreover, it matters not whether the officers believed he was suicidal. County jails have a constitutional duty to ensure the safety of potentially suicidal detainees. *Rhyne v. Henderson County*, 973 F.2d 386, 391 (5th Cir. 1992) ("The failure to provide pre-trial detainees with adequate protection from their known suicidal impulses is actionable under § 1983 as a violation of the detainee's constitutional rights."). Allowing this allegation to bootstrap Alexander's complaint past a motion to dismiss would create a minefield we decline to enter. Consider the dangers of requiring officers to second-guess every inmate's report of suicidal ideation. If they believe and transfer a dishonest detainee, as here, they would be liable for conditions

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suggests that these comments created a condition of confinement that violated the Constitution, we disagree.

[7] The dissent argues that we "invert[] Rule 12(b)(6)" by "assum[ing] facts in favor of the moving party." *Post*, at 26 n.1. Not so. The facts alleged, taken as true, do not give rise to the reasonable inference that the officers intended to punish Alexander. Beyond these insufficient factual allegations, he may claim that the officers desired to punish him, but any allegation to that effect is speculation that we need not accept. *See Cicalese*, 924 F.3d at 765. And, as described later, we do not depend on whether officers believe an individual's report of suicidal ideation.

Nor do we "fault[] Alexander for not meeting a legal test that finds no support in precedent" through our discussion of similarly situated detainees. *Post*, at 28. Where there are insufficient factual allegations demonstrating punitive intent, a detainee could presumably make a showing of punitive intent through disparate treatment of similarly situated individuals. Alexander failed to do so.

that are designed to protect suicidal inmates. But if they disbelieve and do not transfer an honest detainee, they would also be liable, and the detainee would be in serious danger of self-harm. This standard is unworkable and would result in the denial of constitutional protections, and we therefore reject it.

2

We next consider whether the conditions of the violent cell are reasonably related to a legitimate governmental interest. As discussed above, pretrial detainees have a constitutional right to protection from self-harm. *Rhyne*, 973 F.2d at 391. As barren as the violent cell was, each condition was reasonably related to the legitimate government interest of protecting suicidal inmates from self-harm.

Alexander alleges that the cell did not have a toilet, a shower, or running water. But each of these poses a drowning risk. *See, e.g.*, *Elliott v. Cheshire County*, 940 F.2d 7, 9 (1st Cir. 1991) (noting that the prisoner stated that "he wanted to drown himself in the toilet"); *Belcher v. City of Foley*, 30 F.3d 1390, 1393 (11th Cir. 1994) ("As the officers attempted to move Mr. Belcher, he broke away and stuck his head into the toilet in an attempt to drown himself."); *Cervantez v. Frith*, No. 22-150, 2025 WL 1287918, at *1 (N.D. Tex. May 2, 2025) (inmate attempted to drown himself in the toilet three separate times); *Crocco v. Winkler*, 659 F. Supp. 3d 204, 207 (D.N.H. 2023) ("Crocco attempted to drown himself in the cell's sink . . . ."). He claims that he was stripped and provided no bedding. But clothes and sheets carry risks of self-asphyxiation, especially when combined with showers, sinks, or toilets. *See, e.g.*, *McMahon v. Beard*, 583 F.2d 172, 175 (5th Cir.

1978) ("Removal of all cloth which might offer a means for suicide would seem prudent."); *Hare v. City of Corinth*, 36 F.3d 412, 414 (5th Cir. 1994) (inmate hanged herself "from the bars of her cell" using "strips of the blanket"); *Lewis v. Stephens*, 710 F. App'x 703, 703 (7th Cir. 2018) ("He stood on the sink in his cell with a bedsheet tied around his neck, threatening to hang himself."); *Romero v. Donley County*, 87 F.3d 1311, at *1 (5th Cir. 1996) (unpublished) (inmate hanged himself from bar above the toilet); *Rangel v. Wellpath, LLC*, No. 23-128, 2024 WL 1160913, at *1 n.3 (N.D. Tex. Mar. 18, 2024) (inmate "tore the blanket into strips, tied them to the shower head, and hung himself"). He states that his requests for toilet paper were denied. But, sadly, even toilet paper could pose a choking hazard. *See Nagle v. Gusman*, 61 F. Supp. 3d 609, 624 (E.D. La. 2014) (deposition testimony that an inmate "swallowed a roll of toilet paper and killed himself"); *Elliott*, 940 F.2d at 9 (inmate that had previously threatened suicide asked another "what would happen if he . . . swallowed paper towels").[8] Moreover,

[8] We note that Alexander complains of other rejected requests and conditions, including requests for additional drinking water and to shower or wash his hands, and a lack of recreational time. All inmates have "a right to adequate food." *Youngberg v. Romeo*, 457 U.S. 307, 315 (1982). Inherent in such a right is access to water. But we hesitate to take Alexander's suggestion that he ought to have received the "ideal" amount of drinking water for an adult male, which he totals to be 124 ounces. Even if Alexander's drinking water values were lower than what a typical person may aim for, we cannot say that he was provided "inadequate" water to the point of constitutional deprivation. This determination, of course, is context-dependent. But we decline to create an express baseline for daily water consumption for prisoners in suicide prevention cells.

a twenty-four-hour-lights-on policy permits officers to monitor the inmate's activity around the clock to prevent them from self-harming. *Cf. Anderson v. Dallas County*, 286 F. App'x 850, 852 n.1 (5th Cir. 2008) (noting that "[o]nce an inmate is placed on Suicide Prevention Status, jailers must routinely monitor and observe the inmate"). These conditions, "barbaric" as they may be, relate to the legitimate government interest of protecting inmates—an interest that is constitutionally imposed upon the State.[9]

As for the inability to shower and the loss of recreation time, such are reasonably related to the legitimate interest in protecting him from self-harm. Officials would have been required to move him out of the protective cell, provide him access to running water and a shower head—among the dangers from which he was isolated—and afford recreational time in open space, possibly with other inmates. These acts could pose a danger to an individual suffering suicidal ideation, and are not "arbitrary or purposeless." *Bell*, 441 U.S. at 539. We expressly limit this holding to Alexander's circumstances. We do not extend this to instances in which an individual is in such a cell for other periods of time or subjected to other conditions.

Finally, while we need not credit Alexander's allegation that waste covered the floor, *see supra* n.2, this alleged condition is a far cry from the horrifying facts presented in *Taylor v. Riojas*, which amounted to an Eighth Amendment violation. *See* 592 U.S. 7, 8–9 (2020) (inmate was confined in two cells, one of which "was covered, nearly floor to ceiling, in massive amounts of feces" and the second of which was "frigidly cold" and "equipped with only a clogged drain in the floor to dispose of bodily wastes"). The photograph in Alexander's complaint discounts any allegation that the violent cell was in nearly the state of the cell in *Taylor*, or amounted to a punitive condition under the circumstances.

[9] The district court found that the violent cell was "reasonably tailored to the state's interest in preventing suicides." But it then relied on out-of-circuit caselaw to alternatively hold that "the

To be sure, these conditions are not narrowly tailored. They are overinclusive, painting with a broad brush to protect those who pose the greatest danger to themselves. But *Bell* looks only for a reasonable relationship, not narrow tailoring. So, even if these conditions are overly protective of Alexander, they are sufficiently related to the Jail's legitimate interest in protecting suicidal inmates and thus pass constitutional muster.[10]

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violent cell's conditions did not deprive Alexander of life's minimal necessities." We disagree.

We have previously held that similar conditions violate the Eighth Amendment where there is punitive intent. *See, e.g.*, *McCray v. Sullivan*, 509 F.2d 1332, 1336 (5th Cir. 1975) (finding an Eighth Amendment violation where "[a]s many as seven" prisoners were placed in a single cell in punitive isolation measuring six feet by eight feet, which lacked "bunks, toilets, sinks[,] or other facilities," and had only a "hole in the cell floor" as a toilet that was flushed four times each day and often backed up); *Alexander v. Tippah County*, 351 F.3d 626, 628–31 (5th Cir. 2003) (referring to conditions as "deplorable" where inmates punished for fighting were transferred to a similar cell, sewage littered the cell, it was freezing, and inmates were unable to wash their hands before eating). Alexander's housing was affirmatively *not* punitive—it was protective.

Nor do we adopt the district court's suggestion that, because Alexander lived through his confinement at Henderson County Jail, the conditions are per se reasonably related to the Jail's interest in protecting suicidal inmates. The fact that *some* conditions protect a detainee does not make *all* conditions reasonably related to the Government's interest in the detainee's protection. Nevertheless, here, all conditions bore a reasonable relationship to a legitimate government interest, and Alexander's claims therefore fail. It is solely on that basis that we affirm the district court's judgment.

[10] In his complaint and the factual background of the opening brief, Alexander notes that "inmates identified with a potential for self-harm would sometimes be moved into the much less

Because the conditions were sufficiently related to a legitimate governmental interest, Alexander was not punished in violation of the Due Process Clause.[11] We therefore do not consider whether the officers are entitled to qualified immunity.

B

Alexander's remaining claims focus on medical care. He argues that "the county was well aware that no qualified mental health care was being provided at the [J]ail" and that its policies and contract with the Taft defendants resulted in a "total, intentional

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restrictive 'separation cells' if the [J]ail decided it needed the violent cell for someone who was genuinely violent." Those cells have a toilet, sink, shower, table, and bed. This, he claims, shows that the Jail did not believe the violent cell's restrictions were necessary.

Any argument centering on these alternative cells is forfeited for failure to brief the issue before this court. *See United States v. Delgado*, 672 F.3d 320, 334 (5th Cir. 2012) (en banc). Regardless, as we note above, there is no requirement that the violent cell be tailored to the individual. Where multiple individuals' circumstances warrant placement in the violent cell, spillover into the "separation cells" is required. But where the violent cell is available, Alexander cannot claim that he should have been placed in a separation cell instead. The violent cell is the safest place for the Jail to place a suicidal inmate, and the conditions are reasonably related to its interest in protection against suicide. We decline to suggest that officers should weigh the sincerity of such reports to determine whether a detainee should be housed in a more relaxed cell, given their potential for self-harm.

[11] We do not hold today that the violent cell's conditions are permissible in all circumstances. For instance, we express no view of the various other individuals' stories that Alexander raises in both his complaint and opening brief. We hold only that, as it relates to Alexander, accepting his well-pleaded allegations as true, the Jail did not violate his constitutional rights.

deprivation of qualified mental health care." Specifically, he alleges that Phlips "did not bother to gather or confirm any information on [him], such as why he was in the violent cell, how long he had been in there, whether he was taking any medication, or anything else." Instead, she "quickly aborted her visit when she decided that Alexander was 'too confused' to answer her initial questions." He also alleges that she took no action to help him; lacks medical or mental health licensing; has admitted she is not a clinician; is unqualified to make a clinical assessment; and must report her findings to someone qualified to make such an assessment. But, while Alexander believes that "[a] qualified mental health professional would have been alarmed at [his] state and taken steps to address it," Phlips "did not notify Taft or any other medical or mental health professional about Alexander's obvious distress."

Alexander then turns to Taft. He alleges that Taft assigned "an unlicensed person not legally authorized to provide psychological services" to handle his contractual responsibilities without providing written policies or procedures. Because the Jail was aware "from simple observation that [Phlips] was unsupervised and the only person allegedly providing mental health care at the [J]ail," and it knew that she had no license, Alexander asserts that "it was the [J]ail's express policy to deny its entire inmate population access to mental health care of any kind."

We consider first his claims against the County, and then turn to the Taft defendants.[12]

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[12] The dissent states that the district court dismissed this claim *sub silentio* and we should therefore vacate and remand.

1

The State must "assume some responsibility for [a pretrial detainee's] safety and general well-being." *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 200 (1989). These responsibilities include "food, clothing, shelter, medical care, and reasonable safety." *Id.* Medical care includes "protection from violence or suicide." *Hare v. City of Corinth*, 74 F.3d 633, 643 (5th Cir. 1996). The district court did not expressly consider Alexander's argument that the Jail failed to provide sufficient mental health care, instead dismissing the § 1983 claims against the Taft defendants because the violent cell's conditions did not violate his constitutional rights. Nevertheless, seeing no cognizable claim under § 1983, we affirm. *See Gilbert*, 751 F.3d at 311.

Post, at 30. But the district court explained that, although Alexander challenged his medical treatment, administrative segregation and his confinement to a suicide-prevention cell did not amount to a constitutional violation. True enough, this analysis did not fully consider one of Alexander's chief complaints—that he did not receive sufficient mental health care—but we may consider this issue nonetheless. "Under our precedent, we may 'affirm on any ground supported by the record, including one not reached by the district court.' This is so even if neither the appellant nor the district court addressed the ground, so long as the argument was raised below." *Gilbert v. Donahoe*, 751 F.3d 303, 311 (5th Cir. 2014) (footnotes omitted) (quoting *Ballew v. Cont'l Airlines, Inc.*, 668 F.3d 777, 781 (5th Cir. 2012)). The dissent provides that this principle "applies only when the district court has actually considered the claim." *Post*, at 30. In our view, the district court *did* consider Alexander's § 1983 claim against the Taft defendants, even if it failed to individually consider every factual basis supporting that claim.

First, Alexander argues that the Jail allowed Phlips, whom he alleges is unlicensed, to provide all mental health care at the Jail. The Texas Commission on Jail Standards requires that each facility have a plan that "provide[s] procedures that shall give inmates the ability to access a mental health professional at the jail or through a telemental health service." 37 TEX. ADMIN. CODE § 273.2(13). "If a mental health professional is not present at the county jail at the time or available by telemental health services, then [the plan must] require the jail to provide the inmate access to, at a minimum, a qualified mental health professional (as defined by [26 TEX. ADMIN. CODE § 301.303(48)]) within a reasonable time." *Id.* Under 26 TEX. ADMIN. CODE § 301.303(48), a qualified mental health professional is one with competency in the work to be performed and (1) has a bachelor's degree from an accredited university with a minimum number of hours dedicated to a major in one of various fields; (2) is a registered nurse; *or* (3) completes an alternative credentialing process.

The complaint repeatedly calls Phlips unqualified, at some point asserting that she is "not legally authorized to make suicide or mental health care assessments." But this legal conclusion, without more, cannot survive a motion to dismiss. *See Iqbal*, 556 U.S. at 678. Alexander does not allege that Phlips falls short of the three categories in § 301.303(48).13[13] He therefore cannot rely on her purported lack of qualifications.

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[13] In other words, his complaint is devoid of factual allegations that Phlips (1) lacks a bachelor's degree from an accredited university with a minimum number of hours dedicated to one of the required majors; (2) is not a registered nurse; and (3) has not completed an alternative credentialing process. His allegation

But we cannot assume that there is no constitutional violation just because there is no properly alleged statutory violation under 37 TEX. ADMIN. CODE § 273.2(13). In other words, by maintaining a formal policy, the County may well satisfy its statutory requirements, but it still must provide the constitutional minimum of care. *Cf. Murphy v. Collins*, 26 F.3d 541, 543 (5th Cir. 1994) ("A state's failure to follow its own procedural regulations does not constitute a violation of due process, however, if 'constitutional minima [have] nevertheless . . . been met.'" (alterations in original) (quoting *Jackson v. Cain*, 864 F.2d 1235, 1251 (5th Cir. 1989))).

The County provided the constitutional minimum for mental health assistance: "protection from violence or suicide." *Hare*, 74 F.3d at 643. In addition to being housed in a solitary confinement unit in which it was virtually impossible to self-harm, Alexander spoke with the employed mental health individual during his five-day confinement. It matters not that Phlips was not licensed to the extent that Alexander desired. Nor is it of any moment that he disagreed with both her determination that he was too confused to continue to interview and her decision not to recommend his release. While Alexander argues that the Jail's policy "was simply to defer completely to the discretion of correctional officers," he does not allege that he ever informed Jail officials—or Phlips—that he was no longer suicidal.

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that she received "no formal training period" from Taft is not enough to demonstrate that she is unqualified under 26 TEX. ADMIN. CODE § 301.303(48).

Alexander alternatively blames the violent cell for his severe "psychological deterioration," and claims that Phlips did nothing to remove him therefrom. We cannot charge mental health professionals, contracted to provide care to pretrial detainees, with releasing inmates from suicide cells or improving the conditions of their protective confinement. They have no authority to confine individuals or to free them from confinement. *Cf. McClure v. Foster*, 465 F. App'x 373, 375 (5th Cir. 2012) (noting that the complainant failed to show that it was the nurse's duty to provide toilet paper). Alexander provides only conclusory allegations demonstrating that Phlips or the Jail knew—or had reason to believe—that his mental deterioration was caused by the violent cell's conditions, rather than his self-reported suicidal ideation. This is insufficient to survive a motion to dismiss.

Alexander cannot demonstrate that the County "knowingly subject[ed] [him] to inhumane conditions of confinement or abusive jail practices" through its mental health treatment plan. *Shepherd v. Dallas County*, 591 F.3d 445, 456 (5th Cir. 2009). Because the plan does not violate the Constitution, we do not consider his municipal liability claim against the County. *See Valle v. City of Houston*, 613 F.3d 536, 541-42 (requiring a constitutional violation to impose municipal liability).

2

This leaves the Taft defendants. The Taft defendants are state actors under § 1983. *See West v. Atkins*, 487 U.S. 42, 54 (1988) (noting that "a physician employed by [the State] to provide medical services to state prison inmates[] act[s] under color of state law

for the purposes of § 1983" when providing medical care); *Rosborough v. Mgmt. & Training Corp.*, 350 F.3d 459, 461 (5th Cir. 2003) (noting that private companies and employees that manage state prisons "are subject to § 1983 liability because they are performing a government function traditionally reserved to the state"). When determining whether such individuals have violated the Constitution, the plaintiff must demonstrate that (1) "the deprivation alleged was sufficiently serious" and (2) "the prison official possessed a sufficiently culpable state of mind." *Herman v. Holiday*, 238 F.3d 660, 664 (5th Cir. 2001).[14] That state of mind is deliberate indifference. *Id.*

We begin and end with deliberate indifference. "Deliberate indifference is an extremely high standard to meet." *Domino v. Tex. Dep't of Crim. Just.*, 239 F.3d 752, 756 (5th Cir. 2001). In the context of medical care, "[m]ere negligence, neglect, or medical malpractice" does not suffice. *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir. 1991) (alteration in original) (quoting *Fielder v. Bosshard*, 590 F.2d 105, 107 (5th Cir. 1979)). Where "medical treatment was provided, even if it was negligent, disagreed-with, and based on a perfunctory and inadequate evaluation, it was not denied." *Petzold v. Rostollan*, 946 F.3d 242, 250 (5th Cir. 2019). Because the Taft defendants provided treatment—even if imperfect—Alexander's claim fails.

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[14] To qualify under the first of these two prongs, the "official's act or omission must have resulted in the denial of 'the minimal civilized measure of life's necessities.'" *Id.* (quoting *Farmer v. Brennan*, 511 U.S. 825, 834 (1994)). Although we hold that the Jail did not knowingly provide constitutionally insufficient mental health care, we must also ascertain whether the Taft defendants deprived Alexander of mental health services.

Alexander points us to another case arising out of the Henderson County Jail and involving the Taft defendants. *See Albritton v. Henderson County*, No. 23-1723, 2024 WL 1776380 (N.D. Tex. Apr. 23, 2024). There, the court stated that "[t]he system for inmates to access mental health care at the Henderson County Jail amounted to a condition that left the inmates with no avenues to access mental health care and this dereliction of care cannot be reasonably related to any legitimate governmental objective." *Id.* at *5. With respect to the Taft defendants, it considered allegations similar to those Alexander makes here: Taft contracted with the County, delegated all duties to an unlicensed professional, did not train or supervise that individual, provided no mental health care at the Jail, and did not establish a system through which the individual could contact Taft for assistance. *Id.* at *6. The court concluded that Taft knew that no one could provide mental health assistance and "[t]he substantial risk of harm of Taft flouting his responsibilities to the individuals in need of mental health services while at the [J]ail and outsourcing mental health care to an unqualified individual is so obvious" that it did not matter if Taft *actually* knew of the inmate or was aware of the substantial risk of harm. *Id.*

Albritton "ha[d] the 'mental age' of a six-year-old" and numerous known disabilities. *Id.* at *1. He took "approximately eighteen daily medications to treat his psychological and physical ailments," and was prone to danger when he did not understand his surroundings. *Id.* While housed in the violent cell—despite lacking indications of suicidal thoughts—he did not eat because he believed the food was poisoned, was not provided water, and "had diarrhea . . . on the sleeping

bench which no one cleaned up" during the two-day detention. *Id.* at *2. It is unclear whether Taft's aide at the time, Jeffries, ever visited Albritton. The court found that the failure to provide any sort of mental health care to an individual "*like* [*Albritton*] *experiencing a mental health crisis*" could contribute to a finding of deliberate indifference. *Id.* at *6 (emphasis added).

The facts here are highly distinguishable. Alexander reported that he was suicidal and was moved to the violent cell. At that point, he claims he mentally deteriorated and that Phlips failed to release him. Putting aside the fact that authority to release him from the violent cell was left to the Jail—not Taft and his employees—it is unclear what Phlips (or Taft) was to make of his mental deterioration. Alexander seemed healthy during Phlips's earlier visits, but was moved to the violent cell after stating that he was suicidal. She then found him unable to answer her questions. She could have drawn the inference that he was *not* ready to be released from a suicide protection cell because he had deteriorated between visits. Such a conclusion would be logical, given that he had previously reported to her that he struggled with depression and subsequently reported suicidal ideation.[15]

Holding the Taft defendants liable would transform our consideration of deliberate indifference into a post-hoc scrutiny of each determination of inmates' mental health statuses. Alexander cannot expose

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[15] We therefore reject Alexander's argument that she should have reported these findings to Taft. The Jail provided Alexander with necessary protections. In Phlips's view, his mental health was being treated.

them to liability for failing to release him from the violent cell under these circumstances. His § 1983 claim against the Taft defendants therefore fails.[16]

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[16] Alexander also brings a supervisory liability claim against Taft. This requires that he identify a constitutional violation that caused his injury. *See Valle*, 613 F.3d at 541-42. The same is true if he chooses to bring such a claim under a failure-to-train or failure-to-supervise theory. *See Littell v. Hous. Indep. Sch. Dist.*, 894 F.3d 616, 624 (5th Cir. 2018) ("[W]hen a municipal entity enacts a facially valid policy but fails to train its employees to implement it in a constitutional manner, that failure constitutes 'official policy' that can support municipal liability if it 'amounts to deliberate indifference.'" (quoting *City of Canton v. Harris*, 489 U.S. 378, 388 (1989))). Since he fails to demonstrate deliberate indifference, Alexander has pleaded no constitutional violation and therefore cannot demonstrate supervisory liability against Taft in his individual capacity under any theory.

The Rule 28(j) material that Alexander filed—the recent opinion in *Anderson v. Henderson County*, No. 24-cv-2394 (N.D. Tex. June 23, 2025)—contemplates different circumstances. There, the detainee "suffer[ed] from muscular dystrophy," resulting "in a significant speech impediment and an inability to move or walk as easily as a healthy person." *Anderson*, slip op. at 1. He, too, suffered from PTSD, but was prescribed medication for its treatment. *Id.* at 2. Upon arrival at the Jail, he was "immediately placed in the . . . 'violent cell' for seven days." *Id.* During that time, despite informing Jail staff of his medical conditions, "he was *never* seen by any medical or mental health staff." *Id.* (emphasis added). Moreover, he never received his prescription medication. *Id.* at 2–3.

As described above, Phlips visited Alexander. While Alexander may plead similar facts to Anderson—including that Taft provided inadequate training or that his employee was unauthorized to provide psychological services, *see id.* at 9—he *was* visited by a mental health professional affiliated with Taft's practice. Moreover, his circumstances were vastly different: He experienced suicidal ideation. The Taft defendants knew that when Phlips visited him, and took that into account when responding. Anderson, on the other hand, failed to receive *any* of

V

Alexander asks that we require officers and mental health providers to second-guess inmates' disclosure of suicidal ideation. We decline to create such a requirement. We therefore AFFIRM the district court's order of dismissal.

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his prescription medication, or any treatment at all. The facts in these cases are inapposite, and *Anderson* therefore does not counsel against dismissal.

To be clear, we do not hold that every actionless visit by a mental health professional passes constitutional muster. We hold that, under Alexander's specific circumstances, as alleged, Phlips and the Taft defendants provided the constitutional minimum of care required.

[Dissenting Opinion]

JAMES L. DENNIS, *Circuit Judge*, dissenting:

With respect for my esteemed colleagues, I dissent. The majority opinion overlooks critical allegations that, accepted as true, plausibly show jail officials misused suicide watch protocols to punish a pretrial detainee.

I

"Due process requires that a pretrial detainee not be punished." *Hare v. City of Corinth*, 74 F.3d 633, 651 (5th Cir. 1996) (DENNIS, J., specially concurring). "In determining whether particular restrictions and conditions accompanying pretrial detention amount to punishment in the constitutional sense of that word, a court must decide whether the disability is imposed for the purpose of punishment or whether it is but an incident of some other legitimate governmental purpose." *Id.* (citing *Bell v. Wolfish*, 441 U.S. 520, 538 (1979)). "Absent a showing of an expressed intent to punish on the part of detention facility officials, that determination generally will turn on 'whether an alternative purpose to which [the restriction] may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned [to it].'" *Id.* (first citing *Bell*, 441 U.S. at 538; and then quoting *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 168–69 (1963)). "Thus, if a particular condition or restriction of pretrial detention is reasonably related to a legitimate governmental objective, it does not, without more, amount to 'punishment.'" *Id.* By contrast, "if a restriction or condition is not reasonably related to a legitimate goal—if it is arbitrary or

purposeless—a court permissibly may infer that the purpose of the governmental action is punishment that may not constitutionally be inflicted upon detainees qua detainees." *Id.* (citing *Bell*, 441 U.S. at 539).

The district court dismissed Alexander's conditions-of-confinement claim on only two grounds: (1) that the conditions in the "violent cell" were justified by the need to prevent Alexander's suicide and, thus, were reasonably related to a legitimate governmental objective; and (2) that even absent such a justification, the cell conditions and the jail's denial of water and toilet paper were *per se* lawful.

The first rationale badly misapplies Federal Rule of Civil Procedure 12(b)(6). Alexander alleges that he falsely claimed to be suicidal as a last resort to escape placement in a dangerous group cell, where other inmates repeatedly threatened him. He further alleges that jail officials knew he was not suicidal but used his plea as a pretext to place him in the violent cell for punitive purposes. Several key facts, all occurring in rapid succession, support an inference of retaliatory motive.

> **March 8**: Alexander was booked into the jail. A Henderson County mental health professional conducted an "observation clearance," observing no concerns with his mental health.
>
> **March 9 (daytime)**: The same provider performed a follow-up and again documented "no concerns" with Alexander's mental status.
>
> **March 9 (evening)**: Guards placed Alexander in group detention "with some of

> the most violent and dangerous men being held at the Jail." These inmates immediately made serious threats against him. Alexander feared for his life, due to both the threats by his cellmates and his spiking blood pressure, which had already required treatment since he had arrived at the jail.
>
> **Later that evening**: Alexander informed guards of the threats and requested to be moved "multiple times." The guards refused. "Thinking he had no other option, he told [a] correctional officer . . . that he was suicidal, believing that would force the jail to move him out of the group detention cell for medical or mental health care evaluation."
>
> **Shortly after midnight, March 10**: Officers transferred Alexander to the "violent cell." [1] During the walk, guards

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[1] The majority opinion observes that "Alexander was not transferred until he informed correctional officers that he was suicidal," which "alone implies that the officers took his statement at face value, even if they did not subjectively believe him." *Ante*, at 9. Drawing that inference at the pleading stage risks inverting Rule 12(b)(6): it assumes facts in favor of the moving party, not the plaintiff, which is precisely what the Rule forbids. *United States ex rel. Steury v. Cardinal Health, Inc.*, 735 F.3d 202, 204 (5th Cir. 2013) (quoting *United States ex rel. Steury v. Cardinal Health, Inc.*, 625 F.3d 262, 266 (5th Cir. 2010)). The opposite inference—one we are required to credit at this stage—is that the officers knew Alexander was not suicidal, understood that he was using the claim as a desperate attempt to escape a threatening environment, and chose to punish him for it. He had

> repeatedly called him a "bitch." One said, "You really fucked up now, bitch."
>
> **March 10–15**: While Alexander remained in the violent cell, guards taunted him with repeated insults and threats. On one occasion, they paraded a police dog outside his cell and loudly discussed taking Alexander into a field and unleashing the dog on him. They threatened to kill him using a "barbed wire guillotine." Just before he was released from the cell, one officer said: "Ronnie Alexander, you are not leaving this
>
> facility alive."

At this early stage, these allegations—combined with their tight chronology—plausibly support Alexander's allegation that the officers did not act to protect Alexander, but to punish him for complaining about his safety in group detention. The mental health evaluations showing no suicidal concerns, the guards' refusal to move him despite his clear fear for his safety, the retaliatory language during his transfer, and the continuing harassment while in the violent cell together present a coherent narrative of punitive intent. In the context of a pretrial detainee, "an

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been in the group cell only a few hours, had repeatedly asked for protection, and had already been ignored. When he cried suicide, the officers responded not with concern but with hostility, using his plea as a convenient excuse to isolate and degrade him. That response does not reflect protective intent. It reflects retaliation. And merely saying that the "facts alleged, taken as true, do not give rise to the reasonable inference that the officers intended to punish Alexander," *ante*, at 10 n.7, does not make it so.

inference that governmental intent was punitive is equivalent to an inference that the challenged condition is unconstitutional." *Hamilton v. Lyons*, 74 F.3d 99, 106 (5th Cir. 1996).

Critically, none of these alleged facts appear in the district court's opinion. The court's analysis of the government's interest instead assumes Alexander was a known suicide risk. That assumption favors the defendants over the plaintiff, which is improper at the motion-to-dismiss stage. *Q Clothier New Orleans, L.L.C. v. Twin City Fire Ins. Co.*, 29 F.4th 252, 256 (5th Cir. 2022) ("The court must accept the well-pleaded facts as true and view them in the light most favorable to the plaintiff," not the defendant).

The majority opinion acknowledges that "[t]he district court did not consider these allegations." *Ante*, at 9 n.5. In other words, we agree the district court gave no consideration at all to these specific, non-conclusory allegations.[2] That should end the analysis. We

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[2] The majority opinion seems to suggest the district court was free to ignore these allegations because they are not "well-pleaded allegations of fact." *Ante*, at 9 n.5. It is difficult to see what, exactly, is not "well-pleaded" about an allegation that a jail official told Alexander, "You really fucked up now, bitch," or that another said, "Ronnie Alexander, you are not leaving this facility alive."

In the alternative, the majority dismisses "any threats directed at Alexander while he was in the violent cell" on the ground that they do "not creat[e] a condition of confinement," citing the general rule that "[m]ere allegations of verbal abuse do not present actionable claims under" 42 U.S.C. § 1983. *Ante*, at 10 & n.6 (quoting *Bender v. Brumley*, 1 F.3d 271, 274 n.4 (5th Cir. 1993)). Alexander does not make that argument. He cites the threats not as a standalone claim, but as circumstantial evidence of the officers' punitive intent.

are a "court of review, not first view." *Stringer v. Town of Jonesboro*, 986 F.3d 502, 509 (5th Cir. 2021) (quoting *Cruson v. Nat'l Life Ins. Co.*, 954 F.3d 240, 249 n.7 (5th Cir. 2020)).

Nevertheless, the majority opinion proceeds to reject Alexander's conditions-of-confinement claim as speculative, reasoning that he failed to allege an express admission of punitive intent or identify a "[an]other suicidal inmate[] [that] received different treatment." *Ante*, at 9–11. No authority imposes such requirements, so faulting Alexander for not meeting a legal test that finds no support in precedent is unpersuasive. The question is whether his allegations allow us to plausibly infer retaliatory or punitive conduct under the guise of suicide prevention. *See, e.g.*, *Simons v. Clemons*, 752 F.2d 1053, 1056 (5th Cir. 1985) (analyzing *Bell* and inquiring whether an "express intent to punish" could be "infer[red] . . . from the pleadings"). As I have outlined, they do.

If Alexander's allegations are true, then the jail violated the Fourteenth Amendment by using suicide protocols to punish a pretrial detainee—denying him a toilet, toilet paper, running water, recreation, bedding, clothing, and sufficient drinking water, while subjecting him to twenty-four-hour lighting and a cell contaminated with fecal matter and urine.[3] *Ante*, at

[3] My reading of the record diverges from the majority opinion, which discounts Alexander's allegation—"that '[t]he [cell's] floor had not been cleaned and was covered in dried urine and fecal matter'"—based on a color image showing an "off-white" cell that "appears clean" and "certainly devoid of fecal matter." *Ante*, at 3 n.2. First, that is not the full allegation. Alexander also alleges that fecal matter and urine were present in the drain located at the center of the cell floor, and that he had to manually force the

13 n.9 ("We have previously held that similar conditions violate the Eighth Amendment where there is punitive intent." (first citing *McCray v. Sullivan*, 509 F.2d 1332, 1336 (5th Cir. 1975); and then citing *Alexander v. Tippah Cnty.*, 351 F.3d 626, 628–31 (5th Cir. 2003))).[4]

The majority opinion rejects Alexander's claim partly out of a policy concern for placing jailers in an untenable position: liable whether they act or refrain. *Ante*, at 10–11. I do not believe the allegations in the present case fall within either horn of that dilemma. Taking Alexander's allegations as true, the officers knew he was not suicidal, knew he feared for his safety in his group housing, and deliberately chose a punitive response that exposed him to new risks. This

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feces through the grates using a paper cup. He further alleges that the floor was soiled with dried waste left by prior inmates housed in the toilet-less cell.

Second, although the complaint includes two photos of the cell, they are blurry. I cannot say they either support or contradict Alexander's account. Given the ambiguity, this case does not fall within the narrow exception recognized in *Scott v. Harris*, 550 U.S. 372, 380 (2007), which permits a court to disregard a plaintiff's version of events only when it is "so utterly discredited by the record that no reasonable jury could have believed him." "*Scott* was an exceptional case with an extremely limited holding," inapplicable to ambiguous photo evidence. *Aguirre v. City of San Antonio*, 995 F.3d 395, 410 (5th Cir. 2021).

[4] *McCray* and *Alexander* involved convicted individuals and were analyzed under the Eighth Amendment. By contrast, Alexander was a pretrial detainee, so his claims arise under the Fourteenth Amendment. Still, we may look to those cases for guidance because a pretrial detainee's due process rights are said to be "at least as great as the Eighth Amendment protections available to a convicted prisoner." *City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983).

is not a matter of difficult judgment; it is punishment of a pretrial detainee disguised as suicide watch. The Constitution forbids that. *Bell*, 441 U.S. at 535.

The district court's second basis for dismissal—raised *sua sponte* and without notice to Alexander—fares no better. *See Carroll v. Fort James Corp.*, 470 F.3d 1171, 1176–77 (5th Cir. 2006) (noting the importance of prior notice and an opportunity to respond); *cf. Day v. McDonough*, 547 U.S. 198, 210 (2006) ("Of course, before acting on its own initiative, a court must accord the parties fair notice and an opportunity to present their positions."). The defendants never argued that the conditions of the violent cell were *per se* lawful. Alexander therefore had no notice of this theory and no chance to respond. Regardless of the procedural infirmity, as the majority opinion rightly acknowledges, the district court's alternative ruling fails as a matter of law. *Ante*, at 13 n.9.

II

That leaves the claims focusing on medical care. The district court never addressed Alexander's claims that the jail provided constitutionally deficient mental health care. *Ante*, at 16 n.12 (majority opinion agreeing that these particular claims were not "fully considered"). By disposing of the issue without explanation, the court effectively dismissed the claims *sub silentio*, undermining meaningful appellate review. *See, e.g.*, *McInrow v. Harris Cnty.*, 878 F.2d 835, 836 (5th Cir. 1989). While Federal Rule of Civil Procedure 12 does not require findings of fact or conclusions of law, the parties are still entitled to understand the basis for final judgment. *Hanson v. Aetna Life & Cas.*, 625 F.2d 573, 575 (5th Cir. 1980). As we have stressed, "discussion by the trial judge" is often essential to facilitate proper review. *Myers v. Gulf Oil Corp.*, 731 F.2d 281, 283 (5th Cir. 1984). That is especially true where, as here, the record does not reveal which of several theories the district court may have relied on. *Mosley v. Ogden Marine, Inc.*, 480 F.2d 1226 (5th Cir. 1973). When a court's reasoning is either vague or absent, effective appellate review becomes all but impossible. *McInrow*, 878 F.2d at 836. In those circumstances, we have consistently remanded to obtain at least some explanation of the district court's rationale. *See, e.g.*, *Myers*, 731 F.2d at 284.

The majority opinion devotes seven pages to analyzing the medical care claims. *Ante*, at 15–22. Yet it cites no analysis from the district court—because none exists. Instead, the majority opinion relies on the principle that we may affirm on any ground supported by the record, even one not reached by the district court,

if the argument was raised below. *Id.* at 16 n.12 (citing *Gilbert v. Donahoe*, 751 F.3d 303, 311 (5th Cir. 2014)). But that principle applies only when the district court has actually considered the claim. Here, although Alexander's mental health care claims were raised and briefed, the district court gave them no consideration. Vacatur and remand are warranted. *Ashley v. Clay Cnty.*, 125 F.4th 654, 662 n.5 (5th Cir. 2025) ("It is not our role to address a question that the district court left unresolved . . . as both a matter of judicial restraint and sound policy.").

III

Ultimately, the majority opinion "decline[s] to . . . require officers and mental health providers to second-guess inmates' disclosure of suicidal ideation." *Ante*, at 22–23. That is not the rule Alexander seeks. He does not argue that officials must second-guess every report of suicidal ideation. Rather, he alleges that, in his case, the officials knew he was not suicidal and used suicide protocols as a pretext to punish him. Accepting those allegations as true, as we must at this stage, Alexander's case centers not on a failure to assess risk but on the deliberate misuse of suicide watch to retaliate against a pretrial detainee. Our precedent does not permit courts to look away when protective procedures become tools of punishment.

I respectfully dissent.

Appendix B
[Filed: Dec. 23, 2025]

United States Court of Appeals
for the Fifth Circuit

No. 24-10663

RONNIE ALEXANDER,

Plaintiff—Appellant,

versus

PHILIP R. TAFT PSY D AND ASSOCIATES, P.L.L.C.; HENDERSON COUNTY TEXAS; NATHANIEL PATTERSON; TAYLOR CALDWELL; MORGAN FAIN; NOAH KREIE; WILLIAM TRUSSEL; DORA MARTINEZ; MELISSA HARMON; PHILIP TAFT,

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:22-CV-395

Before DENNIS, OLDHAM, and DOUGLAS, *Circuit Judges*.

DANA M. DOUGLAS, *Circuit Judge*:

The petition for panel rehearing is DENIED. No member of the panel nor judge in regular active service having requested that the court be polled on rehearing en banc, the petition for rehearing en banc is also DENIED. FED. R. APP. P. 35; 5TH CIR. R. 40. JUDGE DENNIS having filed a revised dissent, the prior opinions, *Alexander v. Taft*, 143 F.4th 569 (5th Cir.

2025), are WITHDRAWN, and the following opinions are SUBSTITUTED.

Ronnie Alexander was arrested and detained in Henderson County Jail while he awaited trial. Hoping to transfer out of the group holding cell, he falsely informed Jail officials that he was suicidal. The Jail subsequently transferred him to its suicide-prevention cell, known as the "violent cell."

The violent cell has no toilet, running water, or bedding, and the lights run at all hours. Alexander was housed there for five days, after which he was released from the Jail. He subsequently filed this lawsuit, bringing federal-and state-law claims challenging the conditions of his confinement in the violent cell and the adequacy of the Jail's mental health services. The district court granted the defendants' motions to dismiss. We AFFIRM.

I

A

On March 8, 2021, Ronnie Alexander was booked at the Jail.[1] The next day, he underwent a medical intake screening, during which he reported that he was not suicidal. He showed no signs of intoxication or withdrawal; nevertheless, he was placed on alcohol withdrawal protocol under which he received "a suite of prescriptions." At all relevant times, Southern Health Partners provided non-mental health care at the Jail, while Philip R. Taft, Psy.D & Associates, P.L.L.C., provided mental health care. One of Taft's

[1] The record does not identify the crime for which he was booked.

employees, Jessica Phlips, was assigned to visit inmates.

Shortly after Alexander's booking, Phlips visited him and observed no mental health issues, but noted that he disclosed suffering from post- traumatic stress disorder ("PTSD") and depression. After a follow-up meeting, she identified no concerns regarding his mental status. Soon thereafter, the Jail designated Alexander a maximum-security detainee and placed him in group detention "with some of the most violent and dangerous men being held at the Jail." Alexander alleges that the other inmates consistently threatened him, causing him to fear for his safety and his blood pressure to rise.

Worried by the circumstances, Alexander requested transfer to another cell several times. The guards refused. Eventually, he falsely informed a correctional officer that he was suicidal, "believing that would force the [J]ail to move him out of the group detention cell for medical or mental health evaluation." He was correct. On March 10, officers transferred him to the violent cell. Along the way, they harassed Alexander, calling him a "b****" and telling him that he "really f***** up now, b****."

Alexander paints a grim picture of the violent cell. It has "no bed, sink, toilet, shower, or running water of any kind." The only place for an inmate to urinate or defecate is through a small, grated drain in the middle of the floor. He received no toilet paper, so he used a paper cup to force fecal matter through the drain. And he had no access to running water or utensils, forcing him to eat "with hands that were perpetually contaminated with fecal bacteria." During his five days in the violent cell, "he was never once allowed to

leave his cell to use a proper toilet, shower, or wash his hands."[2]

He also had no clothing or sheets, and was provided only a "suicide blanket" to cover himself. In lieu of a bed, the violent cell has a concrete slab built into the wall. The lights ran at all hours, "inhibit[ing]" his ability to sleep. He was provided three eight-ounce cups of water per day—one with each meal. And during his time in the violent cell, he received no exercise or recreation time.

To mitigate these deficiencies, Alexander requested water, toilet paper, and an opportunity to shower or wash his hands. The officers almost uniformly rejected the requests, taking "no affirmative steps whatsoever, beyond cursory visual checks, to ensure that [his] physical and mental health were not suffering from the conditions he was subjected to in the violent cell."[3] Instead, the guards often taunted Alexander. One "loudly discussed taking [him] out to a field and unleashing [a police] dog on him." Another threatened to kill him with a "barbed wire guillotine." Yet another stated: "Ronnie Alexander, you are not leaving this facility alive."

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[2] While Alexander alleges that "[t]he floor had not been cleaned and was covered in dried urine and fecal matter," he incorporated a color image of his cell, which is an off-white color. From review of this image, the cell appears clean—and certainly devoid of fecal matter—discounting any allegation that the cell was covered in waste. We need not accept allegations clearly disproven by photographic evidence incorporated in the complaint. *See Kokesh v. Curlee*, 14 F.4th 382, 385 n.2 (5th Cir. 2021).

[3] Over the course of his five days in the violent cell, Alexander received "only about three small beverages in total" beyond those he received with his meals.

On March 12, two days after Alexander's transfer to the violent cell, Phlips visited. Prior to their meeting, she did not review his medical file or other records and did not have access to the officers' suicide screener. She quickly determined that Alexander was "'too confused' to answer her initial questions" and departed, doing "nothing to alleviate the conditions that were causing [his] psychological deterioration" and "fail[ing] to report her observations to any medical or mental health professionals." She did not visit again.

Alexander remained in the violent cell until March 15, at which time he was released to the custody of Dallas County.

B

On February 17, 2022, almost one year after his release, Alexander filed this lawsuit against various individuals and entities, alleging violations of 42 U.S.C. § 1983, alongside various state-law claims. He amended his complaint several times, ultimately filing his Third Amended Complaint, in which he alleged claims against Southern Health Partners, Inc.; Philip Taft in his individual capacity and Philip R. Taft, Psy.D & Associates P.L.L.C. ("the Taft defendants"); Henderson County, Texas; and Henderson County Correctional Officers Nathaniel Patterson, Taylor Caldwell, Morgan Fain, Noah Kreie, William Trussell, Dora Martinez, and Melissa Harmon ("the officers").

The defendants individually filed motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). The district court granted the defendants' motions over Alexander's opposition, finding that he failed to state a claim under § 1983 against the Taft

defendants, Henderson County, and the officers. It declined to exercise supplemental jurisdiction over Alexander's remaining state-law claims against the Taft defendants and Southern Health Partners and dismissed them without prejudice. Alexander timely appealed the dismissal of his federal claims.

II

"We review a district court's dismissal of claims under Federal Rule of Civil Procedure 12(b)(6) de novo." *Clyce v. Butler*, 876 F.3d 145, 148 (5th Cir. 2017). We "interpret[] the complaint in the light most favorable to the plaintiff," *United States ex rel. Steury v. Cardinal Health, Inc.*, 735 F.3d 202, 204 (5th Cir. 2013) (quoting *United States ex rel. Steury v. Cardinal Health, Inc.*, 625 F.3d 262, 266 (5th Cir. 2010)), accepting all well-pleaded facts as true, *see Cicalese v. Univ. of Tex. Med. Branch*, 924 F.3d 762, 765 (5th Cir. 2019). However, those facts must state "a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

While complaints do "not need detailed factual allegations," speculative or conclusory statements of fact are insufficient. *Cicalese*, 924 F.3d at 765 (quoting *Twombly*, 550 U.S. at 555); *Iqbal*, 556 U.S. at 678. And we "are not bound to accept as true a legal conclusion couched as a factual allegation." *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 555).

III

The Fourteenth Amendment's Due Process Clause provides pretrial detainees protections extending beyond those granted to sentenced defendants. *See Bell v. Wolfish*, 441 U.S. 520, 535 n.16 (1979). While "[a] sentenced inmate . . . may be punished" within the strictures of the Eighth Amendment, "[d]ue process requires that a pretrial detainee not be punished." *Id.*; *see also Kingsley v. Hendrickson*, 576 U.S. 389, 400–01 (2015) ("[M]ost importantly, pretrial detainees (unlike convicted prisoners) cannot be punished at all, much less 'maliciously and sadistically.'" (citations omitted)); *Graham v. Connor*, 490 U.S. 386, 395 n.10 (1989) (protecting pretrial detainees "from the use of excessive force that amounts to punishment"). Such protection is fundamental to our criminal justice system. "A person lawfully committed to pretrial detention has not been adjudged guilty of any crime." *Bell*, 441 U.S. at 536. Since the detainee has "had only a 'judicial determination of probable cause as a prerequisite to [the] extended restraint of [his] liberty following arrest,'" the Government may only use such conditions necessary "to ensure his presence at trial." *Id.* (alterations in original) (quoting *Gerstein v. Pugh*, 420 U.S. 103, 114 (1975)).

Due process compels us to ask whether the "restrictions and conditions of the detention facility . . . amount to punishment, or otherwise violate the Constitution." *Id.* at 536–37. "Not every disability imposed during pretrial detention amounts to 'punishment' in the constitutional sense . . . ." *Id.* at 537. Therefore, traditional "confinement in a facility which . . . results in restricting the movement of a

detainee" is permissible. *Id.* Often, these restrictions arise from the Government's "legitimate interests that stem from its need to manage the facility in which the individual is detained." *Id.* at 540. This means that some "administrative measures that go beyond those that are, strictly speaking, necessary to ensure that the detainee shows up at trial" may be warranted. *Id.* Such is the case "even if they are discomforting and are restrictions that the detainee would not have experienced had he been released while awaiting trial." *Id.*

Pretrial detainees may bring claims of such violations "either by demonstrating an unconstitutional condition of confinement or by demonstrating an unconstitutional episodic act or omission." *Cadena v. El Paso County*, 946 F.3d 717, 727 (5th Cir. 2020). "For a conditions of confinement claim, 'the proper inquiry is whether those conditions amount to punishment of the detainee.'" *Id.* (quoting *Bell*, 441 U.S. at 535). These conditions "may take the form of 'a rule,' a 'restriction,' 'an identifiable intended condition or practice,' or 'acts or omissions' by a jail official that are 'sufficiently extended or pervasive.'" *Id.* (quoting *Est. of Henson v. Wichita County*, 795 F.3d 456, 468 (5th Cir. 2015)).[4]

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[4] Alexander alleges that the violent cell's "conditions had no justifiable purpose and were therefore unlawful punishment," and that he "was harmed by intentional acts or omissions, such as the denial of water and toilet paper." The district court acknowledged this duality, but found that Alexander's "harms . . . stem from the barren conditions within the violent cell" and were "best classified as harms relating from his conditions of confinement." It therefore "proceed[ed] analyzing his Section 1983 claims under the Fifth Circuit's conditions-of-confinement

To determine whether conditions are constitutionally permissible, we ask whether the restrictions and practices "are rationally related to a legitimate nonpunitive governmental purpose and whether they appear excessive in relation to that purpose." *Bell*, 441 U.S. at 561. If there is a related governmental objective, the conditions, "without more, [do not] amount to 'punishment.' Conversely, if a restriction or condition is not reasonably related to a legitimate purpose—if it is arbitrary or purposeless—a court may infer that the purpose of the governmental action is punishment that may not constitutionally be inflicted upon detainees *qua* detainees." *Id.* at 539 (footnote omitted). Therefore, Alexander must demonstrate, *inter alia*, that the restrictions are not reasonably related to a legitimate governmental objective. *See Cadena*, 946 F.3d at 727 (quoting *Duvall v. Dallas County*, 631 F.3d 203, 207 (5th Cir. 2011)). Because Alexander cannot make this showing, as described below, we affirm.

IV

On appeal, Alexander raises the following issues: whether (1) his confinement was an unlawful punishment of a pretrial detainee; (2) the Taft defendants and the County completely deprived him of qualified mental health care, creating an unlawful condition of confinement; (3) Taft is liable in his individual capacity for Alexander's injuries; and (4) he plausibly alleged that the County maintained a custom or practice

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framework" in light of the clarity provided by the most recent amended complaint. On appeal, Alexander discusses, but does not challenge, this classification. We agree that his claims challenge the conditions of his confinement, and consider them as such.

of punishing inmates through the violent cell. Because we conclude that the violent cell's conditions are reasonably related to a legitimate government interest and are thus not punitive, we do not reach the fourth issue.

A

We begin with Alexander's claims that Henderson County and the officers unconstitutionally punished him through the conditions of his confinement. Alexander complains that he was subjected to a "barbaric combination of conditions," which he asserts were unjustifiable and therefore punitive. We accept his well-pleaded allegations that he was deprived of a toilet, toilet paper, running water, recreation, bedding, clothing, additional drinking water, or particularly sanitary or clean conditions, and that he was subjected to a 24/7-lights-on policy. We also accept as fact that officers threatened him as alleged.

"Absent a showing of an expressed intent to punish on the part of detention facility officials," we ask whether the "particular condition or restriction . . . is reasonably related to a legitimate nonpunitive governmental objective." *Bell*, 441 U.S. at 538–39. We first consider whether there was an expressed intent to punish, and then ask whether the conditions were reasonably related to a legitimate nonpunitive governmental objective.

1

Alexander argues that the district court failed to credit his well-pleaded allegations that prison officials were aware that he was not actually suicidal. As Alexander frames it, he informed the guards that he was

suicidal to escape group housing. But when they moved him to solitary confinement, they did so not to protect him, but to punish him.[5]

As an initial matter, Alexander was not transferred until he informed correctional officers that he was suicidal. That alone implies that the officers took his statement at face value, even if they did not subjectively believe him. But Alexander points to the vulgar comments the officers made during his transfer, including that he "really f***** up now, b****." This, he claims, gives rise to the inference that "the guards did not care about [his] fear of his cellmates or spiking blood pressure and wanted to punish him for complaining." He asserts that "[i]t can be further inferred that they also knew [he] could expect to suffer while he was in the violent cell." Inappropriate as the officials' statements may be, they do not evince punitive intent, even if they followed several denied requests for relocation. The same is true of any threats directed

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[5] The district court did not consider these allegations. The dissent says that this "should end the analysis." *Post*, at 27. But a district court need only consider well-pleaded allegations of fact, not speculation about others' states of mind. *Cicalese*, 924 F.3d at 765 (noting that we need not accept speculative allegations); *Iqbal*, 556 U.S. at 678 (requiring factual content that leads to "reasonable inferences"). Nor does the failure to consider a handful of allegations always warrant reversal. Such is especially so here, considering that Alexander's framing requires an inferential leap—from the officers' alleged subjective disbelief to an expressed intent to punish—that we need not accept. Nevertheless, as described below, the allegation does not save his complaint. *See also Gilbert v. Donahoe*, 751 F.3d 303, 311 (5th Cir. 2014) (explaining that we may affirm on any ground supported by the record).

at Alexander while he was in the violent cell.[6] Alexander alleges no facts of the officers' explicit intent to punish him, or that they outwardly disbelieved him, or that other suicidal inmates received different treatment.[7]

Moreover, it matters not whether the officers believed he was suicidal. County jails have a constitutional duty to ensure the safety of potentially suicidal detainees. *Rhyne v. Henderson County*, 973 F.2d 386,

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[6] The threats included unleashing a police dog on Alexander and threatening to kill him with a barbed wire guillotine. Officers also stated that Alexander would not "leav[e] this facility alive." We do not endorse such comments. But "[m]ere allegations of verbal abuse do not present actionable claims under § 1983. 'As a rule, "mere threatening language and gestures of a custodial officer do not, even if true, amount to a constitutional violation."'" *Bender v. Brumley*, 1 F.3d 271, 274 n.4 (5th Cir. 1993) (alteration omitted) (quoting *McFadden v. Lucas*, 713 F.2d 143, 146 (5th Cir. 1983)). Therefore, to the extent that Alexander suggests that these comments created a condition of confinement that violated the Constitution, we disagree.

[7] The dissent argues that we "invert[] Rule 12(b)(6)" by "assum[ing] facts in favor of the moving party." *Post*, at 26 n.1. Not so. The facts alleged, taken as true, do not give rise to the reasonable inference that the officers intended to punish Alexander. Beyond these insufficient factual allegations, he may claim that the officers desired to punish him, but any allegation to that effect is speculation that we need not accept. *See Cicalese*, 924 F.3d at 765. And, as described later, we do not depend on whether officers believe an individual's report of suicidal ideation.

Nor do we "fault[] Alexander for not meeting a legal test that finds no support in precedent" through our discussion of similarly situated detainees. *Post*, at 28. Where there are insufficient factual allegations demonstrating punitive intent, a detainee could presumably make a showing of punitive intent through disparate treatment of similarly situated individuals. Alexander failed to do so.

391 (5th Cir. 1992) ("The failure to provide pre-trial detainees with adequate protection from their known suicidal impulses is actionable under § 1983 as a violation of the detainee's constitutional rights."). Allowing this allegation to bootstrap Alexander's complaint past a motion to dismiss would create a minefield we decline to enter. Consider the dangers of requiring officers to second-guess every inmate's report of suicidal ideation. If they believe and transfer a dishonest detainee, as here, they would be liable for conditions that are designed to protect suicidal inmates. But if they disbelieve and do not transfer an honest detainee, they would also be liable, and the detainee would be in serious danger of self-harm. This standard is unworkable and would result in the denial of constitutional protections, and we therefore reject it.

2

We next consider whether the conditions of the violent cell are reasonably related to a legitimate governmental interest. As discussed above, pretrial detainees have a constitutional right to protection from self-harm. *Rhyne*, 973 F.2d at 391. As barren as the violent cell was, each condition was reasonably related to the legitimate government interest of protecting suicidal inmates from self-harm.

Alexander alleges that the cell did not have a toilet, a shower, or running water. But each of these poses a drowning risk. *See, e.g.*, *Elliott v. Cheshire County*, 940 F.2d 7, 9 (1st Cir. 1991) (noting that the prisoner stated that "he wanted to drown himself in the toilet"); *Belcher v. City of Foley*, 30 F.3d 1390, 1393 (11th Cir. 1994) ("As the officers attempted to move Mr. Belcher, he broke away and stuck his head into the toilet in an

attempt to drown himself."); *Cervantez v. Frith*, No. 22-150, 2025 WL 1287918, at *1 (N.D. Tex. May 2, 2025) (inmate attempted to drown himself in the toilet three separate times); *Crocco v. Winkler*, 659 F. Supp. 3d 204, 207 (D.N.H. 2023) ("Crocco attempted to drown himself in the cell's sink . . . ."). He claims that he was stripped and provided no bedding. But clothes and sheets carry risks of self-asphyxiation, especially when combined with showers, sinks, or toilets. *See, e.g.*, *McMahon v. Beard*, 583 F.2d 172, 175 (5th Cir. 1978) ("Removal of all cloth which might offer a means for suicide would seem prudent."); *Hare v. City of Corinth*, 36 F.3d 412, 414 (5th Cir. 1994) (inmate hanged herself "from the bars of her cell" using "strips of the blanket"); *Lewis v. Stephens*, 710 F. App'x 703, 703 (7th Cir. 2018) ("He stood on the sink in his cell with a bedsheet tied around his neck, threatening to hang himself."); *Romero v. Donley County*, 87 F.3d 1311, at *1 (5th Cir. 1996) (unpublished) (inmate hanged himself from bar above the toilet); *Rangel v. Wellpath, LLC*, No. 23-128, 2024 WL 1160913, at *1 n.3 (N.D. Tex. Mar. 18, 2024) (inmate "tore the blanket into strips, tied them to the shower head, and hung himself"). He states that his requests for toilet paper were denied. But, sadly, even toilet paper could pose a choking hazard. *See Nagle v. Gusman*, 61 F. Supp. 3d 609, 624 (E.D. La. 2014) (deposition testimony that an inmate "swallowed a roll of toilet paper and killed himself"); *Elliott*, 940 F.2d at 9 (inmate that had previously threatened suicide asked another "what would happen if he . . . swallowed paper towels").[8] Moreover,

[8] We note that Alexander complains of other rejected requests and conditions, including requests for additional drinking water

a twenty-four-hour-lights-on policy permits officers to monitor the inmate's activity around the clock to prevent them from self-harming. *Cf. Anderson v. Dallas County*, 286 F. App'x 850, 852 n.1 (5th Cir. 2008)

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and to shower or wash his hands, and a lack of recreational time. All inmates have "a right to adequate food." *Youngberg v. Romeo*, 457 U.S. 307, 315 (1982). Inherent in such a right is access to water. But we hesitate to take Alexander's suggestion that he ought to have received the "ideal" amount of drinking water for an adult male, which he totals to be 124 ounces. Even if Alexander's drinking water values were lower than what a typical person may aim for, we cannot say that he was provided "inadequate" water to the point of constitutional deprivation. This determination, of course, is context-dependent. But we decline to create an express baseline for daily water consumption for prisoners in suicide prevention cells.

As for the inability to shower and the loss of recreation time, such are reasonably related to the legitimate interest in protecting him from self-harm. Officials would have been required to move him out of the protective cell, provide him access to running water and a shower head—among the dangers from which he was isolated—and afford recreational time in open space, possibly with other inmates. These acts could pose a danger to an individual suffering suicidal ideation, and are not "arbitrary or purposeless." *Bell*, 441 U.S. at 539. We expressly limit this holding to Alexander's circumstances. We do not extend this to instances in which an individual is in such a cell for other periods of time or subjected to other conditions.

Finally, while we need not credit Alexander's allegation that waste covered the floor, *see supra* n.2, this alleged condition is a far cry from the horrifying facts presented in *Taylor v. Riojas*, which amounted to an Eighth Amendment violation. *See* 592 U.S. 7, 8–9 (2020) (inmate was confined in two cells, one of which "was covered, nearly floor to ceiling, in massive amounts of feces" and the second of which was "frigidly cold" and "equipped with only a clogged drain in the floor to dispose of bodily wastes"). The photograph in Alexander's complaint discounts any allegation that the violent cell was in nearly the state of the cell in *Taylor*, or amounted to a punitive condition under the circumstances.

(noting that "[o]nce an inmate is placed on Suicide Prevention Status, jailers must routinely monitor and observe the inmate"). These conditions, "barbaric" as they may be, relate to the legitimate government interest of protecting inmates—an interest that is constitutionally imposed upon the State.[9]

To be sure, these conditions are not narrowly tailored. They are overinclusive, painting with a broad brush to protect those who pose the greatest danger to

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[9] The district court found that the violent cell was "reasonably tailored to the state's interest in preventing suicides." But it then relied on out-of-circuit caselaw to alternatively hold that "the violent cell's conditions did not deprive Alexander of life's minimal necessities." We disagree.

We have previously held that similar conditions violate the Eighth Amendment where there is punitive intent. *See, e.g.*, *McCray v. Sullivan*, 509 F.2d 1332, 1336 (5th Cir. 1975) (finding an Eighth Amendment violation where "[a]s many as seven" prisoners were placed in a single cell in punitive isolation measuring six feet by eight feet, which lacked "bunks, toilets, sinks[,] or other facilities," and had only a "hole in the cell floor" as a toilet that was flushed four times each day and often backed up); *Alexander v. Tippah County*, 351 F.3d 626, 628–31 (5th Cir. 2003) (referring to conditions as "deplorable" where inmates punished for fighting were transferred to a similar cell, sewage littered the cell, it was freezing, and inmates were unable to wash their hands before eating). Alexander's housing was affirmatively *not* punitive—it was protective.

Nor do we adopt the district court's suggestion that, because Alexander lived through his confinement at Henderson County Jail, the conditions are per se reasonably related to the Jail's interest in protecting suicidal inmates. The fact that *some* conditions protect a detainee does not make *all* conditions reasonably related to the Government's interest in the detainee's protection. Nevertheless, here, all conditions bore a reasonable relationship to a legitimate government interest, and Alexander's claims therefore fail. It is solely on that basis that we affirm the district court's judgment.

themselves. But *Bell* looks only for a reasonable relationship, not narrow tailoring. So, even if these conditions are overly protective of Alexander, they are sufficiently related to the Jail's legitimate interest in protecting suicidal inmates and thus pass constitutional muster.[10]

Because the conditions were sufficiently related to a legitimate governmental interest, Alexander was not punished in violation of the Due Process Clause.[11]

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[10] In his complaint and the factual background of the opening brief, Alexander notes that "inmates identified with a potential for self-harm would sometimes be moved into the much less restrictive 'separation cells' if the [J]ail decided it needed the violent cell for someone who was genuinely violent." Those cells have a toilet, sink, shower, table, and bed. This, he claims, shows that the Jail did not believe the violent cell's restrictions were necessary.

Any argument centering on these alternative cells is forfeited for failure to brief the issue before this court. *See United States v. Delgado*, 672 F.3d 320, 334 (5th Cir. 2012) (en banc). Regardless, as we note above, there is no requirement that the violent cell be tailored to the individual. Where multiple individuals' circumstances warrant placement in the violent cell, spillover into the "separation cells" is required. But where the violent cell is available, Alexander cannot claim that he should have been placed in a separation cell instead. The violent cell is the safest place for the Jail to place a suicidal inmate, and the conditions are reasonably related to its interest in protection against suicide. We decline to suggest that officers should weigh the sincerity of such reports to determine whether a detainee should be housed in a more relaxed cell, given their potential for self-harm.

[11] We do not hold today that the violent cell's conditions are permissible in all circumstances. For instance, we express no view of the various other individuals' stories that Alexander raises in both his complaint and opening brief. We hold only that, as it relates to Alexander, accepting his well-pleaded allegations as true, the Jail did not violate his constitutional rights.

We therefore do not consider whether the officers are entitled to qualified immunity.

B

Alexander's remaining claims focus on medical care. He argues that "the county was well aware that no qualified mental health care was being provided at the [J]ail" and that its policies and contract with the Taft defendants resulted in a "total, intentional deprivation of qualified mental health care." Specifically, he alleges that Phlips "did not bother to gather or confirm any information on [him], such as why he was in the violent cell, how long he had been in there, whether he was taking any medication, or anything else." Instead, she "quickly aborted her visit when she decided that Alexander was 'too confused' to answer her initial questions." He also alleges that she took no action to help him; lacks medical or mental health licensing; has admitted she is not a clinician; is unqualified to make a clinical assessment; and must report her findings to someone qualified to make such an assessment. But, while Alexander believes that "[a] qualified mental health professional would have been alarmed at [his] state and taken steps to address it," Phlips "did not notify Taft or any other medical or mental health professional about Alexander's obvious distress."

Alexander then turns to Taft. He alleges that Taft assigned "an unlicensed person not legally authorized to provide psychological services" to handle his contractual responsibilities without providing written policies or procedures. Because the Jail was aware "from simple observation that [Phlips] was unsupervised and the only person allegedly providing mental health care at the [J]ail," and it knew that she had no

license, Alexander asserts that "it was the [J]ail's express policy to deny its entire inmate population access to mental health care of any kind."

We consider first his claims against the County, and then turn to the Taft defendants.[12]

1

The State must "assume some responsibility for [a pretrial detainee's] safety and general well-being." *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 200 (1989). These responsibilities include "food, clothing, shelter, medical care, and reasonable safety." *Id.* Medical care includes "protection from violence or suicide." *Hare v. City of Corinth*, 74 F.3d 633, 643 (5th Cir. 1996). The district court did not expressly consider Alexander's argument that the Jail

[12] The dissent states that the district court dismissed this claim *sub silentio* and we should therefore vacate and remand. *Post*, at 30. But the district court explained that, although Alexander challenged his medical treatment, administrative segregation and his confinement to a suicide-prevention cell did not amount to a constitutional violation. True enough, this analysis did not fully consider one of Alexander's chief complaints—that he did not receive sufficient mental health care—but we may consider this issue nonetheless. "Under our precedent, we may 'affirm on any ground supported by the record, including one not reached by the district court.' This is so even if neither the appellant nor the district court addressed the ground, so long as the argument was raised below." *Gilbert v. Donahoe*, 751 F.3d 303, 311 (5th Cir. 2014) (footnotes omitted) (quoting *Ballew v. Cont'l Airlines, Inc.*, 668 F.3d 777, 781 (5th Cir. 2012)). The dissent provides that this principle "applies only when the district court has actually considered the claim." *Post*, at 30. In our view, the district court *did* consider Alexander's § 1983 claim against the Taft defendants, even if it failed to individually consider every factual basis supporting that claim.

failed to provide sufficient mental health care, instead dismissing the § 1983 claims against the Taft defendants because the violent cell's conditions did not violate his constitutional rights. Nevertheless, seeing no cognizable claim under § 1983, we affirm. *See Gilbert*, 751 F.3d at 311.

First, Alexander argues that the Jail allowed Phlips, whom he alleges is unlicensed, to provide all mental health care at the Jail. The Texas Commission on Jail Standards requires that each facility have a plan that "provide[s] procedures that shall give inmates the ability to access a mental health professional at the jail or through a telemental health service." 37 TEX. ADMIN. CODE § 273.2(13). "If a mental health professional is not present at the county jail at the time or available by telemental health services, then [the plan must] require the jail to provide the inmate access to, at a minimum, a qualified mental health professional (as defined by [26 TEX. ADMIN. CODE § 301.303(48)]) within a reasonable time." *Id.* Under 26 TEX. ADMIN. CODE § 301.303(48), a qualified mental health professional is one with competency in the work to be performed and (1) has a bachelor's degree from an accredited university with a minimum number of hours dedicated to a major in one of various fields; (2) is a registered nurse; *or* (3) completes an alternative credentialing process.

The complaint repeatedly calls Phlips unqualified, at some point asserting that she is "not legally authorized to make suicide or mental health care assessments." But this legal conclusion, without more, cannot survive a motion to dismiss. *See Iqbal*, 556 U.S. at 678. Alexander does not allege that Phlips falls short

of the three categories in § 301.303(48).[13] He therefore cannot rely on her purported lack of qualifications.

But we cannot assume that there is no constitutional violation just because there is no properly alleged statutory violation under 37 Tex. Admin. Code § 273.2(13). In other words, by maintaining a formal policy, the County may well satisfy its statutory requirements, but it still must provide the constitutional minimum of care. *Cf. Murphy v. Collins*, 26 F.3d 541, 543 (5th Cir. 1994) ("A state's failure to follow its own procedural regulations does not constitute a violation of due process, however, if 'constitutional minima [have] nevertheless . . . been met.'" (alterations in original) (quoting *Jackson v. Cain*, 864 F.2d 1235, 1251 (5th Cir. 1989))).

The County provided the constitutional minimum for mental health assistance: "protection from violence or suicide." *Hare*, 74 F.3d at 643. In addition to being housed in a solitary confinement unit in which it was virtually impossible to self-harm, Alexander spoke with the employed mental health individual during his five-day confinement. It matters not that Phlips was not licensed to the extent that Alexander desired. Nor is it of any moment that he disagreed with both her determination that he was too confused to continue to interview and her decision not to

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[13] In other words, his complaint is devoid of factual allegations that Phlips (1) lacks a bachelor's degree from an accredited university with a minimum number of hours dedicated to one of the required majors; (2) is not a registered nurse; and (3) has not completed an alternative credentialing process. His allegation that she received "no formal training period" from Taft is not enough to demonstrate that she is unqualified under 26 TEX. ADMIN. CODE § 301.303(48).

recommend his release. While Alexander argues that the Jail's policy "was simply to defer completely to the discretion of correctional officers," he does not allege that he ever informed Jail officials—or Phlips—that he was no longer suicidal.

Alexander alternatively blames the violent cell for his severe "psychological deterioration," and claims that Phlips did nothing to remove him therefrom. We cannot charge mental health professionals, contracted to provide care to pretrial detainees, with releasing inmates from suicide cells or improving the conditions of their protective confinement. They have no authority to confine individuals or to free them from confinement. *Cf. McClure v. Foster*, 465 F. App'x 373, 375 (5th Cir. 2012) (noting that the complainant failed to show that it was the nurse's duty to provide toilet paper). Alexander provides only conclusory allegations demonstrating that Phlips or the Jail knew—or had reason to believe—that his mental deterioration was caused by the violent cell's conditions, rather than his self-reported suicidal ideation. This is insufficient to survive a motion to dismiss.

Alexander cannot demonstrate that the County "knowingly subject[ed] [him] to inhumane conditions of confinement or abusive jail practices" through its mental health treatment plan. *Shepherd v. Dallas County*, 591 F.3d 445, 456 (5th Cir. 2009). Because the plan does not violate the Constitution, we do not consider his municipal liability claim against the County. *See Valle v. City of Houston*, 613 F.3d 536, 541-42 (requiring a constitutional violation to impose municipal liability).

This leaves the Taft defendants. The Taft defendants are state actors under § 1983. *See West v. Atkins*, 487 U.S. 42, 54 (1988) (noting that "a physician employed by [the State] to provide medical services to state prison inmates[] act[s] under color of state law for the purposes of § 1983" when providing medical care); *Rosborough v. Mgmt. & Training Corp.*, 350 F.3d 459, 461 (5th Cir. 2003) (noting that private companies and employees that manage state prisons "are subject to § 1983 liability because they are performing a government function traditionally reserved to the state"). When determining whether such individuals have violated the Constitution, the plaintiff must demonstrate that (1) "the deprivation alleged was sufficiently serious" and (2) "the prison official possessed a sufficiently culpable state of mind." *Herman v. Holiday*, 238 F.3d 660, 664 (5th Cir. 2001).[14] That state of mind is deliberate indifference. *Id.*

We begin and end with deliberate indifference. "Deliberate indifference is an extremely high standard to meet." *Domino v. Tex. Dep't of Crim. Just.*, 239 F.3d 752, 756 (5th Cir. 2001). In the context of medical care, "[m]ere negligence, neglect, or medical malpractice" does not suffice. *Varnado v. Lynaugh*, 920 F.2d 320, 321 (5th Cir. 1991) (alteration in original) (quoting *Fielder v. Bosshard*, 590 F.2d 105, 107 (5th Cir. 1979)). Where "medical treatment was provided, even if it

[14] To qualify under the first of these two prongs, the "official's act or omission must have resulted in the denial of 'the minimal civilized measure of life's necessities.'" *Id.* (quoting *Farmer v. Brennan*, 511 U.S. 825, 834 (1994)). Although we hold that the Jail did not knowingly provide constitutionally insufficient mental health care, we must also ascertain whether the Taft defendants deprived Alexander of mental health services.

was negligent, disagreed-with, and based on a perfunctory and inadequate evaluation, it was not denied." *Petzold v. Rostollan*, 946 F.3d 242, 250 (5th Cir. 2019). Because the Taft defendants provided treatment—even if imperfect—Alexander's claim fails.

Alexander points us to another case arising out of the Henderson County Jail and involving the Taft defendants. *See Albritton v. Henderson County*, No. 23-1723, 2024 WL 1776380 (N.D. Tex. Apr. 23, 2024). There, the court stated that "[t]he system for inmates to access mental health care at the Henderson County Jail amounted to a condition that left the inmates with no avenues to access mental health care and this dereliction of care cannot be reasonably related to any legitimate governmental objective." *Id.* at *5. With respect to the Taft defendants, it considered allegations similar to those Alexander makes here: Taft contracted with the County, delegated all duties to an unlicensed professional, did not train or supervise that individual, provided no mental health care at the Jail, and did not establish a system through which the individual could contact Taft for assistance. *Id.* at

*6. The court concluded that Taft knew that no one could provide mental health assistance and "[t]he substantial risk of harm of Taft flouting his responsibilities to the individuals in need of mental health services while at the [J]ail and outsourcing mental health care to an unqualified individual is so obvious" that it did not matter if Taft *actually* knew of the inmate or was aware of the substantial risk of harm. *Id.*

Albritton "ha[d] the 'mental age' of a six-year-old" and numerous known disabilities. *Id.* at *1. He took "approximately eighteen daily medications to treat his psychological and physical ailments," and was prone

to danger when he did not understand his surroundings. *Id.* While housed in the violent cell—despite lacking indications of suicidal thoughts—he did not eat because he believed the food was poisoned, was not provided water, and "had diarrhea . . . on the sleeping bench which no one cleaned up" during the two-day detention. *Id.* at *2. It is unclear whether Taft's aide at the time, Jeffries, ever visited Albritton. The court found that the failure to provide any sort of mental health care to an individual "*like* [*Albritton*] *experiencing a mental health crisis*" could contribute to a finding of deliberate indifference. *Id.* at *6 (emphasis added).

The facts here are highly distinguishable. Alexander reported that he was suicidal and was moved to the violent cell. At that point, he claims he mentally deteriorated and that Phlips failed to release him. Putting aside the fact that authority to release him from the violent cell was left to the Jail—not Taft and his employees—it is unclear what Phlips (or Taft) was to make of his mental deterioration. Alexander seemed healthy during Phlips's earlier visits, but was moved to the violent cell after stating that he was suicidal. She then found him unable to answer her questions. She could have drawn the inference that he was *not* ready to be released from a suicide protection cell because he had deteriorated between visits. Such a conclusion would be logical, given that he had previously reported to her that he struggled with depression and subsequently reported suicidal ideation.[15]

[15] We therefore reject Alexander's argument that she should have reported these findings to Taft. The Jail provided Alexander

Holding the Taft defendants liable would transform our consideration of deliberate indifference into a post-hoc scrutiny of each determination of inmates' mental health statuses. Alexander cannot expose them to liability for failing to release him from the violent cell under these circumstances. His § 1983 claim against the Taft defendants therefore fails.[16]

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with necessary protections. In Phlips's view, his mental health was being treated.

[16] Alexander also brings a supervisory liability claim against Taft. This requires that he identify a constitutional violation that caused his injury. *See Valle*, 613 F.3d at 541-42. The same is true if he chooses to bring such a claim under a failure-to-train or failure-to-supervise theory. *See Littell v. Hous. Indep. Sch. Dist.*, 894 F.3d 616, 624 (5th Cir. 2018) ("[W]hen a municipal entity enacts a facially valid policy but fails to train its employees to implement it in a constitutional manner, that failure constitutes 'official policy' that can support municipal liability if it 'amounts to deliberate indifference.'" (quoting *City of Canton v. Harris*, 489 U.S. 378, 388 (1989))). Since he fails to demonstrate deliberate indifference, Alexander has pleaded no constitutional violation and therefore cannot demonstrate supervisory liability against Taft in his individual capacity under any theory.

The Rule 28(j) material that Alexander filed—the recent opinion in *Anderson v. Henderson County*, No. 24-cv-2394 (N.D. Tex. June 23, 2025)—contemplates different circumstances. There, the detainee "suffer[ed] from muscular dystrophy," resulting "in a significant speech impediment and an inability to move or walk as easily as a healthy person." *Anderson*, slip op. at 1. He, too, suffered from PTSD, but was prescribed medication for its treatment. *Id.* at 2. Upon arrival at the Jail, he was "immediately placed in the . . . 'violent cell' for seven days." *Id.* During that time, despite informing Jail staff of his medical conditions, "he was *never* seen by any medical or mental health staff." *Id.* (emphasis added). Moreover, he never received his prescription medication. *Id.* at 2–3.

As described above, Phlips visited Alexander. While Alexander may plead similar facts to Anderson—including that Taft

V

Alexander asks that we require officers and mental health providers to second-guess inmates' disclosure of suicidal ideation. We decline to create such a requirement. We therefore AFFIRM the district court's order of dismissal.

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provided inadequate training or that his employee was unauthorized to provide psychological services, *see id.* at 9—he *was* visited by a mental health professional affiliated with Taft's practice. Moreover, his circumstances were vastly different: He experienced suicidal ideation. The Taft defendants knew that when Phlips visited him, and took that into account when responding. Anderson, on the other hand, failed to receive *any* of his prescription medication, or any treatment at all. The facts in these cases are inapposite, and *Anderson* therefore does not counsel against dismissal.

To be clear, we do not hold that every actionless visit by a mental health professional passes constitutional muster. We hold that, under Alexander's specific circumstances, as alleged, Phlips and the Taft defendants provided the constitutional minimum of care required.

[Dissenting Opinion]

JAMES L. DENNIS, *Circuit Judge*, dissenting:

After we issued our opinions in this case, seven leading prison-law scholars filed an amicus brief warning that the majority opinion "makes basic errors of prison law," "misdescribes the Fourteenth Amendment's due process inquiry," "misstates the constitutional inquiry for deliberate indifference to a serious medical need," "addresses hypothetical concerns that simply do not exist," and "ignores the impossible burdens the opinion imposes on incarcerated litigants."[1] These are serious charges.

* * *

How did we get here? Jail officials punished pretrial detainee Ronnie Alexander by denying him a toilet, toilet paper, running water, recreation, bedding, clothing, and sufficient drinking water, all while subjecting him to twenty-four-hour lighting and a cell contaminated with human waste. Alexander not only lived in that filth for five days, but he also developed infections in his feet from exposure to urine and fecal matter—allegations the majority ignores entirely.

That type of error pervades the majority opinion. Correctly applying Federal Rule of Civil Procedure 12(b)(6), Alexander has plausibly shown that jail officials misused suicide-watch protocols to punish a pretrial detainee.

With respect for my esteemed colleagues, I dissent.

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[1] The amicus brief is appended to this dissent.

I

"Due process requires that a pretrial detainee not be punished." *Hare v. City of Corinth*, 74 F.3d 633, 651 (5th Cir. 1996) (DENNIS, J., specially concurring). "In determining whether particular restrictions and conditions accompanying pretrial detention amount to punishment in the constitutional sense of that word, a court must decide whether the disability is imposed for the purpose of punishment or whether it is but an incident of some other legitimate governmental purpose." *Id.* (citing *Bell v. Wolfish*, 441 U.S. 520, 538 (1979)). "Absent a showing of an expressed intent to punish on the part of detention facility officials, that determination generally will turn on 'whether an alternative purpose to which [the restriction] may rationally be connected is assignable for it, and whether it appears excessive in relation to the alternative purpose assigned [to it].'" *Id.* (first citing *Bell*, 441 U.S. at 538; and then quoting *Kennedy v. Mendoza-Martinez*, 372 U.S. 144, 168–69 (1963)).

Put simply, conditions must advance a legitimate governmental goal *and* cannot be excessively harsh in doing so. The district court, however, dismissed Alexander's conditions-of-confinement claim solely on the ground that the conditions in the "violent cell" were justified by the need to prevent Alexander's suicide and, thus, were reasonably related to a legitimate governmental objective. The majority opinion initially describes *Bell*'s test correctly but repeats the same error: it omits the proportionality requirement in its analysis, addressing only whether the jail's actions purportedly advanced a legitimate objective. Yet, as the amicus brief explains, a great weight of authority holds

that exposing a detainee to the conditions Alexander alleges is excessive in relation to any legitimate penological purpose. App. at 3–4. The majority offers no answer, instead opting to tacitly and fundamentally alter the *Bell* test.

At any rate, the majority opinion's governmental goal rationale itself badly misapplies Rule 12(b)(6). Alexander alleges that he falsely claimed to be suicidal as a last resort to escape placement in a dangerous group cell, where other inmates repeatedly threatened him. He further alleges that jail officials knew he was not suicidal but used his plea as a pretext to place him in the violent cell for punitive purposes. Several key facts, all occurring in rapid succession, support an inference of retaliatory motive.

> **March 8**: Alexander was booked into the jail. A Henderson County mental health professional conducted an "observation clearance," observing no concerns with his mental health.
>
> **March 9 (daytime)**: The same provider performed a follow-up and again documented "no concerns" with Alexander's mental status.
>
> **March 9 (evening)**: Guards placed Alexander in group detention "with some of the most violent and dangerous men being held at the Jail." These inmates immediately made serious threats against him. Alexander feared for his life, due to both the threats by his cellmates and his spiking blood pressure, which had

already required treatment since he had arrived at the jail.

Later that evening: Alexander informed guards of the threats and requested to be moved "multiple times." The guards refused. "Thinking he had no other option, he told [a] correctional officer . . . that he was suicidal, believing that would force the jail to move him out of the group detention cell for medical or mental health care evaluation."

Shortly after midnight, March 10: Officers transferred Alexander to the "violent cell."[2] During the walk, guards repeatedly called him a "bitch." One said, "You really fucked up now, bitch."

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[2] The majority opinion observes that "Alexander was not transferred until he informed correctional officers that he was suicidal," which "alone implies that the officers took his statement at face value, even if they did not subjectively believe him." *Ante*, at 9. Drawing that inference at the pleading stage inverts Rule 12(b)(6): it assumes facts in favor of the moving party, not the plaintiff, which is precisely what the Rule forbids. *United States ex rel. Steury v. Cardinal Health, Inc.*, 735 F.3d 202, 204 (5th Cir. 2013) (quoting *United States ex rel. Steury v. Cardinal Health, Inc.*, 625 F.3d 262, 266 (5th Cir. 2010)). The opposite inference—one we are required to credit at this stage—is that the officers knew Alexander was not suicidal, understood that he was using the claim as a desperate attempt to escape a threatening environment, and chose to punish him for it. He had been in the group cell only a few hours, had repeatedly asked for protection, and had already been ignored. When he cried suicide, the officers responded not with concern but with hostility, using his plea as a convenient excuse to isolate and degrade him. That response does not reflect protective intent. It reflects retaliation.

> **March 10–15**: While Alexander remained in the violent cell, guards taunted him with repeated insults and threats. On one occasion, they paraded a police dog outside his cell and loudly discussed taking Alexander into a field and unleashing the dog on him. They threatened to kill him using a "barbed wire guillotine." Just before he was released from the cell, one officer said: "Ronnie Alexander, you are not leaving this facility alive."

At this early stage, these allegations combined with their tight chronology plausibly support Alexander's allegation that the officers did not act to protect Alexander, but to punish him for complaining about his safety in group detention. The mental health evaluations showing no suicidal concerns, the guards' refusal to move him despite his clear fear for his safety, the retaliatory language during his transfer, and the continuing harassment while in the violent cell together present a coherent narrative of punitive intent. In the context of a pretrial detainee, "an inference that governmental intent was punitive is equivalent to an inference that the challenged condition is unconstitutional." *Hamilton v. Lyons*, 74 F.3d 99, 106 (5th Cir. 1996).

Critically, none of these alleged facts appear in the district court's opinion. The court's analysis of the government's interest instead assumes Alexander was a known suicide risk. That assumption favors the defendants over the plaintiff, which is improper at the motion-to-dismiss stage. *Q Clothier New Orleans,*

L.L.C. v. Twin City Fire Ins. Co., 29 F.4th 252, 256 (5th Cir. 2022) ("The court must accept the well-pleaded facts as true and view them in the light most favorable to the plaintiff," not the defendant).

The majority opinion concedes that "[t]he district court did not consider these allegations." *Ante*, at 9 n.5. In other words, we agree the district court gave no consideration at all to these specific, non-conclusory allegations.[3] That should end the analysis. We are a "court of review, not first view." *Stringer v. Town of Jonesboro*, 986 F.3d 502, 509 (5th Cir. 2021) (quoting *Cruson v. Nat'l Life Ins. Co.*, 954 F.3d 240, 249 n.7 (5th Cir. 2020)).

Undeterred, the majority opinion proceeds to reject Alexander's conditions-of-confinement claim as speculative, reasoning that he failed to allege an express admission of punitive intent or identify "other suicidal inmates [that] received different treatment." *Ante*, at 9–11. I do not follow. The question here is whether his

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[3] The majority opinion seems to suggest the district court was free to ignore these allegations because they are not "well-pleaded allegations of fact." *Ante*, at 9 n.5. It is difficult to see what, exactly, is not "well-pleaded" about an allegation that a jail official told Alexander, "You really fucked up now, bitch," or that another said, "Ronnie Alexander, you are not leaving this facility alive."

In the alternative, the majority dismisses "any threats directed at Alexander while he was in the violent cell" on the ground that they do "not creat[e] a condition of confinement," citing the general rule that "[m]ere allegations of verbal abuse do not present actionable claims under" 42 U.S.C. § 1983. *Ante*, at 10 & n.6 (quoting *Bender v. Brumley*, 1 F.3d 271, 274 n.4 (5th Cir. 1993)). Alexander does not make that argument. He cites the threats not as a standalone claim, but as circumstantial evidence of the officers' punitive intent.

allegations allow us to plausibly *infer* retaliatory or punitive conduct under the guise of suicide prevention. *See, e.g.*, *Simons v. Clemons*, 752 F.2d 1053, 1056 (5th Cir. 1985) (analyzing *Bell* and inquiring whether an "express intent to punish" could be "infer[red] . . . from the pleadings"); *Bell*, 441 U.S. at 538–39 (permitting courts to infer an intent to punish). As outlined above, they do. The majority's refusal to infer anything about state of mind despite numerous explicit comments, defendants' associated conduct, and context (all at the motion to dismiss stage), if applied widely, would immunize numerous constitutional violations committed by all but the most proudly malicious defendants.

This case exemplifies that risk. If Alexander's allegations are true, then the jail violated the Fourteenth Amendment by using suicide protocols to punish a pretrial detainee—denying him a toilet, toilet paper, running water, recreation, bedding, clothing, and sufficient drinking water, while subjecting him to twenty-four-hour lighting and a cell contaminated with fecal matter and urine.[4] *Ante*, at 13 n.9 ("We

[4] My reading of the record diverges from the majority opinion, which discounts Alexander's allegation—"that '[t]he [cell's] floor had not been cleaned and was covered in dried urine and fecal matter'"—based on a color image showing an "off-white" cell that "appears clean" and "certainly devoid of fecal matter." *Ante*, at 3 n.2. First, that is not the full allegation. Alexander also alleges that fecal matter and urine were present in the drain located at the center of the cell floor, and that he had to manually force the feces through the grates using a paper cup. He further alleges that the floor was soiled with dried waste left by prior inmates housed in the toilet-less cell.

Second, although the complaint includes two photos of the cell, they are blurry. I cannot say they either support or contradict Alexander's account. Given the ambiguity, this case does not fall

have previously held that similar conditions violate the Eighth Amendment where there is punitive intent." (first citing *McCray v. Sullivan*, 509 F.2d 1332, 1336 (5th Cir. 1975); and then citing *Alexander v. Tippah County*, 351 F.3d 626, 628–31 (5th Cir. 2003))).[5]

The majority opinion rejects Alexander's claim partly out of a policy concern for placing jailers in an untenable position: liable whether they act or refrain. *Ante*, at 10–11. The allegations in the present case fall within neither horn of that dilemma. Taking Alexander's allegations as true, the officers knew he was not suicidal, knew he feared for his safety in his group housing, and deliberately chose a punitive response that exposed him to new risks. This is not a matter of difficult judgment; it is punishment of a pretrial detainee disguised as suicide watch. The Constitution forbids that. *Bell*, 441 U.S. at 535.

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within the narrow exception recognized in *Scott v. Harris*, 550 U.S. 372, 380 (2007), which permits a court to disregard a plaintiff's version of events only when it is "so utterly discredited by the record that no reasonable jury could have believed him." "*Scott* was an exceptional case with an extremely limited holding," inapplicable to ambiguous photo evidence. *Aguirre v. City of San Antonio*, 995 F.3d 395, 410 (5th Cir. 2021).

[5] *McCray* and *Alexander* involved convicted individuals and were analyzed under the Eighth Amendment. By contrast, Alexander was a pretrial detainee, so his claims arise under the Fourteenth Amendment. Still, we may look to those cases for guidance because a pretrial detainee's due process rights are said to be "at least as great as the Eighth Amendment protections available to a convicted prisoner." *City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983).

II

That leaves the claims focusing on medical care. The district court never addressed Alexander's claims that the jail provided constitutionally deficient mental health care. *Ante*, at 16 n.12 (majority opinion agreeing that these particular claims were not "fully considered"). By disposing of the issue without explanation, the court effectively dismissed the claims *sub silentio*, undermining meaningful appellate review. *See, e.g.*, *McInrow v. Harris County*, 878 F.2d 835, 836 (5th Cir. 1989). While Federal Rule of Civil Procedure 12 does not require findings of fact or conclusions of law, the parties are still entitled to understand the basis for final judgment. *Hanson v. Aetna Life & Cas.*, 625 F.2d 573, 575 (5th Cir. 1980). As we have stressed, "discussion by the trial judge" is often essential to facilitate proper review. *Myers v. Gulf Oil Corp.*, 731 F.2d 281, 283 (5th Cir. 1984). That is especially true where, as here, the record does not reveal which of several theories the district court may have relied on. *Mosley v. Ogden Marine, Inc.*, 480 F.2d 1226 (5th Cir. 1973). When a court's reasoning is either vague or absent, effective appellate review becomes all but impossible. *McInrow*, 878 F.2d at 836. In those circumstances, we have consistently remanded to obtain at least some explanation of the district court's rationale. *See, e.g.*, *Myers*, 731 F.2d at 284.

The majority opinion devotes seven pages to analyzing the medical care claims. *Ante*, at 15–22. Yet it cites no analysis from the district court. None exists. Instead, the majority opinion relies on the principle that we may affirm on any ground supported by the record, even one not reached by the district court, if the

argument was raised below. *Id.* at 16 n.12 (citing *Gilbert v. Donahoe*, 751 F.3d 303, 311 (5th Cir. 2014)). But that principle applies only when the district court has actually considered the claim. Although Alexander's mental health care claims were raised and briefed, the district court gave them no consideration. Vacatur and remand are warranted. *Ashley v. Clay County*, 125 F.4th 654, 662 n.5 (5th Cir. 2025) ("It is not our role to address a question that the district court left unresolved . . . as both a matter of judicial restraint and sound policy.").

As the prison-law scholars well explain, the majority opinion is incorrect in any event:

> Pretrial detainees are entitled to adequate medical care. *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); *Hare v. City of Corinth, Miss.*, 74 F.3d 633, 642 (5th Cir. 1996). A jail official violates this constitutional protection when deliberately indifferent to a pretrial detainee's serious medical needs. *Id.* The test applies equally to mental health issues as to physical ones. *Id.* Deliberate indifference requires that a jail official subjectively "knows of and disregards an excessive risk" to health or safety. *Farmer v. Brennan*, 511 U.S. 825, 838 (1994); *see, e.g.*, *Easter v. Powell*, 467 F.3d 459, 464–65 (5th Cir. 2006) (holding that there was an Eighth Amendment liability where the prison nurse offered non treatment options to a patient with a history of cardiac problems who was experiencing

chest pains). A jail official's knowledge of a substantial risk of harm can be inferred if the health risk is obvious. *Farmer*, 511 U.S. at 842 n.8.

The panel majority fails to state or apply this black letter standard to the County. Instead, the majority simply holds that the County provided mental health assistance through "protection from violence or suicide" without considering whether Alexander had a serious medical need or whether the County was deliberately indifferent to it by failing to have any qualified mental health staff present. *Ante*, at 18. The majority says that Alexander failed to demonstrate that the County's "mental health treatment plan" was constitutionally inadequate, *id.* at 19, yet acknowledges that Alexander plausibly alleged a "total, intentional deprivation of qualified mental health care," *id.* at 15. An entirely unqualified person conducting a fleeting interview with Alexander more than two days after Alexander was placed in isolation cannot constitute a treatment plan. *See Gates v. Cook*, 376 F.3d 323, 336 (5th Cir. 2004). The majority errs too in applying this standard to Phlips herself by considering only what she did not do—move Alexander out of the suicide cell—rather than on what she did do: nothing. *Ante*, at 18; *see Gates*, 376 F.3d at 336.

App. at 86-87 (citation modified).

Alexander's allegations establish a plausible claim that the jail provided constitutionally deficient mental health care, and I would therefore vacate the district court's dismissal and remand for further proceedings.

III

Ultimately, the majority opinion "decline[s] to . . . require officers and mental health providers to second-guess inmates' disclosure of suicidal ideation." *Ante*, at 22–23. That is not the rule Alexander seeks. He does not argue that officials must second-guess every report of suicidal ideation. Rather, he alleges that, in his case, the officials knew he was not suicidal and used suicide protocols as a method of punishment. I am deeply concerned that the majority's decision creates an untenable exception to *Bell*, permitting jailers to punish detainees under the guise of suicide prevention, so long as they offer even the thinnest pretext, despite substantial evidence of punitive intent.

I respectfully dissent.

[Appendix to Dissenting Opinion of DENNIS, J.]

No. 24-10663

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

RONNIE ALEXANDER,
Plaintiff–Appellant,
v.
PHILIP R. TAFT PSY D AND ASSOCIATES, P.L.L.C.; HENDERSON COUNTY TEXAS; NATHANIEL PATTERSON; TAYLOR CALDWELL; MORGAN FAIN; NOAH KREIE; WILLIAM TRUSSEL; DORA MARTINEZ; MELISSA HARMON; PHILIP TAFT,
Defendants–Appellees.

On Appeal from a Final Judgment of the United States District Court for the Northern District of Texas
Case No. 3:22-cv-395, Hon. Brantley Starr

BRIEF OF PRISON LAW SCHOLARS AS AMICI CURIAE SUPPORTING APPELLANT AND REHEARING

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August 14, 2025

CERTIFICATE OF INTERESTED PERSONS

In addition to the persons described in the Parties' certificates of interested persons, the following listed persons have an interest in the outcome of this case within the meaning of Rule 28.2.1:

Bakhshay, Shirin, *Amicus*
Dangaran, D, *Amicus*
Davy, Jim, *Amici*'s counsel
Fenster, Mark, *Amicus*
Godfrey, Nicole, *Amicus*
Godsoe, Cynthia, *Amicus*
Jefferis, Danielle, *Amicus*
Weiss, Samuel, *Amici*'s counsel and *Amicus*.

TABLE OF CONTENTS

[page numbers updated]

TABLE OF AUTHORITIES

[formatting modified and page numbers updated]

Cases

Other Authorities

Rules

INTERESTS OF THE AMICI CURIAE

Amici are professors of law who study, teach, and write about prison and jail litigation. They submit this brief to share their views on the substance of prison law and the practical realities of prisoner litigation. A full list of signatories appears as an appendix.

INTRODUCTION

Amici urge the panel to rehear this opinion, or at minimum reissue it as unpublished. It makes basic errors of prison law—both doctrinal and in assessing the context and incentives of prison civil rights litigation. If applied widely, it would immunize unconstitutional conduct across the Circuit.

ARGUMENT

I. The panel opinion makes basic errors of prison law.

A. The Court misdescribes the Fourteenth Amendment's due process inquiry.

Pretrial detainees cannot be "punished." *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). In *Bell*, the Court explained that a pretrial detainee's conditions of confinement can constitute punishment either because of a jail's "expressed intent to punish" or an inferred one. 441 U.S. at 538–39. The latter inquiry examines (1) "whether an alternative purpose to which the restriction may rationally be connected is assignable for it, and [(2)] whether it appears excessive in relation to the alternative purpose assigned to it." *Id.* at 538 (cleaned up). In short, conditions must advance a

legitimate goal and cannot be excessively harsh in doing so. *Id.* at 548.

In *Bell*, the Court described the importance of step two of this test by giving an outlandish example: "loading a detainee with chains and shackles and throwing him in a dungeon." *Id.* Doing so "may ensure his presence at trial and preserve the security of the institution" but would nonetheless "support a conclusion that the purpose for which they were imposed was to punish." *Id.* The Court thus warned that absent a proportionality requirement, jails would have undue leeway to impose harsh conditions of confinement for purposes of punishment but escape liability because the conditions had some connection to a legitimate goal of pretrial detention. *Id.*

Circuit courts regularly apply *Bell*'s proportionality test to infer a purpose to punish in violation of the Fourteenth Amendment. *Morris v. Zefferi*, 601 F.3d 805, 811 (8th Cir. 2010) (holding that transporting a pretrial detainee "in a small, unsanitary dog cage for the ninety-minute drive … with no compelling urgency and other options available, was excessive in relation to the goal of preventing escape, and thus, an inference may reasonably be made" that the conditions constituted punishment); *see also Williamson v. Stirling*, 912 F.3d 154, 179 (4th Cir. 2018); *Edwards v. Arocho*, 125 F.4th 336, 352–53 (2d Cir. 2024); *J.H. v. Williamson County*, 951 F.3d 709, 718 (6th Cir. 2020); *May v. Sheahan*, 226 F.3d 876, 884 (7th Cir. 2000); *Littlefield v. Deland*, 641 F.2d 729, 731 (10th Cir. 1981). In a case like *Morris*, the jail had a legitimate objective in maintaining security during transportation, and placing the detainee in a urine-soaked dog cage advanced that objective—only *Bell*'s

proportionality test supports the obvious conclusion that doing so nonetheless constituted punishment.

Here, the panel majority initially described *Bell*'s test correctly but then simply omitted the proportionality requirement in its analysis. Slip Op. at 6, 7-8. The majority explained that Alexander must demonstrate the jail's restrictions were "not reasonably related to a legitimate governmental objective," and then provided examples of legitimate objectives related to preventing self-harm. *Id.* at 8, 11-12. This analysis, however, only addressed the first prong of *Bell*. 441 U.S. at 538. The Court failed to address whether these restrictions were excessive in relation to that purpose. Slip Op. at 6; *see* 441 U.S. at 538.

In abandoning *Bell*'s proportionality analysis, the majority failed to engage with the specific harsh conditions that form the basis for a Fourteenth Amendment claim under *Bell*. Slip Op. at 6; *see* 441 U.S. at 538. A great weight of caselaw holds that it is excessive in relation to any penological purpose to expose prisoners to feces. *See, e.g.*, *Gates v. Cook*, 376 F.3d 323, 334 (5th Cir. 2004); *Brooks v. Warden*, 800 F.3d 1295, 1303–04 (11th Cir. 2015); *DeSpain v. Uphoff*, 264 F.3d 965, 974 (10th Cir. 2001); *Young v. Quinlan*, 960 F.2d 351, 365 (3d Cir. 1992); *LaReau v. MacDougall*, 473 F.2d 974, 978 (2d Cir. 1972). Here, Alexander not only lived in his waste for five days, but developed infections in his feet from exposure to urine and fecal matter—allegations that the Court not only failed to apply in step two of the *Bell* analysis but ignored entirely. Slip Op. at 6; ROA.114 ¶40.

Similarly, while the majority insisted that Alexander's case was "a far cry from the horrifying facts" of *Taylor v. Riojas*, in which the U.S. Supreme Court

summarily reversed this Court for failing to find a clearly established Eighth Amendment violation, much of the case is strikingly similar. Slip Op. at 12 n.8. Both cases involve a man who was thrown naked into a filthy cell by taunting guards for five or six days because of a purported suicide threat. *Id.* at 1; *see Taylor v. Riojas*, 592 U.S. 7, 8–9 (2020). Some of the facts from *Taylor* may indeed have been more "horrifying" than here, Slip Op. at 12 n.8, but whatever factual distinctions exist only even matter in step two of the *Bell* inquiry the majority skipped, because defendants in both cases had identical rationales for their similar behavior.

B. The opinion misstates the constitutional inquiry for deliberate indifference to a serious medical need.

Pretrial detainees are entitled to adequate medical care. *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); *Hare v. City of Corinth, Miss.*, 74 F.3d 633, 642 (5th Cir. 1996). A jail official violates this constitutional protection when deliberately indifferent to a pretrial detainee's serious medical needs. *Id.* The test applies equally to mental health issues as to physical ones. *Hare*, 74 F.3d at 642. Deliberate indifference requires that a jail official subjectively "knows of and disregards an excessive risk" to health or safety. *Farmer v. Brennan*, 511 U.S. 825, 838 (1994); *see e.g.*, *Easter v. Powell*, 467 F.3d 459, 464–65 (5th Cir. 2006) (holding that there was an Eighth Amendment liability where the prison nurse offered non treatment options to a patient with a history of cardiac problems who was experiencing chest pains). A jail official's knowledge of a

substantial risk of harm can be inferred if the health risk is obvious. *Farmer*, 511 U.S. at 842 n.8.

The panel majority failed to state or apply this black letter standard to the County. Instead, the majority simply held that the County provided mental health assistance through "protection from violence or suicide" without considering whether Alexander had a serious medical need or whether the County was deliberately indifferent to it by failing to have any qualified mental health staff present. Slip Op. at 15. The majority held that Alexander failed to demonstrate that the County's "mental health treatment plan" was constitutionally inadequate, but Alexander plausibly alleged a "total, intentional deprivation of qualified mental health care." Slip Op. at 19, 15. An entirely unqualified person conducting a fleeting interview with Alexander more than two days after Alexander was placed in isolation cannot constitute a treatment plan. ROA.114 ¶¶ 4, 99, 104, 107, 122–23; *see Gates*, 376 F.3d at 336. The Court erred too in applying this standard to Phlips herself when it considered only on what she did not do—move Alexander out of the suicide cell—rather than on what she did do: nothing. Slip Op. at 15; *see Gates*, 376 F.3d at 336.

II. In the context of prison law, the majority's concerns are unfounded, and the opinion will have considerable unintended consequences.

The panel majority expresses concern that allowing Mr. Alexander's claim to proceed would create a "minefield" for correctional defendants. Slip Op. at 11. That concern is misplaced. The structures of prison law and the PLRA, including high substantive

standards that *pro se* incarcerated litigants cannot marshal evidence to meet and the judge-made doctrine of qualified immunity, already prevent prisoners from redressing many constitutional violations. Additionally, those difficult substantive standards incorporating the subjective state-of-mind of correctional defendants means that prisoners rely even more than other litigants on inferences from allegations and record evidence. Officers rarely state their sadistic or malicious intent explicitly—courts must infer it from context. The majority's misplaced concern about prison defendants' hypothetical liability overrides incarcerated peoples' entitlement to reasonable inferences, and unfairly bars them from proving already-difficult claims.

A. The majority addresses hypothetical concerns that simply do not exist.

The majority fears reading too much into "vulgar comments," Slip Op. at 9, "inappropriate" statements, Slip Op. at 10, or even "threats directed at Alexander," *id.* It worries that inferring malicious intent on the part of officers who, for example, "threaten[ed] to kill [Alexander] with a barbed wire guillotine" and told him not to expect to "leave this facility alive," *id.* at 10 n.6, would actually "result in the denial of constitutional protections" *to incarcerated people*. *Id.* at 11. That worry is backwards. Prison civil rights law already provides more-than-sufficient protection to officers, obviating any need to undercut Rule 12(b)(6) inferential standards.

First, the substantive standards in prison civil rights cases are already often very high. Substantive claims under the Eighth Amendment include a

"subjective" prong that requires plaintiffs to show high *mens rea* on the part of correctional defendants.[1] As noted, claims for inadequate medical care require deliberate indifference, meaning that a defendant knew—not should have known, but actually knew—of a substantial risk of serious harm and intentionally disregarded it. *Farmer*, 511 U.S. at 842-43. Eighth Amendment claims for excessive force similarly require subjective intent to cause harm on the part of an officer—so even objectively unreasonable and seriously injurious uses of force may not trigger liability without "wanton infliction of pain." *Whitley v. Albers*, 475 U.S. 312, 319 (1986). Because of the duty that the constitution imposes upon the State to "assume some responsibility for [the] safety and general well-being" of someone in its custody, *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 199-200 (1989), corrections officials cannot disregard a risk of substantial harm to an incarcerated person. *Farmer*, 511 U.S. at 842-43. But an incarcerated plaintiff must show not only that the defendant had knowledge "of the facts from which the inference could be drawn that a substantial risk of harm exists," but that the official did in fact "draw the inference" and consciously disregard the risk. *Id.* at 837, 842. Other common prison civil rights claims, like First Amendment retaliation, look to the state of mind of the defendant also. As claims brought by prisoners require demanding proof of a defendant's state of mind, the standards

[1] Pretrial detention claims arise under the Fourteenth Amendment but this Court has held that Eighth Amendment standards apply in most contexts. *See Crandel v. Hall*, 75 F.4th 537, 544 (5th Cir. 2023).

themselves already shield all but the most malicious defendants.

Second, prison officials benefit from the atextual, judge-made doctrine of qualified immunity. Several judges of this court have explained that, "Nothing in the text of § 1983—either as originally enacted in 1871 or as it is codified today—supports the imposition of the 'clearly established' requirement." *Horvath* v. *City of Leander*, 946 F.3d 787, 801 (5th Cir. 2020) (Ho, J., concurring the judgment and dissenting in part); *Zadeh* v. *Robinson*, 928 F.3d 457, 480 (5th Cir. 2019) (Willet, J., concurring in part and dissenting in part) (discussing growing calls to reform qualified immunity). And the Supreme Court might well reform it. *See Ziglar* v. *Abassi*, 137 S.Ct. 1843, 1872 (2017) (Thomas, J., concurring in part and concurring the judgment) ("In an appropriate case, we should reconsider our qualified immunity jurisprudence."). Until the Court does, however, qualified immunity protects officers who violate rights every day. *See* Institute for Justice, *Results: Who wins qualified immunity cases, and how often do courts grant or deny qualified immunity?* (listing 5th Circuit as denying qualified immunity in only 16% of appeals). Correctly applying Rule 12 to Alexander's allegations will not put jail officials between a rock and a hard place with liability, as all of prison law is structured to only create liability for significant misconduct.

B. The majority ignores the impossible burdens the opinion imposes on incarcerated litigants.

Prisoners, more than most litigants, depend on fairly-construed inferences at the motion to dismiss

and summary judgment stages because of the difficult substantive standards with subjective elements that they must prove to win their claims. The PLRA, court procedures, and other features of litigation specific to *pro se* incarcerated litigants—including limits on the sorts of discovery that would allow them to obtain state-of-mind information from defendants—pose obstacles independent of and exacerbating the onerous substantive standards. Declining to give incarcerated litigants reasonable inferences risks immunizing entire categories of unconstitutional conduct in prisons and jails across the Circuit.

Aside from the difficult substantive standards, the PLRA prevents many meritorious cases outright. Many never make it to court at all because prisons set their own exhaustion rules, *Jones v. Bock*, 549 U.S. 199, 218 (2007), and often design onerous exhaustion regimes, *see, e.g.*, *Johnson v. Johnson*, 385 F.3d 503, 519 (5th Cir. 2004) (holding that a prisoner could sue about only some sexual assaults among many, based on the grievance time limit). Prisoners cannot easily investigate their claims prior to filing because their facility has a monopoly on information about defendants' identities and most relevant facts. *See, e.g.*, *Billman v. Ind. Dep't of Corr.*, 56 F.3d 785, 789 (7th Cir. 1995) ("Billman is a prison inmate. His opportunities for conducting a precomplaint inquiry are, we assume, virtually nil."). When prisoners *do* file, they cannot get those facts in discovery, either. They are not entitled to initial disclosures, Fed. R. Civ. P. 26(a)(1)(B)(iv), are often barred from receiving information because of security concerns, *Naranjo v. Thompson*, 809 F.3d 793, 798 (5th Cir. 2015) (explaining that plaintiff "was barred from viewing and responding to discovery that

defendants had filed under seal"), and typically do not get to take depositions of correctional defendants without court intervention. *See, e.g.*, *McKeithan v. Jones*, 212 F. App'x 129, 131 (3d Cir. 2007) (per curiam) (rejecting plaintiff's request for an oral deposition, calling it "unorthodox"). And not getting discovery—particularly not getting to question defendants—imposes a unique burden on *pro se* incarcerated litigants who must show defendants' subjective state of mind as part of their claims.

Absent robust discovery, proving correctional defendants' subjective state-of-mind depends on reasonable inferences. The Supreme Court itself has acknowledged this in its seminal cases addressing the difficult substantive standards. *Farmer*, for example, noted that plaintiffs could provide knowledge of a substantial risk of harm through either direct or circumstantial evidence—i.e. evidence from which one can draw inferences about state of mind. *Farmer*, 511 U.S. 837, 842. Most circuits, including this one, draw inferences about subjective knowledge of a substantial risk of harm based upon the obviousness of a serious medical need—because most defendants deny having knowledge. *Sims v. Griffin*, 35 F.4th 945, 949-50 (5th Cir. 2022) (denying summary judgment because of fact dispute over inference about clarity of need for treatment); *see also Stevenson v. Tocé*, 113 F.4th 494 (5th Cir. 2024). The majority's refusal to infer anything about state of mind despite numerous explicit comments, defendants' associated conduct, and context—all at the motion to dismiss stage—if applied widely, would immunize numerous constitutional violations committed by all but the most proudly malicious defendants.

CONCLUSION

The panel should rehear this case, or, at least, withdraw it and issue it as an unpublished decision.

Respectfully submitted.

/s/ Samuel Weiss

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August 14, 2025

CERTIFICATE OF COMPLIANCE

In accordance with Federal Rule of Appellate Procedure 32(a)(7)(C), I certify that this brief:

(i) complies with the type-volume limitation of Rule 32(a)(7)(B) because it contains fewer than 2,600 words, including footnotes and excluding the parts of the brief exempted by Rule 32(a)(7)(B)(iii); and

(ii) complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared using Microsoft Office Word 16.99, set in Century Schoolbook font in 12-point; and

(iii) that this brief was scanned for viruses prior to submission.

/s/ Samuel Weiss

Samuel Weiss

CERTIFICATE OF SERVICE

I certify that on August 14, 2025 this brief was filed using the Court's CM/ECF system. All participants in the case are registered CM/ECF users and will be served electronically via that system. I further certify that this brief complies with Fifth Circuit Rule 25.2.13 regarding redactions.

/s/ Samuel Weiss

Samuel Weiss

APPENDIX

APPENDIX OF AMICI CURIAE

Name of Amicus Curiae. The below sign in their personal capacities. Their affiliations are listed for purposes of identification only.

- Bakhshay, Shirin. Assistant Professor of Law, UCLA School of Law.
- Dangaran, D. Assistant Professor of Law at the University of Hawai‘i at Mānoa William S. Richardson School of Law.
- Fenster, Mark. Marshall M. Criser Eminent Scholar Chair in Electronic Communications and Administrative Law, Levin College of Law, University of Florida.
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Appendix C
[Filed: Jun. 28, 2024]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RONNIE ALEXANDER,	§	
Plaintiff,	§	
v.	§	Civil Action No. 3:22-CV-0395-X
SOUTHERN HEALTH PARTNERS, INC., et al.,	§	
Defendants.	§	

MEMORANDUM OPINION AND ORDER GRANTING IN PART AND DENYING IN PART MOTIONS TO DISMISS

Pending before the Court are four motions to dismiss: Defendant Southern Health Partners Inc.'s ("SHP") motion to dismiss, Defendants Philip R. Taft, Psy. D. & Associates PLLC and Philip Taft's ("Taft Defendants") motion to dismiss, Henderson County's motion to dismiss, and correctional officers Nathaniel Patterson, Taylor Caldwell, Morgan Fain, Noah Kreie, William Trussell, Dora Martinez, and Melissa Harmon's ("Officers") motion to dismiss. (Docs. 122–125). After reviewing the motions, responses, replies, and applicable law, the Court **GRANTS IN PART AND DENIES IN PART** Defendants' motions and **DISMISSES** all claims in this action. Plaintiff Ronnie Alexander's Section 1983 claims against the Taft

Defendants, Henderson County, and the Officers are **DISMISSED WITH PREJUDICE** for failure to state a claim, and Alexander's state-law, medical-negligence claims against the Taft Defendants and SHP are **DISMISSED WITHOUT PREJUDICE** for lack of subject-matter jurisdiction. This is a final judgment dismissing all parties and claims. The Clerk of the Court is **INSTRUCTED** to close this case.

I. Background

This case relates to a prison's conditions of confinement. Police arrested Ronnie Alexander for an unknown crime that is not at issue in this case. After his arrest, Alexander spent two "uneventful" days in Henderson County Jail's holding cell. After those two days, prison officials transferred Alexander to a group pod where "his new podmates repeatedly threatened him."[1] Because of this, he wanted out. So he asked the prison guards to move him. They didn't. Still wanting out, Alexander hatched a plan to lie to the prison official that he was suicidal to get out of his group pod.

Well . . . it worked. Alexander cried out to prison officials that he was suicidal. Accordingly, he was then transferred from his group pod to a suicide-prevention cell known in the Henderson County Jail as the "violent cell."

For the purpose of preventing suicides, the violent cell is barren. There is no toilet. There is no toilet paper. There is no bedding apart from a suicide blanket. The lights remain on throughout the day. And detainees in the violent cell are not allowed outside of their

[1] Doc. 114 at 3 (Third Amended Compl.).

cells. Alexander was subjected to those conditions for five days.

Alexander now sues in this Court under federal and state law for injuries sustained while in the violent cell for five days.[2] To this end, Alexander is suing Southern Health Providers (medical provider at the jail); Philip R. Taft Psy. D. & Associates PLLC (medical provider at the jail); Philip R. Taft (owner of Taft & Associates PLLC), Henderson County (the county in charge of the jail); and correctional officers Nathaniel Patterson, Taylor Caldwell, Morgan Fain, Noah Kreie, William Trussell, Dora Martinez, and Melissa Harmon.

Previously, the Court dismissed all claims in Alexander's second amended complaint but allowed Alexander to replead those claims.[3] He did. Defendants have now moved to dismiss claims brought in Alexander's third amended complaint.[4] And they've succeeded.

II. Legal Standard

Federal Rule of Civil Procedure 8 requires a pleading to state "a short and plain statement of the claim showing that the pleader is entitled to relief."[5] The pleading standard does not require detailed factual allegations, but "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice."[6] For a complaint to survive a motion to dismiss under Rule 12(b)(6), it must contain

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[2] *Id.* at 45–52.

[3] Doc. 112 (order granting motions to dismiss).

[4] Docs. 122–125.

[5] FED. R. CIV. P. 8(a)(2)

[6] *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face."[7] A claim is facially plausible "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."[8] For purposes of a motion to dismiss, courts must accept all well-pleaded facts as true and construe the complaint in the light most favorable to the plaintiff.[9] "In other words, a motion to dismiss an action for failure to state a claim admits the facts alleged in the complaint, but challenges plaintiff's rights to relief based upon those facts."[10]

III. Analysis

Alexander's repleaded complaint includes two causes of action, Section 1983 claims and state-law medical-negligence claims against a handful of Defendants.[11] Alexander pleads Section 1983 claims against the Taft Defendants, Henderson County, and the officers.[12] Alexander pleads state-law medical-negligence claims against the Taft Defendants and SHP.[13]

The Court will organize its opinion by Alexander's causes of action. In the first part of the Court's opinion, the Court will analyze Alexander's Section 1983

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[7] *Id.*

[8] *Id.*

[9] *Muhammad v. Dallas Cnty. Cmty. Supervision & Corrs. Dept't*, 479 F.3d 733, 379 (5th Cir. 2007).

[10] *Ramming v. U.S.*, 281 F.3d 158, 161–62 (5th Cir. 2001) (cleaned up).

[11] Doc. 114.

[12] *Id.* at 45–49.

[13] *Id.* at 49–52.

claims. In the second part of the opinion, the Court will analyze Alexander's state-law medical-negligence claims. In both sections, the Court will tackle Alexander's claims together and need not separate Alexander's claims as applied to each Defendant.

A. Section 1983 claims

"The constitutional rights of a pretrial detainee . . . flow from both the procedural and substantive due process guarantees of the Fourteenth Amendment."[14] "These rights include the right to medical care and the right to protection from known suicidal tendencies."[15] "A municipality may be liable under 42 U.S.C. § 1983 for the violation of these rights."[16] "When attributing violations of pretrial detainees rights to municipalities, the cause of those violations is characterized either as a condition of confinement or as an episodic act or omission."[17] Conditions-of-confinement cases attack the "general conditions, practices, rules, or restrictions of pretrial confinement."[18] In episodic-act-or-omission cases, "the complained-of-harm is a particular act or omission of one or more officials" where "an actor usually is interposed between the detainee and the municipality."[19]

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[14] *Hare v. City of Corinth*, 74 F.3d 633, 639 (5th Cir. 1996) (en banc).

[15] *Garza v. City of Donna*, 922 F.3d 626, 632 (5th Cir. 2019) (cleaned up).

[16] *Id.* (citing *Monell v. Dep't of Soc. Servs. of City of N.Y.*, 436 U.S. 658, 690 (1978)).

[17] *Id.* (cleaned up).

[18] *Hare*, 74 F.3d at 644.

[19] *Scott v. Moore*, 114 F.3d 51, 53 (5th Cir. 1997) (en banc).

Before addressing each Section 1983 claim, the Court must determine if Alexander's Section 1983 claims are premised on a conditions-of-confinement or episodic-act-or-omissions theory, as the framework for each theory is different.[20] In making this determination, the Court determines if the plaintiff's constitutional attack "hinges . . . on general conditions, practices, rules, or restrictions of pretrial confinement" such as "inadequate food, heating, or sanitary conditions themselves [that] constitute miserable conditions," or if the plaintiff's constitutional attack stems from an officer's individual act or omission such as sexual assault.[21]

The Fifth Circuit's en banc opinion in *Scott* highlights this distinction. In *Scott*, the plaintiff complained of inadequate prison staffing, which resulted in a sexual assault committed by a prison guard against the plaintiff.[22] The en banc Fifth Circuit held that Scott's claim was an episodic-act-or-omission case because Scott's harm stemmed from the individual guard's specific act of sexual assault, despite the fact that understaffing (a general prison condition) may have contributed to the officer's ability to commit sexual assault.[23]

So too here, Alexander pleads both a condition-of-confinement and an episodic-act-or-omissions theory, *i.e.*, that his constitutional injuries stem from both prison conditions and specific, individual acts of an

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[20] *Compare Garza*, 922 F.3d at 633–34 (conditions-of-confinement framework) *with id.* at 634–638 (episodic-act-or-omission framework).

[21] *Scott*, 114 F.3d at 53.

[22] *Id.* at 53.

[23] *Id.* at 53–54.

officer. Specifically, Alexander pleads that he "was harmed by being subjected to the conditions inherent to the violent cell under the express policies of the jail, such as complete isolation, 24-hour bright lighting, a total lack of bedding, and no access to a toilet, shower, sink, or running water of any kind" and that he was separately harmed by "intentional acts or omissions" by a handful of officers.[24] Alexander's harms, which stem from the barren conditions within the violent cell, are best classified as harms relating from his conditions of confinement, so the Court will proceed analyzing his Section 1983 claims under the Fifth Circuit's conditions-of-confinement framework.[25] This is because Alexander's alleged harms occurred because of a combination of SHP's, the Taft Defendants', and the jail's "express policies"[26] instead of an individual, "specific" act on the part of a prison official such as sexual assault.[27]

To this end, Alexander pleads that the "conditions inherent to the violent cell," including "complete isolation, 24-hour bright lighting, a total lack of bedding, and no access to a toilet, shower, sink, or running water of any kind," violate his rights under the

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[24] Doc. 114 at 5.

[25] This Court previously dismissed Alexander's claims after applying the episodic-act-or-omissions framework. *See* Doc. 112. Pursuant to this Court's order, Alexander was allowed to refile a new complaint. *Id.* He did. Doc. 114. In his new complaint, Alexander has clarified his theories of harm. *Id.* at 5 ¶ 6. After Alexander's clarification, it's clear that this case should proceed exclusively under the conditions-of-confinement framework.

[26] Doc. 114 at 6–44.

[27] *Shepherd v. Dallas Cnty.*, 591 F.3d 445, 452 (5th Cir. 2009) (identifying a sexual assault case as an episodic act or omission).

Fourteenth Amendment.[28] Henderson County moves to dismiss Alexander's conditions-of-confinement claim, arguing (1) that "the Fourteenth Amendment requires jails to protect from known suicidal tendencies" and (2) Henderson County's measures related to the violent cell serve this legitimate interest.[29] Defendant Taft (individually) argues that Alexander's Section 1983 claim fails because he has not plausibly alleged that Taft acted with subjective deliberate indifference,[30] Defendant Taft PLLC argues that Alexander's complaint fails to meet Monell's requirement for pleading a claim against a municipality.[31] And the officers raise the defense of qualified immunity, which must succeed if there was no constitutional violation.[32]

While Alexander responds to each of these arguments, the most on-point argument for his conditions-of-confinement theory is Henderson County's argument that the violent cell's conditions serve a legitimate interest.[33] In response to that argument, Alexander argues that the restrictions at the jail "go far beyond what is reasonable or necessary to prevent suicide."[34] The Court agrees with Henderson County. As a result, all of Alexander's Section 1983 claims are dismissed on the merits against all Defendants.[35]

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[28] Doc. 114 at 5.

[29] Doc. 124 at 24–25.

[30] Doc. 123 at 8–9.

[31] *Id.* at 10–13.

[32] Doc. 126 at 20–26.

[33] Doc. 124 at 24–25.

[34] Doc. 128 at 21–25.

[35] The Officers argue that they are entitled to qualified immunity. Doc. 125. To this end, the Officers' brief focuses on

"In a case challenging conditions of confinement, 'the proper inquiry is whether those conditions amount to punishment of the detainee.'"[36] In the Fifth Circuit, a "condition" may be a "rule," a "restriction," "an identifiable intended condition or practice," or "acts or omissions" by staff members that are "sufficiently extended or persuasive."[37] For a plaintiff to succeed under a conditions-of-confinement theory, he must prove that "the condition must be one that is 'arbitrary or purposeless' or, put differently, 'not reasonably related to a legitimate goal.'"[38] A plaintiff must also prove that the condition constitutes "a serious deficienc[y] in providing for his basic human needs" because "any lesser showing cannot prove punishment in violation of the detainee's Due Process rights."[39] Moreover, these conditions "must cause" the constitutional deprivation.[40] As an example, "[p]rior conditions cases have concerned durable restraints or impositions on inmates' lives like overcrowding, deprivation of phone or mail privileges, the use of disciplinary segregation, or excessive heat."[41] In short, in a conditions-of-confinement case, a prisoner must establish three things: (1) a harm in the form of "a serious deficienc[y] in providing for his basic

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qualified immunity's clearly-established prong. *Id.* at 20. But we'll get to qualified immunity later.

[36] *Garza*, 922 F.3d at 632 (quoting *Bell v. Wolfish*, 441 U.S. 520, 535 (1979)).

[37] *Est. of Henson v. Wichita Cnty.*, 795 F.3d 456, 468 (5th Cir. 2015).

[38] *Shepherd*, 591 F.3d at (quoting *bell*, 4411 U.S. at 539).

[39] *Id.* at 454.

[40] *Garza*, 922 F.3d at 633.

[41] *Id.* at 633–64.

human needs,"[42] (2) an improper fit in showing that the harm is "not reasonably related to a legitimate goal,"[43] and (3) cause.[44]

Here, the Court will begin with "fit," or rather, Alexander's argument that the violent cell's conditions are "not reasonably related to a legitimate goal." For starters, prisons have a constitutional duty to protect their prisoners against their own "known suicidal impulses."[45] Because of this constitutionally compelled command, typical jail-suicide cases involve Section 1983 claims brought by the estate of a self-slain prisoner who argues that the state violated its constitutionally mandated duty to protect its prisoners against their own known suicidal impulses. Or rather, the estate argues that a jail's suicide-prevention cells, or conditions of confinement, should be stricter to prevent a jail suicide. Take, for example, the facts in *Estate of Bonilla by & through Bonilla v. Orange County, Texas*.[46] There, a pretrial detainee committed suicide while in custody.[47] Her estate brought suit arguing that the jail had an *inadequate* policy for screening potentially self-harm individuals, had inadequate medical care, had inadequate monitoring procedures, and inadequate suicide-prevention cells (*i.e.*, "failure to provide suicide prevention bedding").[48] That's the norm.

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[42] *Shepherd*, 591 F.3d at 454.
[43] *Bell*, 441 U.S. at 539; *see also Scott*, 114 F.3d at 53.
[44] *See e.g.*, *Shepherd*, 591 F.3d at 454.
[45] *Ryhne v. Henderson Cnty*., 973 F.2d 386, 391 (5th Cir. 1992)
[46] 982 F.3d 298 (5th Cir. 2020).
[47] *Id*. at 302–304.
[48] *Id*. at 305.

This case is quite different from the norm. And this difference highlights why Henderson County's policies regarding conditions in the violent cell are reasonably related to its legitimate goal in preventing suicides. Alexander directly implicated Henderson County's constitutional mandate that it protect Alexander from killing himself when Alexander verbally outcried that he was suicidal.[49] Per his own complaint, he did this *for the sole purpose of* getting put into a suicide-prevention cell:

> Alexander was transferred to a group pod where his new podmates repeatedly threatened him. Alexander asked the guards to move him out of that pod several times, but they refused to do so. Fearing for his life, Alexander believed the only way to protect himself was to tell the guards that he was suicidal.[50]

Well, the prison officials answered his constitutionally protected call. Per his request, they removed Alexander from the general population and confined him to a suicide-prevention cell for five days.[51] It worked. Alexander lived.

And Alexander now sues arguing that the denial of a toilet, sink, blanket, sheet, and ability to turn off the lights is arbitrary, purposeless, or not reasonably related to the state's interest in keeping him alive. Or in layman's terms, Alexander wanted a toilet, sink, blanket, sheet, and the lights off during his stay in a

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[49] Doc. 114 at 19 (pleading that his confinement to the violent cell occurred five hours after "he told the guards he was suicidal").

[50] *Id.* at 3.

[51] *Id.*

suicide-prevention cell. But Alexander's requests are not only unreasonable, they're potentially unlawful, as Alexander's requests may prevent Henderson County from its constitutional duty to protect suicidal inmates from themselves. If Henderson County gives a toilet to a suicidal inmate so he wouldn't have to urinate through a drain in the floor, he may attempt to drown himself in the toilet.[52] If Henderson County gives a sink to a suicidal inmate, he may attempt to drown himself in the sink.[53] If Henderson County gives a blanket to a suicidal inmate, he may hang himself by blanket.[54] If Henderson County gives a bedsheet to a suicidal inmate, he may hang himself by bedsheet.[55] And if Henderson County turns off the lights in a suicide-prevention cell, it may give a temporarily troubled suicidal inmate the opportunity to make any one of the permanent decisions listed above.[56] So even if it could be argued that any of these conditions, such as the denial of a toilet, constitutes a deprivation of life's necessities, such a deprivation is reasonably tailored to the state's legitimate interest in protecting suicidal inmates from themselves. And Alexander will sleep soundly at night too as a result

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[52] *Belcher v. City of Foley*, 30 F.3d 1390, 1393 (11th Cir. 1994) (inmate attempted to drown himself in the cell's toilet).

[53] *Crocco v. Van Winkler*, No. 1:19-CV-882, 2023 WL 2349593, *at 2 (D. N.H. Mar. 3, 2023) (inmate attempted to drown himself in the cell's sink).

[54] *Flores v. Cnty. of Hardeman*, 124 F.3d 736, 737 (5th Cir. 1997) (inmate hanged himself in cell by tying blanket to shower rod).

[55] *Jacobs v. West Feliciana Sheriff's Dep't*, 228 F.3d 388, 391 (5th Cir. 2000) (inmate used sheet to kill herself).

[56] *Taylor v. Wausau Underwriters Ins. Co.*, 423 F.Supp.2d 882, 886 (E.D. Wis. 2006).

of the violent cell's constitutionally mandated suicide-prevention measures. The Court holds that the conditions at the violent cell are not "'arbitrary or purposeless' or, put differently, 'not reasonably related to a legitimate goal.'"[57] As a result of the violent cell being reasonably tailored to the state's interest in preventing suicides, the Court holds that Henderson County has not committed a constitutional violation. For this reason, qualified immunity likewise shields the officers from suit.[58]

Setting fit aside, Alexander cannot pass the first element of his conditions-of-confinement claim—that the conditions of Henderson County's suicide-prevention cell deprives him of life's necessities. In the Southern District of Georgia, in *Chapman v. Proctor*, a plaintiff brought claims under a conditions-of-confinement theory arising from his placement in a suicide-prevention cell for 16 days.[59] There, like here, the cell lacked a bed, toilet, sink, clothing, or adequate heating.[60] Moreover, like here, plaintiff was denied toiletries, not able to wash his hands or clean himself, not provided with utensils, and denied a hernia strap.[61] The magistrate judge held that the conditions in the suicide-prevention cell "fail[ed] to demonstrate any deprivation of the minimal civilized measure of life's necessities," and recommended dismissal of the plaintiff's Fourteenth Amendment conditions-

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[57] *Shepherd*, 591 F.3d at 454.

[58] *See* Doc. 125 at 20–26 (raising qualified immunity).

[59] *Chapman v. Proctor*, No. 2:20-CV-0091, 2022 WL 822466, at *1 (S.D. Ga. Jan. 10, 2022), *report and recommendation adopted,* 2022 WL 501390 (S.D. Ga. Feb. 18, 2022).

[60] *Id.* at 2.

[61] *Id.*

of-confinement claims.[62] The Southern District of Georgia agreed with that recommendation. While that ruling isn't binding, its logic is persuasive.

Alexander pleads that his denial of a toilet constitutes a constitutional violation.[63] The Eleventh Circuit disagrees.[64] Alexander also pleads that the denial of toilet paper, a bed, a shower, or running water constitutes a constitutional violation.[65] The Eleventh Circuit disagrees.[66] And Alexander pleads that the denial of his ability to "brush his teeth, wash his hands, or bathe, despite multiple requests to take a shower and generally clean himself up" constitutes a constitutional violation.[67] The Middle District of Alabama disagrees.[68] Sure, while the Court has cited out-of-circuit cases in reaching its opinion, notably,

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[62] *Id.* at 7.

[63] Doc. 114 at 9.

[64] *Alfred v. Bryant*, 378 F. App'x 977, 980 (11th Cir. 2010) (affirming dismissal of Eighth Amendment claim based on confinement in *general population* cell for eighteen days without properly functioning toilet).

[65] Doc. 114 at 9.

[66] *Anderson v. Chapman*, No. 3:12-CV-0088, 2013 WL 4495827 (M.D. Ga. 2013) (granting defendants' summary judgment motion where prisoner alleged placement on suicide watch for five days with no access to clothing, mattress, blanket, toilet paper, water or showers, and forced sleeping on floor with dried urine, blood, and feces), *aff'd*, 604 F. App'x 810, 814 (11th Cir. 2015).

[67] Doc. 114 at 10.

[68] *Radford v. Thomas*, No. 2:13-CV-0188, 2016 WL 3919483 (M.D. Ala. Mar. 1, 2016) (holding that inadequate restroom facilities, lack of access to a restroom and water while on the yard, and denial of sufficient hygiene items does not establish a conditions-of-confinement claim for *general population* inmates), *report and recommendation adopted,* 2016 WL 3912039 (M.D. Ala. July 19, 2016).

each court to consider the issue asks the same or similar question the Fifth Circuit asks: whether the conditions demonstrate "serious deficiencies in providing for [the detainee's] basic human needs."[69] So while not binding, this case law is persuasive.

Alexander's best shot at showing that the violent cell deprived him of life's basic necessities comes from a recent Fifth Circuit case: *Taylor*.[70] But the suicide-prevention cell in *Taylor* was far worse. As a backdrop, the Fifth Circuit remarked that *Taylor* contained "extraordinary facts."[71] Against that backdrop, in *Taylor*, an inmate brought a Section 1983 claim challenging his conditions of confinement during his six-day stay in two unconstitutionally filthy cells.[72] *Taylor*'s first cell, which was a general-population cell, "was covered with massive amounts of feces that emitted a strong fecal odor."[73] He was forced to sleep naked in the cell.[74] He couldn't eat because he risked contamination.[75] He couldn't drink because "feces were packed inside the water faucet."[76] Four days later, officers moved Taylor to a different cell—a "seclusion" cell that was still wrought with fecal matter.[77]

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[69] *Compare Shepherd*, 591 F.3d at 454 *with Chapman*, 2022 WL 822466, at *7 *("*Plaintiff's allegations fail to demonstrate any deprivation of the minimal civilized measure of life's necessities.*")*.

[70] *Taylor v. Stevens*, 946 F.3d 211 (5th Cir. 2019), *overruled on other grounds Taylor v. Riojas*, 592 U.S. 7 (2020).

[71] *Id.* at 220 n.11.

[72] *Id.* at 216.

[73] *Id.* at 218.

[74] *Id.*

[75] *Id.*

[76] *Id.*

[77] *Id.* at 219.

On deprivation of life's necessities, this case is far from *Taylor*. The main thrust of the constitutional deprivation in *Taylor* was the obscene amounts of fecal matter, which contaminated Taylor's food and water.[78] More specifically, while the Fifth Circuit observed that "[a] dirty cell does not automatically violate the Constitution,"[79] the levels of filth in Taylor's case presented a genuine dispute of material fact on whether Taylor was denied "the minimal civilized measure of life's necessities."[80] This case is different because the thrust of Alexander's plea is not about a filthy, fecal-matter-laden cell. Instead, Alexander (a self-announced suicidal inmate) pleads that the denial of bedding, clothing, toilet, and a sink in a suicide-prevention are deprivations of life's necessities, not a lack of cleanliness or *Taylor*-levels of filth.[81] To the contrary, Alexander provided the following picture in his third amended complaint, which does not show anything close to the level of filth in *Taylor*.

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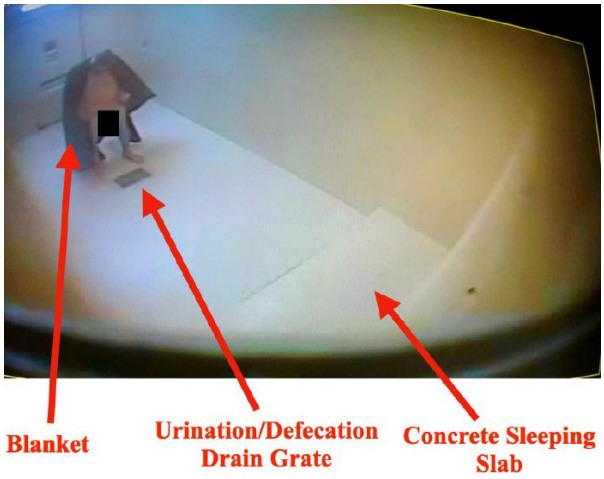
[78] *Id.* at 218–19.
[79] *Id*. at 220.
[80] *Id.* at 221.
[81] Doc. 114 at 3–4.



See Doc. 114 at 4 (red arrows and labels in original). Although this case is at the motion-to-dismiss stage, to the extent Alexander's third amended complaint makes any reference in passing that the level of filth in Alexander's cell rivals anything close to the level of filth in *Taylor*, both the Supreme Court and the Fifth Circuit require courts to disregard facts contradicted by pictures or videos, even at the pleading stage.[82] Thus the Court holds that the violent cell's conditions did not deprive Alexander of life's minimal necessities.[83]

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[82] *Kokesh v. Curlee*, 14 F.4th 382, 385 n.2 (5th Cir. 2021) (citing *Scott v. Harris*, 550 U.S. 372, 380–81 (2007)). To the extent a video differs from a photo in its ability to negate contradictory facts, "when an allegation is contradicted by the contents of an exhibit attached to the pleading, then indeed the exhibit and not the allegation controls." *Smit v. SXSW Holdings, Inc.*, 903 F.3d 522, 528 (5th Cir. 2018) (cleaned up). Here, the complaint never makes allegations of filth like were at issue in *Taylor*, and the photo in the complaint is consistent with the pleading.

[83] One last thing about *Taylor* before the Court wraps up its Section 1983 analysis. The *Taylor* Court never directly

And for the same reason, lack of a constitutional violation, Alexander's Section 1983 claims against the Taft Defendants fail. A plaintiff may challenge medical treatment he received at a jail as one of his conditions of confinement.[84] Here, Alexander does just that. Alexander's Section 1983 claims against the Taft Defendants arise from Taft's involvement with Henderson County in making the "jail's express policies regarding suicide," specifically the medical care Taft received while in the violent cell (including the Taft Defendants' decision not to remove Alexander from the violent cell for five days after his suicidal outcry).[85]

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considered whether the filthy conditions in Taylor's cell were reasonably related to a legitimate purpose. *See Taylor,* 946 F.3d at 218–220. This is probably because it's obvious that there can be no reasonable purpose for a cell that filthy. But the Fifth Circuit did mention that there could be "any number of perfectly valid reasons" for having an inmate sleep naked on the floor:

> We do not suggest [] that prison officials cannot require inmates to sleep naked on the floor. There can be any number of perfectly valid reasons for doing so. Our holding is limited to the extraordinary facts of this case, in which Taylor alleges that the floor on which he slept naked was covered in his and others' human excrement.

Id. at 220 n.11. So for purposes of this case, having Alexander sleep naked on the floor in a *suicide-prevention cell* for the purpose of preventing him from committing suicide almost certainly falls under one of the Fifth Circuit's "any number of perfectly valid reasons" for making him do so.

[84] *Wilson v. Seiter*, 501 U.S. 294, 303 (1991) ("[T]he medical care a prisoner receives is just as much a 'condition' of his confinement as the food he is fed, the clothes he is issued, the temperature he is subjected to in his cell, and the protection he is afforded against other inmates.").

[85] Doc. 114 at 46 ¶ 209.

Generally, "administrative segregation, without more, does not constitute a deprivation of a constitutionally cognizable liberty interest."[86] As it relates beyond administrative segregation, a plaintiff's eight-day stay in solitary confinement "do[es] not give rise to a constitutional claim."[87] And as it relates specifically to one's placement in a suicide-prevention cell, "[t]here is no constitutional right to avoid being placed on suicide watch,"[88] yet alone for only five days after a suicidal call.Therefore, the Court dismisses Alexander's Section 1983 claims against the Taft Defendants because no constitutional violation has occurred.

The Court **DISMISSES WITH PREJUDICE** Alexander's Section 1983 claims against the Taft Defendants, Henderson County, and the Officers.

B. State-Law, Medical-Negligence Claims

Alexander pleads a state-law, medical-negligence claim against the Taft Defendants and SHP. Together, these Defendants argue that Alexander's medical-negligence claim should be dismissed for failure to plead any of the required elements: duty, breach,

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[86] *Luken v. Scott*, 71 F.3d 192, 193 (5th Cir. 1995); *see also Hewitt v. Helms*, 459 U.S. 460, 468 (1983) ("It is plain that the transfer of an inmate to less amenable and more restrictive quarters for nonpunitive reasons is well within the terms of confinement ordinarily contemplated by a prison sentence.").

[87] *Dehghani v. Vogelgesang*, 229 F. App'x 282, 284 (5th Cir. 2007) (citing *Sandin v. Conner,* 515 U.S. 472, 486 (1995)).

[88] *Johnson v. McVea*, No. CV 2:15-1586, 2016 WL 1242840, at *6 (E.D. La. Mar. 7, 2016) (Wilkinson, M.J.) (collecting cases), *report and recommendation adopted*, No. 2:15-CV-1586, 2016 WL 1223067 (E.D. La. Mar. 29, 2016).

cause, harm.[89] Alexander responds to each of these substantively. But the Court won't get to Alexander's substantive arguments.

"[A] federal court has subject-matter jurisdiction over specified state-law claims, which it may (or may not) choose to exercise."[90] "A district court's decision whether to exercise that jurisdiction after dismissing every claim over which it had original jurisdiction is purely discretionary."[91] To make this determination, federal law imposes a four-factor test:

> (1) the claim raises a novel or complex issue of State law,
>
> (2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,
>
> (3) the district court has dismissed all claims over which it has original jurisdiction, or
>
> (4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.[92]

Here, these four factors weigh in favor of declining supplemental jurisdiction. First, Alexander's medical-negligence claim presents a novel or complex issue of Texas law. As stated in the Court's analysis of Alexander's Section 1983 claims, the facts of this case are unique. The claims arising in this case stem from

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[89] Doc. 122 at 9–14 (SHP's motion to dismiss); Doc. 123 at 13–15 (Taft Defendants' motion to dismiss).

[90] Doc. 122 at 9–14 (SHP's motion to dismiss); Doc. 123 at 13–15 (Taft Defendants' motion to dismiss).

[91] *Id.*

[92] 28 U.S.C. § 1367(c).

Henderson County's effective suicide-prevention measures whereas facts in virtually every other conditions case arises from a jail's *in*effective suicide-prevention measures.

Furthermore, the procedural posture of this case also presents a novel or complex issue of state law. Alexander brings his medical-negligence claims under Chapter 74 of the Texas Civil Practice and Remedies Code.[93] Under Section 74.351 of this code, "plaintiffs in health care liability cases" must "serve an expert report within 120 days after filing of a defendant's original answer" or else plaintiff's claim is dismissed with prejudice.[94] The Supreme Court of Texas has opined that the expert report requirement serves two functions: it (1) "inform[s] the defendant of the specific conduct the plaintiff has called into question" and it (2) "provide[s] a basis for the trial court to conclude that the claims have merit."[95] In other words, health care liability cases brought in Texas courts never have motions to dismiss because either (1) the plaintiff has timely served an expert report (which contains evidence more than sufficient enough to survive a motion to dismiss) or (2) the plaintiff has not timely served an expert report (which means the claim is procedurally dismissed by statute).

Here's the catch, or rather, here's why this case's procedural posture presents a novel or complex issue of state law: "a federal court entertaining state law claims may not apply section 74.351,"[96] *i.e.,* Texas's

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[93] TEX. CIV. PRAC. & REM. CODE §§ 74.001 *et seq.*

[94] *Passmore v. Baylor Health Care Sys.*, 823 F.3d 292, 293 (5th Cir. 2016) (discussing § 74.351).

[95] *Certified EMS, Inc. v. Potts,* 392 S.W.3d 625, 630 (Tex. 2013).

[96] *Passmore*, 823 F.3d at 299.

expert report requirement in medical-negligence claims doesn't apply. So this Court is in a unique procedural posture, deciding a motion to dismiss in a medical-negligence case under Texas law.

And this unique procedural posture presents problems for the Court. For instance, while it's clear that "expert testimony is required to establish the standard of care" at the summary-judgment stage,[97] neither party has presented the Court with a case describing the appropriate standard of care at the motion-to-dismiss stage. Because of the expert report requirement, such a case likely doesn't exist. For this reason, the Court will decline to make a first-impression issue of a matter under Texas statutory law when the dismissal of Alexander's federal claims makes deciding the Texas issue wholly discretionary.

As to the third and fourth supplemental-jurisdiction factors, the Court has already dismissed all claims brought under its original jurisdiction, and the above-described procedural posture of this case warrants an additional "compelling" reason denying retaining supplemental jurisdiction over Alexander's state-law claims.

Accordingly, the Court declines to exercise supplemental jurisdiction over Alexander's state-law claims against the Taft Defendants and SHP.[98]

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[97] *Nichols v. United States*, No. 21-50368, 2022 WL 989467, at *4 (5th Cir. Apr. 1, 2022).

[98] *Bogus v. Harris Cnty. Dist. Att'y*, 830 F. App'x 746, 748 (5th Cir. 2020) ("In addition, the district court did not abuse its wide discretion by declining to exercise supplemental jurisdiction over any remaining state law claims."); *Heggemeier v. Caldwell Cnty.*, 826 F.3d 861, 872 (5th Cir. 2016) ("And based on these factors, we have elucidated *the general rule that a court should decline* to

IV. Conclusion

The Court **GRANTS IN PART AND DENIES IN PART** Defendants' motions and **DISMISSES** all claims in this action. Plaintiff Ronnie Alexander's Section 1983 claims against the Taft Defendants, Henderson County, and the Officers are **DISMISSED WITH PREJUDICE** for failure to state a claim, and Alexander's state-law, medical-negligence claims against the Taft Defendants and SHP are **DISMISSED WITHOUT PREJUDICE** for lack of subject-matter jurisdiction. This is a final judgment dismissing all parties and claims. The Clerk of the Court is **INSTRUCTED** to close this case.

IT IS SO ORDERED this 28th day of June, 2024.

/s/ Brantley Starr
BRANTLEY STARR
UNITED STATES DISTRICT JUDGE

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exercise jurisdiction over remaining state-law claims when all federal-law claims are eliminated before trial." (emphasis added) (cleaned up)).