No. 25-1128

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 a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

BRIEF IN OPPOSITION OF PHILIP R. TAFT PSY.D AND ASSOCIATES, PLLC AND PHILIP R. TAFT

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QUESTIONS PRESENTED

Each of Petitioner's questions presented depends on a distorted account of the Fifth Circuit's holding. The true questions are mere requests for basic appellate review:

1. Did the Fifth Circuit correctly hold that Petitioner failed to allege any constitutional defect in the mental healthcare system at the Henderson County jail?

2. Did the Fifth Circuit correctly conclude that the conditions of Petitioner's detention in the violent cell as alleged were reasonably tailored to the non-punitive, legitimate goal of preventing suicide?

3. Did the Fifth Circuit correctly conclude that the Petitioner's allegations did not reasonably allow a plausible inference that correctional officers placed him in the violent cell with the express intent to punish him, rather than for the legitimate purpose of suicide prevention?

CORPORATE DISCLOSURE STATEMENT

Philip R. Taft Psy. D and Associates, P.L.L.C. has no parent corporation. No public corporation owns an interest in Philip R. Taft Psy. D and Associates, P.L.L.C.

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INTRODUCTION

Petitioner's questions presented rely on mischaracterization of the Fifth Circuit's ruling to give the impression that it set forth novel rules of law. In reality, the Fifth Circuit largely applied the very same rules that Petitioner advocates, only reaching different results than Petitioner hoped for. To the extent that Petitioner has identified any **legal** disagreement with the Fifth Circuit—and it is not clear he has—the Fifth Circuit's decision is fully supported by its own precedent, as guided by this Court's caselaw. Indeed, Petitioner has not even identified a split of authority for this Court to resolve.

Because the questions presented are essentially "artificial and hypothetical" based on a fanciful reimagining of the Fifth Circuit's decision, ruling on them "would not only in effect be rendering an advisory opinion but also . . . an unjustifiable intrusion upon the time of this Court." *Conway v. Cal. Adult Auth.*, 396 U.S. 107, 110 (1969). The Taft Respondents respectfully request that certiorari be denied.

STATEMENT OF THE CASE

I

Petitioner Ronnie Alexander was arrested on March 8, 2021, and booked into Henderson County jail. App.39. He was designated a maximum-security detainee—a designation which he does not challenge as inappropriate—and placed in a group cell with other inmates of the same designation. App.40. He alleges that his cellmates immediately began threatening him. App.40. Petitioner asked to be moved to a different cell, but the jailers refused. App.40.

Petitioner then, by his own admission, falsely claimed to be suicidal, hoping that this would force correctional officers to move him out of group detention. App.40. His plan succeeded, and he was moved to the so-called "violent cell"—used by jail policy to mitigate risks of suicide or other violence. App.40. The cell is bare and lacks bedding, any sink, and ordinary toilet facilities—it is equipped, instead, with a concrete bunk and a floor-grate toilet. App.40-41. Petitioner was stripped of his clothes, which were replaced by a "suicide blanket." App.41. He spent five days in this cell.

Although the cell was certainly stark and unpleasant, Petitioner also overstates its privations. Pet. at 5. His claim that the floor was covered in excrement, for example, was conclusively refuted by photographic evidence incorporated in the complaint, as the Fifth Circuit recognized. App.41 n.2.[1]

Both before and during Petitioner's time in the violent cell, an employee of the Taft Respondents, Jessica Phlips, checked in on Petitioner. App.40-42. Phlips observed no mental health concerns during her first two visits with Petitioner, only recording a self-reported history of PTSD and depression. App.40. During her third visit, while Petitioner was in the violent cell, she found him "'too confused' to answer her initial questions." App.42. Three days after this visit, Petitioner was released into the custody of Dallas

[1] Nothing in the questions presented ultimately turns on this mischaracterization, but it should be made clear that Petitioner does not challenge the Fifth Circuit's holding that it need not credit allegations refuted by photographs incorporated into the complaint or to the authority supporting that decision. App.41 n.2 (citing *Kokesh v. Curlee*, 14 F.4th 382, 385 n.2 (5th Cir. 2021)).

County and did not return to Henderson County Jail. App.42.

II

Petitioner later sued the county and a handful of correctional officers, plus Dr. Philip Taft and his eponymous PLLC ("Taft Respondents"), under 42 U.S.C. §1983 alleging violations of his 14th Amendment rights as a pretrial detainee. App.42, 44. As they come to this Court, Petitioner's claims are twofold: he alleges that (1) the conditions of his confinement in the violent cell violated his constitutional rights and (2) the system of mental healthcare at the jail was constitutionally inadequate. App.39.

The Northern District of Texas dismissed the claims first by holding that Petitioner had not suffered any deprivation of life's necessities such as could trigger a constitutional violation and second by holding that all the conditions of the violent cell were justified by the legitimate goal of preventing suicide. App.53 n.9. The trial court did not separately analyze whether the system of mental healthcare was constitutionally inadequate, but it acknowledged that Petitioner challenged his medical treatment as a condition of confinement and ultimately concluded that none of the conditions offended the Constitution. App.56 n.12.

The Fifth Circuit affirmed. Although it rejected the conclusion that the deprivations did not implicate the Constitution at all, it agreed that the conditions of the cell were justified as a means of suicide prevention and "reasonably tailored" to that end. App.53 n.9. It also analyzed the adequacy of the jail's mental healthcare system and concluded that it passed constitutional muster, because Petitioner "cannot demonstrate that the County 'knowingly subject[ed] [him] to inhumane conditions of confinement or abusive jail practices' through its mental health treatment plan." App.59 (quoting *Shepherd v. Dallas County*, 591 F.3d 445, 456 (5th Cir. 2009)) (alterations in original).

Having found no adequately alleged constitutional violation, the Fifth Circuit declined to rule on the County's exposure to municipal liability under *Monell* or on the correctional officers' claims of qualified immunity. App.55, 59. As to the Taft Respondents, the Fifth Circuit also did not reach the question of the severity of the alleged deprivations, because it determined Petitioner had not plausibly alleged that the Taft Respondents were deliberately indifferent. App.60.

Judge Dennis issued a dissent in which he disagreed with the majority on its application of *Bell* and of the Rule 12(b)(6) standard—approximately corresponding to Petitioner's second and third questions presented, respectively. App.66-72. He did not raise Petitioner's first issue presented. Although he considered inadequate the majority's analysis of the adequacy of mental healthcare, he did not mischaracterize the majority opinion as holding that the Constitution could never require more than prevention of suicide and other violence. App.73-76. Judge Dennis also did not address the Taft Respondents at all and did not call into question the holding that there is no plausible allegation of their deliberate indifference. App.65-76.

REASONS FOR DENYING THE PETITION

I. There is no circuit split or lower-court confusion; Petitioner instead relies on a distortion of the Fifth Circuit's opinion.

Petitioner does not argue that this Court should resolve some uncertainty in the law among the lower courts, much less a direct circuit split on any question presented. *Cf. City & County of San Francisco v. Sheehan*, 575 U.S. 600, 610 (2015) (dismissing a "question presented as improvidently granted" because "certiorari jurisdiction exists to clarify the law" and citing Supreme Court Rule 10).

Failing to allege any traditional reason for certiorari, Petitioner can only rely on attacks of the opinion below to garner this Court's attention. It is all a mischaracterization. To whatever extent some cherry-picked statement from the opinion imperfectly represents this Court's precedent, certiorari is still not warranted. *Cf. Tolan v. Cotton*, 572 U.S. 650, 659 (2014) ("[T]his Court is not equipped to correct every perceived error coming from the lower federal courts."). More importantly, the Fifth Circuit did not discard or alter any precedent. Rather, it merely followed the case law this Court and others have laid out.

A. The Fifth Circuit did not create a rule that jails need not provide any mental healthcare.

Petitioner misrepresents the Fifth Circuit's decision below when he claims that it "ma[de] the unprecedented pronouncement that jails need provide no mental health care at all, so long as they offer 'protection from violence or suicide.'" Pet. at 3 (quoting App.58) (emphasis removed). The Fifth Circuit did not adopt such a rule expressly, and a fair reading refutes the claim.

The Fifth Circuit relied on "protection from violence or suicide" only because it reasoned that measures like the violent cell must generally be constitutionally permitted as measures often **required** by the Constitution. "Protection from violence or suicide" was never meant as an exhaustive statement of the constitutional requirements; the point was that such protection is a necessary component of the constitutional minimum which justified the measures taken in this case. Reading the opinion as a whole provides ample support for this conclusion.

The Fifth Circuit understandably focused on suicide prevention because Petitioner's own claim that he was suicidal is what prompted the jail guards to move him to the "violent cell." Also, most of the conditions that Petitioner complains about are in fact features specially designed to prevent suicide and other violence. But the Fifth Circuit did not adopt a broad rule that mental healthcare is never constitutionally required, or that the constitution could never require more than protection from violence and suicide. In fact, the Fifth Circuit did not announce **any** new standard—it analyzed Petitioner's constitutional claims using existing precedent without suggesting any modification.

As to the County Respondents, the Fifth Circuit applied the rule that the "State must 'assume some responsibility for [a pretrial detainee's] safety and general well-being'" App.56 (quoting *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 200 (1989)) (alteration in original). Expounding on this standard, it stated that "[t]hese responsibilities **include** 'food, clothing, shelter, medical care, and reasonable safety'" where "[m]edical care" further "**includes** 'protection from violence or suicide.'" *Id.* (emphasis added) (quoting *DeShaney*, 489 U.S. at 200, and *Hare v. City of Corinth*, 74 F.3d 633, 643 (5th Cir. 1996)). Nothing in its statement of the applicable rule limits mental healthcare to violence prevention—quite the opposite. By noting that a jail's healthcare obligation merely "includes" prevention of suicide and violence, the court's formulation at least implies that more may be required. That is, protection from violence is merely one example of the basic human needs that a jail may be required to provide. There is no indication that the panel intended any departure from that original sense.

The Fifth Circuit ultimately determined that the scheme for providing mental healthcare did "not violate the Constitution," again applying established standards. It held that Petitioner's allegations were insufficient to "demonstrate that the County 'knowingly subject[ed] [him] to inhumane conditions of confinement or abusive jail practices' through its mental health treatment plan." App.59 (quoting *Shepherd*, 591 F.3d at 456) (alterations in original). This parallels this Court's articulation of the constitutional standard in *Estelle v. Gamble*, the very case Petitioner accuses the panel of departing from. 429 U.S. 97, 104 (1976) (holding that "deliberate indifference to serious medical needs of prisoners constitutes" an "unnecessary and wanton infliction of pain").

In coming to this conclusion, the Fifth Circuit did not end its analysis at the prevention of suicide, as it would have done if that was all it required. Instead, the Fifth Circuit considered and relied on the fact that the County and the Taft Respondents provided treatment through Phlips, even after confirming that the cell itself provided comprehensive protection from violence: "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." App.58.

Even in this short statement, the Fifth Circuit specifically noted the brevity of Petitioner's detention and that Petitioner received treatment even in so short a stay. Such details would be irrelevant if Petitioner were correct in claiming that the Fifth Circuit required only mental healthcare sufficient to protect against self-harm and no more.[2]

The Fifth Circuit also continued its analysis to consider and reject several of Petitioner's objections to the adequacy of Phlips's care. App58-59. And the court then expressly contemplated that inaction by a mental healthcare professional could violate the Constitution in a different case:

> 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.

App.64 n.16.

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[2] Plus, the Fifth Circuit's treatment is consistent with this Court's own practice of taking into account limits on the duration of a restriction as a point in favor of constitutionality. *Bell v. Wolfish*, 441 U.S. 520, 552 (1979) ("We are also influenced in our decision by the fact that the rule's impact on pretrial detainees is limited to a maximum period of approximately 60 days."); *see also id.* at 524 n.3 (noting that "of the unsentenced detainees, over half spent 10 days or less" in the facility).

All of this was superfluous on Petitioner's distorted account of the Fifth Circuit's opinion. It could have been replaced by the simple observation that the cell was designed to prevent Petitioner's suicide. That the Fifth Circuit went deeper belies the claim that it adopted a categorical rule that no mental healthcare is required beyond suicide and violence prevention.

* * *

The Fifth Circuit's ultimate conclusion—that the Constitution was not violated—was entirely correct under the pre-existing standards it applied. More to the point in this posture, there is no trace of a novel standard narrowing the universe of viable Constitutional claims and nothing worthy of this Court's review.

B. The Fifth Circuit did not eliminate *Bell*'s proportionality requirement—it followed it.

Petitioner also mischaracterizes the Fifth Circuit's opinion by claiming that it eliminated any requirement that the conditions of pretrial-detainee confinement be proportional to the end pursued. Both Petitioner and the dissent below admit that the panel quoted and purported to apply a proportionality test. But they claim that the panel went on to apply "'rational basis' review to conditions-of-confinement claims, seemingly based on a misreading of the phrase 'reasonably related.'" Pet. at 18. This misunderstands the Fifth Circuit's choice of words. Reasonable relationship is just shorthand for the *Bell* test—a combination of rational relationship **and** lack of excessiveness. This is easy to see on a careful review of the panel's opinion and the Fifth Circuit's precedents.

The panel opinion first quoted *Bell* for the proposition that "[t]o 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.'" App.46 (quoting *Bell*, 441 U.S. at 561). Then, almost immediately afterward, the panel gave the following gloss on the test: "Therefore, Alexander must demonstrate, *inter alia*, that the restrictions are not reasonably related to a legitimate governmental objective." App.46. The Fifth Circuit plainly did not mean for its second statement to eliminate the proportionality requirement recited in its first statement—it intended the formulations to be equivalent.

The proper way to understand the second formulation is therefore to recognize that "reasonably related to a legitimate governmental objective" combines in one expression the requirements that a measure be "rationally related to a legitimate nonpunitive governmental purpose" and not "excessive in relation to that purpose." *Id.* It is merely a shorthand in which reasonableness **is** the required measure of proportionality—that is, a restriction is not considered excessive in relation to its purpose if it is reasonably connected to that purpose.

This is consistent with precedent. The Fifth Circuit has used this formulation as shorthand for the *Bell* test for thirty years. *Hare*, 74 F.3d at 640 (referring to "the reasonable relationship test of *Bell*"); *Scott v. Moore*, 114 F.3d 51, 53 (5th Cir. 1997) (same). It has never repudiated the non-excessiveness requirement, and it did not do so here.

Use of "reasonably related" to mean more than mere "rational basis" review is not unique to the Fifth Circuit, either. Other courts have drawn the same distinction, with "reasonable" carrying the import of both rationality and proportionality. One district court laid it out quite explicitly, in describing a case from this Court that followed up on *Bell*: "While the test outlined by the Supreme Court in *Turner* is a deferential one, there are limits. The test specifically asks whether there is a **reasonable** connection—not merely a **rational** justification. . . . Under *Turner*, the State is not free to overreact and **unreasonably overburden** fundamental rights." *Foy v. Fla. Comm'n on Offender Rev.*, 742 F. Supp. 3d 1148, 1165 (N.D. Fla. 2024) (emphasis added) (citing *Turner v. Safley*, 482 U.S. 78, 88 (1987)); *see also, e.g.*, *Stevenson v. Carroll*, 495 F.3d 62, 67 (3d Cir. 2007) ("*Bell* . . . formulated the 'reasonable relationship' test"). Thus, the panel's reliance on a "reasonable" relationship to the indisputably legitimate goal of suicide prevention is not an abandonment of proportionality—reasonableness is the very measure of proportionality that has always been required.

This "reasonableness" formulation is actually drawn from the holdings of this Court, which has used virtually the same shorthand. As stated in *Block v. Rutherford*, applying the *Bell* test:

> The question before us, therefore, is narrow: whether the prohibition of contact visits is **reasonably related to** legitimate governmental objectives. More particularly, because there is no dispute that internal security of detention facilities is a legitimate governmental interest, our inquiry is simply whether petitioners' blanket prohibition on contact visits at Central Jail is **reasonably related to** the security of that facility.

468 U.S. 576, 586 (1984) (emphasis added). The Court then wrapped the question of excessiveness into its reasonableness inquiry:

> Petitioners' flat prohibition on contact visits cannot be considered a[n] . . . excessive response to the . . . security objectives. . . . In sum, we conclude that petitioners' blanket prohibition is an entirely **reasonable**, nonpunitive response to the legitimate security concerns identified, consistent with the Fourteenth Amendment.

Id. at 588 (emphasis added); *see also Turner*, 482 U.S. at 88 (referring to "the reasonableness standard adopted in . . . *Bell*").

Regardless of the language used, the Fifth Circuit applied the *Bell* test appropriately according to guiding precedent. Importantly, the panel expressly left open the possibility that the violent cell could be unconstitutional in a different situation. App.54 n.11 ("We do not hold today that the violent cell's conditions are permissible in all circumstances."). Even these exact conditions might be unreasonably disproportionate in another case.

* * *

Petitioner further complains that the Fifth Circuit rejected any "narrow tailoring" requirement and allowed the jail to employ somewhat "overinclusive" measures, claiming this amounts to an abandonment of *Bell*'s prohibition of excessiveness. Pet. at 17-18. But refusal to apply a strict proportionality requirement does not amount to an abandonment of proportionality altogether. In fact, "narrow tailoring" has never been required by this Court's deferential standard.

The panel opinion rejected only "narrow tailoring" or any requirement that "the violent cell be tailored to the individual." App.54 & n.10. It expressly affirmed and approved of the trial court's application of a requirement that the measures be "**reasonably** tailored to the state's interest in preventing suicides." App.53 & n.9 (emphasis added). This approach is consistent with, or even mandated by, this Court's holdings.

This Court has, for example, always emphasized the deferential nature of the inquiry. *See Bell*, 441 U.S. at 547 ("Prison administrators . . . should be accorded wide-ranging deference . . ."); *Block*, 468 U.S. at 584 ("In setting forth these guidelines, we reaffirmed the very limited role that courts should play in the administration of detention facilities."). Strict proportionality tests like narrow tailoring are exactly the opposite of the deference this Court has required.

Accordingly, this Court refused to read any kind of "heightened scrutiny" back into the *Bell* test in *Turner*, 482 U.S. at 87. The *Turner* Court explained that "[i]n none of . . . four 'prisoners' rights' cases"—of which *Bell* and *Block* were two—"did the Court apply a standard of heightened scrutiny, but instead inquired whether a prison regulation . . . is 'reasonably related' to legitimate penological objectives, or whether it represents an 'exaggerated response' to those concerns." *Id.*

And this Court has consistently rejected any requirement that governments select the best or least restrictive alternative, beginning in *Bell* itself. Unlike heightened scrutiny, reasonableness does not require narrow tailoring. "Governmental action does not have to be the only alternative or even the best alternative for it to be reasonable, to say nothing of constitutional."

Bell, 441 U.S. at 542 n.25; *see also Block*, 468 U.S. at 591 n.11 ("We reaffirm that administrative officials are not obliged to adopt the least restrictive means to meet their legitimate objectives."); *Turner*, 482 U.S. at 90–91 ("This is not a 'least restrictive alternative' test.").

The Fifth Circuit's rejection of narrow tailoring, and its resulting willingness to permit some amount of overbreadth, thus do not indicate any divergence from the holdings of this Court. Indeed, the panel correctly approved of the trial court's application of the only standard of proportionality consistent with established law—"reasonabl[e] tailor[ing]." App.53 & n.9. It certainly did not eschew proportionality altogether as Petitioner claims. His second question presented is thus another distortion with no issue of substance behind it; it again reduces to a disagreement with how the Fifth Circuit applied "a properly stated standard." U.S. Sup. Ct. R. 10.

C. The Fifth Circuit faithfully applied this Court's plausibility pleading standards and rejected Petitioner's now-explicit call for speculation.

Lastly, Petitioner faults the panel for failing to draw inferences in its favor. But the Fifth Circuit's conclusion that it was not reasonable to infer an express intent to punish from the well-pleaded allegations is correct. More importantly, moreover, a mere disagreement about the **application** of the well-settled standard for plausibility pleading is not worth this Court's attention, even had the panel erred.

Petitioner contends that the "majority could only reach the disposition it did by categorically refusing to draw reasonable inferences as to jailers' states of mind, calling any such possible inference 'speculative.'" Pet. at 22. But the Fifth Circuit did not hold, as a categorical matter, that mental states could never be inferred. It simply rejected Petitioner's position as involving too great an inferential leap.

The Fifth Circuit's decision was not driven by doubt that the jailers made the comments alleged. App.49 n.7 ("The facts alleged, taken as true, do not give rise to the reasonable inference that the officers intended to punish Alexander."). The point was rather that the comments do not suggest that moving Petitioner to the violent cell was intended as a punishment.

At most, the statements leading up to his move showed that correctional officers expected Petitioner to dislike the conditions in the violent cell. As the panel observed: "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." App.49. The panel was correct not to allow allegations of general ill will or disrespect to substitute for a specific intent to punish.

To avoid this result, Petitioner calls for speculation: "By relying on reasonable inferences, the 12(b)(6) standard expressly contemplates a degree of speculation." Pet. at 25. But "factual allegations must be enough to raise a right to relief **above the speculative level**." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (emphasis added).

And *Nat'l Rifle Ass'n of Am. v. Vullo* did not change, but only reinforced, the "reasonable inference" standard. 602 U.S. 175, 195 (2024) (enforcing "the obligation to draw reasonable inferences in the [non-movant's] favor and consider the allegations as a whole"). This Court's even more recent articulation of the "plausibility" standard makes clear that no speculative inference is to be drawn:

> That plausibility standard "asks for more than a sheer possibility that a defendant has acted unlawfully." If the complaint "pleads facts that are merely consistent with a defendant's liability, it stops short of the line between possibility and plausibility of entitlement to relief."

Hikma Pharms. USA Inc. v. Amarin Pharma, Inc., 146 S. Ct. 1391, 1399 (2026) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). As the Fifth Circuit put it: "Alexander's framing requires an inferential leap—from the officers' alleged subjective disbelief to an expressed intent to punish—that we need not accept." App.48 n.5.

In this case, moreover, the inference of intent to punish is contrasted with an obvious alternative inference. The Fifth Circuit rightly pointed out that Petitioner "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." App.48. Inferring intent to punish is unreasonable without some reason to rule this straightforward explanation out.

Reference to a readily apparent alternative does not amount to drawing any inferences in Respondents' favor, as the dissent below accuses. It is perfectly in accord with this Court's recent instruction that "to nudge a claim 'across the line from conceivable to plausible,' a plaintiff must plead facts that, if true, 'allo[w] the court' . . . to rule out 'obvious alternative explanation[s]' for the defendant's conduct." *Hikma Pharms.*, 146 S. Ct. at 1399 (quoting *Iqbal*, 556 U.S. at 678, 680, and *Twombly*, 550 U.S. at 567) (brackets in original).

Finally, Petitioner's reliance on *Taylor v. Riojas* is misguided. That case specifically held that certain callous remarks showed that the officers who spoke to them were deliberately indifferent but noted that "an officer-by-officer analysis will be necessary on remand." *Taylor v. Riojas*, 592 U.S. 7, 9 (2020). Here, the comments alleged are not attributed to any individual defendant, so they cannot be part of any defendant-by-defendant analysis. Unlike in *Riojas*, the only potential relevance of these comments is if they can be shown to reveal a punitive motivation for the decision to move Petitioner to the violent cell, attributable to Defendants. But they are the alleged comments of unidentified jailers who are not alleged to have set the suicide prevention policy or to have made the decision to place Petitioner in the violent cell. This is part of the unjustified inferential leap that the Fifth Circuit criticized—the comments do not tend to show that the decision was intended to punish, especially when suicide watch was constitutionally required.

Finally, even if Petitioner could show a real error in the Fifth Circuit's application of the 12(b)(6) standard, that is not a worthwhile basis for certiorari. There is no question that the Fifth Circuit applied the established standards of plausibility pleading and determined that the inferences Petitioner needs were implausible. It did so without breaking any legal ground—without articulating any new rules. Petitioner does not even try to identify any supposed new rule or misstatement of the legal standard. It complains only that the panel refused to draw inferences in its favor—

inferences that the panel directly determined were unreasonable.

II. This case is a poor vehicle to decide any of Petitioner's questions.

The petition should be denied primarily because the questions presented are premised on distortions of the Fifth Circuit's opinion, as discussed. But even were the questions properly presented, it would still be a poor vehicle for resolving any of them.

A. Petitioner has not challenged the Fifth Circuit's independent grounds holding for the Taft Respondents.

The Fifth Circuit held that Petitioner's allegations were insufficient to infer that the Taft Respondents were deliberately indifferent. App.60 ("We begin and end with deliberate indifference."). Petitioner does not challenge this square holding. He seems to have forgotten about it. Pet. at 9 (claiming the panel failed to consider "whether the County or its contractors were deliberately indifferent to a serious medical need").

But deliberate indifference is an indispensable element of liability both for Taft and his PLLC, and the Fifth Circuit rejected all claims against the Taft Defendants on that ground. App.63 n.16 ("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."). Petitioner's failure to challenge this holding precludes all claims against the Taft Respondents, regardless of the ultimate resolution of the questions presented.[3]

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[3] Judge Dennis's dissent also does not quarrel with the holding that the Taft Respondents were not deliberately indifferent.

In reaching that conclusion, the Fifth Circuit applied well established standards that Petitioner does not challenge, not any new standard limited to protection from violence and suicide. It asked whether "(1) 'the deprivation alleged was sufficiently serious' and (2) 'the prison official possessed a sufficiently culpable state of mind'"—"deliberate indifference." App.60 (quoting *Herman v. Holiday*, 238 F.3d 660, 664 (5th Cir. 2001)). But the panel did not reach the first element, because it held that the second, subjective element was dispositive. *Id.* ("We begin and end with deliberate indifference."). Petitioner's failure to challenge this holding renders the entire petition moot as to the Taft Respondents.

Nevertheless, Petitioner purports to extend the first question presented to the Taft Respondents. Pet. i. ("The question presented is whether **jail mental health providers'** obligations under *Estelle* are limited to 'protection from violence and suicide.'" (emphasis added)). His argument on this point confirms that he expects a ruling in his favor to apply to the claims against the Taft Respondents. In particular, he argues "that mental health providers can be held accountable for failing to take steps to avoid serious harms caused by psychologically harmful housing." Pet. at 15 (citing *Palakovic v. Wetzel*, 854 F. 3d 209, 229 (3d Cir. 2017)); *see also id.* at 13 (quoting *Palakovic*, 854 F. 3d at 227, 234). But the holding that the Taft Respondents were not deliberately indifferent on the alleged facts totally disposes of all claims against them, regardless of the resolution of the questions presented.

Indeed, he does not even mention Taft in his dissent or make any case for holding the Taft Respondents liable. App.65-76.

Questions two and three do not implicate the Taft Respondents for the same reason and additional ones. The second question presented is irrelevant to the Taft Defendants because the Fifth Circuit refused to "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." App.59. Even if the conditions of the violent cell were found to violate the constitution, then, the Taft Respondents could not be held responsible for those conditions. Petitioner expressly acknowledges this alternative holding but fails to mount any challenge to it before this Court. Pet. at 8 (noting the holding that "jail health care officials have no authority, and therefore no duty, to do anything to alter an inmate's conditions of confinement, including housing").

The third question does not apply to the Taft Respondents, either. Petitioner contends that statements made by correctional officers evinced punitive intent, also relying on the context in which those comments were made. Pet. at 23. But Petitioner has never claimed that the Taft Respondents shared that supposed intent to punish, nor attempted to argue that his allegations provide support for inferring that they harbored such intent. Even were this Court to hold that the Fifth Circuit wrongly refused to draw an inference of intent from the jailers' statements, there would still be no basis to infer that the Taft Respondents intended to punish Petitioner.

Nevertheless, because Petitioner has crafted his petition as against all Respondents, the continued involvement of the Taft Respondents here creates needless procedural complexity rendering this a poor vehicle for consideration of the questions presented.

This added complexity counsels against certiorari and especially against any summary reversal, since the latter could implicitly reopen claims against the Taft Respondents without any basis.

And if this case proceeds to merits briefing and argument with the Taft Respondents attached, they will be impelled to file a Brief on the Merits and participate at argument to protect their interests, unfairly expending the Court's time and their own resources. Assuming the Court remains interested in any of the questions presented, this case is a poor vehicle as a result. Certiorari should be denied. At the very least, certiorari should be denied as to the Taft Respondents because the questions presented should not affect them. *See e.g.*, *Coinbase, Inc. v. Bielski*, 599 U.S. 736, 747 n.7 (2023) (reversing and remanding as to one respondent but "dismiss[ing] as improvidently granted" the "writ of certiorari as to" several other respondents).

B. Petitioner has not challenged the Fifth Circuit's independent ground for rejecting his intentional punishment claim.

Beyond the deficiencies described above, Petitioner's third question presented also has a key vehicle defect, in that Petitioner waives any challenge to the Fifth Circuit's alternative ground for rejecting Petitioner's claim of intentional punishment. As an independently sufficient ground for its decision, the panel held that even if the officers did not believe that Petitioner was suicidal, they were still obligated to ensure his safety. Accordingly, whether some individual guard believed that Petitioner was actually suicidal is beside the point: "[I]t matters not whether the officers believed he was suicidal. County jails have a constitutional duty to ensure the safety of potentially suicidal detainees."

App.49; *see also* App.49 n.7 ("[W]e do not depend on whether officers believe an individual's report of suicidal ideation."). The panel further explained that:

> 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.

App.50. For the same reason, it is irrelevant whether a guard hoped that Petitioner would suffer or relished his suffering. A jailer's internal state, no matter how reprehensible, cannot transform a standardized anti-suicide protocol into a punishment when suicide prevention measures are required—such as when an inmate unambiguously claims to be suicidal.

Petitioner has not raised any objection to this reasoning in his petition for certiorari. This is fatal to his third question presented because this reasoning represents an independent basis to reject his allegations of intentional punishment. Even if this Court disagreed with the panel's application of the "reasonable inference" standard, the outcome of the case would be exactly the same.

C. The other Respondents also bear no liability for additional reasons independent of the questions presented.

Even without the Taft Respondents, this case remains a dubious vehicle for consideration of all questions presented. All the correctional officers asserted qualified immunity, and the trial court agreed it applied and barred the claims against them. ROA.1249. The Fifth Circuit only declined to reach qualified immunity because it had already upheld the dismissal on other grounds. App.55 ("We therefore do not consider whether the officers are entitled to qualified immunity.").

Similarly, the Fifth Circuit declined to analyze the claims against the County under *Monell* once it determined there was no underlying constitutional violation. "Because the plan does not violate the Constitution, we do not consider his municipal liability claim against the County." App.59; *see also Valle v. City of Houston*, 613 F.3d 536, 541–42 (5th Cir. 2010) (citing *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978)). On any remand from this Court, the unanalyzed requirements of *Monell* would present a formidable obstacle to liability. For example, there is nothing in the record that suggests "(1) an official policy (or custom), of which (2) a policymaker can be charged with actual or constructive knowledge" which was the "moving force" behind the jailers' supposed intent to punish. *Valle*, 613 F.3d at 541–42 (quoting *Pineda v. City of Houston*, 291 F.3d 325, 328 (5th Cir. 2002)).

Given all the unchallenged alternative bases for decision here—some reached by the Fifth Circuit and some reserved—a ruling for Petitioner from this Court is unlikely to change the outcome. Anything this Court says on the questions presented will probably amount to an advisory opinion. Certiorari should be denied because this case is a poor vehicle, on top of other failings.

CONCLUSION

The Taft Respondents respectfully submit that the petition should be denied.

Respectfully submitted,

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