

IN THE
Supreme Court of the United States

RONNIE ALEXANDER,

Petitioner,

v.

PHILIP R. TAFT PSY D AND ASSOCIATES, P.L.L.C., *et al.*,

Respondents.

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

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

I. Question One:

In *Estelle v. Gamble*, 429 U.S. 97 (1976), this Court held that the government has an obligation to provide care for the serious medical needs of incarcerated people. The question presented is whether jail mental health providers' obligations under *Estelle* are limited to "protection from violence and suicide."

II. Question Two:

In *Bell v. Wolfish*, 441 U.S. 520 (1979), this Court held jails may not subject pretrial detainees to conditions that amount to punishment. Absent an intent to punish, this determination 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" that purpose. The question presented is whether restrictions ostensibly imposed for suicide prevention nonetheless comprise unlawful punishment when they are excessive in both nature and duration relative to that purpose, and also deprive an inmate of the "minimal civilized measure of life's necessities."

III. Question Three:

In *NRA of America v. Vullo*, 602 U.S. 175 (2024), this Court reiterated that in reviewing a 12(b)(6) motion to dismiss, courts must draw reasonable inferences in the plaintiff's favor and consider the allegations as a whole. The question presented is whether a court may categorically disregard any inference as to an actor's state of mind as "speculative," irrespective of the plaintiff's allegations.

PARTIES TO THE PROCEEDINGS

The Parties to the Proceedings are properly stated by Petitioner. No respondent is a publicly traded corporation.

RELATED PROCEEDINGS

The related proceedings are properly stated by Petitioner and included in Petitioner's Appendix.

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37 TEX. ADMIN CODE § 275.16

Punishment, Black’s Law Dictionary 1484
(11th Ed. 2019).20

*Ronnie Alexander v. Southern Health Partners,
Inc., et al.*, No. 3:22-cv-00395-X (June 12, 2023).1

OPINIONS BELOW

The Petitioner's Section entitled "Opinions Below" accurately lists the Opinions issued by the Fifth Circuit but does not list one of the Memorandum Opinions filed by the District Court, which is "Memorandum Opinion and Order Granting Motions to Dismiss, United States District Court for the Northern District of Texas in *Ronnie Alexander v. Southern Health Partners, Inc., et al.*, No. 3:22-cv-00395-X (June 12, 2023)." It is Dkt, # 112 on the District Court's PACER Docket System. The Opinion is also attached in the Respondent's Appendix as R. App. 53-74.

JURISDICTION

The jurisdictional provision cited by the Petitioner is correct, and Respondent agrees that Jurisdiction is proper in this honorable Court.

RELEVANT LEGAL PROVISIONS

The Respondent does not have any issue with the broad and generally stated legal provisions set forth by Petitioner.

STATEMENT OF CASE

A. Background

Henderson County is a rural Texas County that encompasses 949.7 square miles about sixty miles southeast of Dallas and is home to 82,150 people. The county jail where this incident happened is in the County seat of Athens, Texas, was built in 2009, and has 509 beds.

Petitioner Ronnie Alexander was arrested on March 8, 2021 and detained in the Henderson County Jail. P. App. 39; R. App. 4-5.¹ He left the Jail on March 15, 2021, when he was transferred to Dallas County. P. App. 42.

On March 8, 2021, shortly after Alexander arrived at the Jail, Jessica Philips conducted a mental health “observation clearance” on Alexander.² P. App. 67; R. App. 5. Petitioner attempts to attack Ms. Philips credentials and qualifications throughout his Petition; however, the Majority very specifically addresses this issue and notes that “The Texas Commission on Jail Standards” requires that each jail facility have a specific mental health plan approved by the Commission that gives inmates the ability to access a “mental health professional.”³ P. App. 57; *e.g.*

1. The Petitioner’s Appendix is cited throughout as P. App. The Respondent’s Appendix contain the Plaintiff’s live pleading (The Plaintiff’s Third Amended Complaint) and the Court’s Order Dismissing all Defendants without Prejudice and allowing Plaintiff to Re-plead.

2. Jessica Philips, acknowledged as a Mental Health Professional by the dissenting Circuit Judge James L. Dennis, was an employee of Philip R. Taft, Psy.D & Associates, which was the medical group that provided mental health care services at the Jail. P. App. 39-40, 67. Philips was assigned to directly interact with the inmates in the Jail. *Id.* at 39-40.

3. The Texas Administrative Code, specifically Section 26 TEX. ADMIN. CODE § 301.303(48), determines who is considered a Mental Health Professional. P. App. 57, 58. Petitioner makes a big deal out of the fact that Philips does not have a state “license.” *Id.* Of the categories listed in the Texas Administrative Code for a Mental Health Professional, only one category of the three listed requires a license – the category of a registered nurses. *Id.* Some of the categories on the list are qualified because they have completed an alternative credentialing or certification process.

26 TEX. ADMIN. CODE § 273.2(13). When Philips performed the observation clearance on Alexander on March 8, 2021, she observed no obvious mental health issues at that time, but she did note Alexander disclosed a prior diagnosis of depression and post-traumatic stress disorder (“PTSD”). P. App. 40; R. App. 5.

On March 9, 2021, a complete medical intake screening was performed on Alexander by a licensed nurse, who placed Alexander on an alcohol withdrawal protocol based upon his history. R. App. 4-5. During the medical intake screening, Alexander was prescribed “a suite of prescriptions,” including Librium, a benzodiazepine that is an anti-anxiety and anti-depressive medication. R. App. 5. He was continued on Lisinopril for his blood pressure and also prescribed Clonidine for his blood pressure. R. App. 5.

Additionally, on March 9, Mental Health Professional Jessica Philips saw Alexander again for a follow-up visit, and she noted that she had no concerns as to Alexander’s mental status at that time, including his appearance,

Id. Other Mental Health Professionals are qualified based on a bachelor’s degree from an accredited university with a specific number of hours dedicated to the approved major of that person. *Id.* Petitioner is also highly critical of Philips because she does not do “suicide risk assessments,” which is ridiculous because such assessments are profoundly inaccurate at predicting future behavior, are not generally performed by clinicians and are of no moment in this case since Petitioner admits in his live pleading that he affirmatively told jail staff that he was suicidal and never averred nor created any inference that he told correction staff, mental health staff, medical staff or anyone else that he was not suicidal. *Id.* at 59; R. App at 1-52. Consequently, these criticisms that Petitioner throws at Philips are disingenuous at best.

behavior, speech and mood. P. App. 67; R. App. 5. There are no averments and nothing by which to infer from Petitioner's live pleadings that Alexander had any physical or mental issues at that time. R. App. 1-52.

Shortly thereafter, the Jail staff conducted the classification process. R. App. 6. There are no averments in this case that Alexander was improperly classified as a maximum-security detainee, and no averments that he should not legally have been housed with medium and maximum security inmates.⁴ R. App. 1-52; R. App, n.2. Indeed, Alexander specifically averred in his live pleading in District Court as follows: "Alexander is not asserting any legal claims of misclassification." R. App, 6 n.2. Accordingly, Alexander was placed in a group detention area with medium and other maximum security inmates like himself. R. App 40. He concludes that he was housed with "some of the most violent and dangerous men being held at the Jail." However, he states absolutely no factual basis to support this conclusory statement other than his own classification level. R 1-52. He never avers in his pleadings, nor does he give any basis for anyone to infer, that he ever knew who the other inmates were in his housing unit, what present charges the other inmates had been arrested for, what criminal justice history the other inmates had, or whether the other inmates in that housing unit only had prior non-violent felonies on their record like Mr. Alexander, whether they had current

4. The classification process is not a discretionary process. It is controlled and mandated by Texas Commission on Jail Standards ("TCJS"). TCJS inspects Texas jails over this process, and jails have to do it according to the approved TCJS process. Classification was proper in this case, which is why Petitioner is not suing the County over this issue.

substance abuse issues that made them volatile, whether they were in gangs, or anything else about those inmates. P. App. 1-52. There is not even one example of any other inmate in the housing unit was one of the most violent and dangerous men being held in the jail. *Id.* Yet, Alexander does not claim he was improperly classified or housed. *Id.*

Alexander alleges “his new podmates repeatedly threatened him,” causing him to fear for his safety and causing him to speculate and conclude, without any factual basis, that this caused his blood pressure to rise.⁵ *Id.* However, Alexander never avers that he identified to jail staff or anyone else the other inmate or inmates he claims threatened him. Jail staff could neither address his concerns regarding those individuals nor remove any such problem inmates from the tank. *Id.* Allegedly worried about these circumstances, which the Court has taken as true, Alexander asked the detention staff to move him. *Id.* Alexander was not transferred at that time. *Id.*

There is no allegation in this case that Alexander was improperly classified, no allegation that his cell assignment in population was improper, nor are there any averments that any other inmates assaulted or injured him in any way. R. App. 1-52.

Eventually, Alexander admits he “falsely informed a correctional officer that he was suicidal, believing that would force the Jail to move him out of the group detention

5. Petitioner alleges some inmates threatened him in the maximum security pod, but Petitioner does not identify them, did not identify them at the time, did not provide a description of them, did not attempt to report them, and could only state that the inmates were part of the group in that maximum security pod.

cell.” As the majority noted, “[h]e was right.” P. App. 39-40, 47-48.

During the 5 days that Alexander was in the suicide prevention cell, he admits that jail staff performed the required visual suicide checks “to ensure that his physical and mental health were not suffering from the conditions he was subjected to in the violent cell. *Id.* at 40. Alexander never avers nor infers that the detention staff did not carry out the 15 to 30 minute checks as required by the Commission on Texas Jail Standards during the five days that he was in the Suicide Prevention cell. 37 TEX. ADMIN CODE § 275.1. Petitioner never avers or infers that the Jail staff violated this provision of the Commission on Texas Jail Standard Rules.

Mental Health Professional Philips also went to see Alexander in the Suicide Prevention Cell on March 12, 2021. Alexander never avers or infers that he made any complaints to Philips, indicated he was in need of medical or mental health assistance, asked for additional water, a toilet, a shower, running water, hygiene articles, clothing, recreation, bedding or anything else. Alexander does not aver or infer that he ever told Philips that he was not suicidal.

Alexander admitted to the District Court that medical staff delivered all of his medications each day. P. App. 36; R. App. 59. Alexander never averred or inferred that there were any medications that jail staff did not personally give to him each day while in the Suicide Prevention Cell. Indeed, Petitioner’s Counsel admitted to the District Court Judge, the honorable Brantley Starr, that jail medical staff delivered Alexander’s medications each day,

even while he was in the suicide prevention cell. R. App. 59. Indeed, he never avers or implies that he complained about anything to the Medical Professionals, the Mental Health Professional or any other jail employees that he was in any type of physical or emotional distress, nor did he ever aver or imply that he told anyone at the jail that he really was not suicidal. R. App. 33 (he continued to receive his withdrawal protocol medications); R. App. 1-52 (no averments that he did not receive his blood pressure medications); R. App. 1-52 (no averments that he ever told any medical professional, mental health professional or jail staff member that he was in any physical or emotional distress or that he was no suicidal).

At the Henderson County Jail, the suicide prevention cell “is the safest place in the Jail to place a suicidal inmate, and the conditions are reasonably related to its interest in protection against suicide.” P. App. 54, n.10. As part of the County’s Suicide Prevention Plan, the “Suicide Prevention Cell,” which Petitioner refers to as the “Violent Cell,” was specifically designed with suicide prevention features, approved by the Texas Commission on Jail Standards so that jail staff could protect the constitutional rights of inmates from self-harm and potential suicide. *See id.* at 50, 54 n.10.

Alexander provides only conclusory allegations demonstrating that Philips or the Jail knew – or had reason to believe – that his mental state was caused by the violent cell’s conditions, rather than his self reported suicidal ideation. *Id.* at 59.

Alexander cannot demonstrate that the County “knowingly subjected him to inhumane conditions of

confinement or abusive jail practices through it's mental health treatment plan. *Id.*

To afford inmates with their well-established constitutional right to be protected from self-harm and potential suicide, the suicide prevention cell has no toilet, no shower, no running water, no clothing, no bedding, no toilet paper, and the lights remain on at all hours so that the suicidal inmate can always be observed by jail security officers. P. App. 53-55.

In addition, the detainee claiming suicidal ideation is required to surrender his or her clothing and is given a specially-designed and manufactured suicide blanket (specially designed so that it cannot be torn, "de-threaded," swallowed, used to suffocate a person, rolled up and used as a weapon, used as a ligature, or used to choke a person). *See id.* at 54. Alexander was housed in the suicide prevention cell for only five days, after which he was released from the Jail, picked up by the Dallas County Sheriff's Office and transported to the Dallas County Jail. *Id.* at 42.

After Petitioner made his initial outcry that he was going to kill himself, the outcry which he now claims was a lie, "he does not allege that he ever informed jail officials – or Philips – that he was no longer suicidal." R. App. 1-52, 59. In other words, Petitioner never avers or even implies that he told jail staff, medical staff, mental health staff or anyone else that he lied about planning to kill himself. *Id.* at 59.

Alexander avers that he received three meals and three beverages a day from the combined individual

defendants, who he refers to as the “Central Officers,” because he believes the floor assignment as “Central Officer” means they were responsible for dealing with requests from an inmate in the suicide prevention cell. *Id.* He never actually avers or infers that he can personally identify any of these officers, and Alexander never avers or implies he told any of these officers he really was not suicidal, or that he complained he was not receiving adequate nourishment, or complained that he had a any physical or emotional distress, or requested any medical help or psychiatric help. R. App. 1-52. He never avers or implies that he told anyone that he had a serious medical need. *Id.* The only thing Alexander alleges is that these “Central Officers:” 1) denied his requests to leave the cell to use the toilet, shower or wash his hands; 2) denied requests for more drinking water outside of the three meals a day and an occasional extra glass of water; and 3) denied requests for toilet paper or other hygiene products. *Id.* He also claims the officers did not “arrange to clean his cell,” although he never avers or implies that he expressed a need to have his cell cleaned. *Id.* From these alleged deprivations, there is no actual allegation of any harm, and Alexander is indisputably alive and did not cause himself any self-harm. As the Fifth Circuit held, a legitimate governmental interest existed for all of the suicide prevention conditions. P. App. 54.

Petitioner complains at length that “someone,” possibly jail staff, made fun of him and made threatening comments on the way to the suicide prevention cell. *Id.* at 6. But, he does not identify the officers or even provide a description of these officers in his live pleading, even given the fact that, as Alexander noted, the officers wear name badges. *Id.* at 1-52 (no identification or description).

Alexander never avers or implies that he ever requested a written sick call form and never avers or implies that he was ever denied such a form. *Id.* at 1-52. Yet, he avers that filling out a sick call request is generally the only way to get medical care in the Jail. *Id.* at 35. Alexander also never avers or implies that he ever requested a complaint or a grievance form, which Alexander acknowledges are utilized by inmates and detainees housed in that particular “Violent Cell. *Id.* at 1-52. Alexander never avers or implies that he filled out or turned in a sick call request, a complaint or grievance form or any other request. *Id.* Alexander never avers or implies that he ever verbally requested to see medical or mental health workers. *Id.* He only claims he requested additional water, a shower, a sink and to wash his hands. *Id.* at 10-17.

Alexander remained in the suicide prevention cell until March 15, at which time he was released to the custody of the Dallas County Jail. *Id.*

B. Procedural History

Alexander subsequently filed this lawsuit, bringing federal and state law claims challenging the conditions of his confinement in the suicide prevention cell and challenging the adequacy of the Jail’s mental health services. With respect, it has never been clear what cognizable harm Alexander alleges or the damages he seeks. It is undisputed he was treated as a suicide risk after he claimed to be suicidal. And there is no other explanation of damage other than vague conclusionary statements that his mental health deteriorated from the five days he was in the suicide cell, a cell to which he had

a key by simply telling someone the truth – that he lied about his suicidal ideation.

At the District Court level, Petitioner filed his Original Complaint on February 17, 2022 – about a year after he left custody.⁶ Dkt #1; ROA.1. He filed his First Amended Complaint on April 15, 2022. Dkt #25; ROA.182. Alexander filed his Second Amended Complaint on December 6, 2022. Dkt #60.1; ROA.482. All Defendants filed Motions to Dismiss the Plaintiff’s Second Amended Complaint. Dkt #69, 74, 80. The Court issued its Memorandum Opinion and Order on June 12, 2023, granting Henderson County’s Motion to Dismiss, without prejudice, and instructing Petitioner on what needed to be done to cure his next Complaint. R. App. 53; Dkt #112; ROA.857. Petitioner filed his Third Amended Complaint on July 10, 2023. R. App. 1; Dkt #114; ROA.878. Defendants filed their Motions to Dismiss Plaintiff’s Third Amended Complaint. Dkt #123, 124, 125. In the Court’s June 28, 2024 Memorandum Opinion Granting in Part and Denying in Part Defendants’ Motions to Dismiss Plaintiff’s Third Amended Complaint, the Court dismissed all the Claims against Henderson County with prejudice. P. App. 97; Dkt #144; ROA.1238.

Petitioner filed his Notice of Appeal on July 21, 2024. Dkt #145. Petitioner filed his Appellant’s Brief on October 25, 2024. The Henderson County Defendants filed their Brief of Appellees on December 30, 2024. Dkt #40. Appellant filed his “Corrected Brief” on February 21, 2025. Oral Argument was held on April 28, 2025. During oral argument before the Fifth Circuit Panel, Appellant’s

6. Respondent asks the Court to take judicial notice of the District Court Docket for confirmation.

Counsel did not bring up many of the arguments asserted in his Appellate Brief, but argument is often dictated by the Panel's focus. Counsel's primary argument was to allow jail staff to make a subjective determination of whether Petitioner was lying or telling the truth when he made an outcry about being suicidal.

On July 10, 2025, the Panel issued its opinion in a two/one split. In response to Alexander's primary position in this case, the Majority opinion stated as follows:

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 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.

Alexander v. Philip R. Taft Psy D and Associates, P.L.L.C., 165 F.4th 309, 322 (5th Cir. 2025); P. App. 49-50.

On August 8, 2025, Petitioner filed his Motion for Panel Rehearing and Rehearing En Banc. Those Motions were denied, but Judge Dennis issued a revised Dissenting opinion. On March 24, 2026, Petitioner filed his Petition for Writ of Certiorari.

ARGUMENT AND AUTHORITIES

I. Question One:

In *Estelle v. Gamble*, 429 U.S. 97 (1976), this Court held that the government has an obligation to provide care for the serious medical needs of incarcerated people. The question presented is whether jail mental health providers’ obligations under *Estelle* are limited to “protection from violence and suicide.”

Alexander attacks the Majority’s opinion by claiming the Majority states a new rule of law that “jail mental health providers’ obligations under *Estelle* are limited to ‘protection from violence and suicide.’” P. App. i. However, that is not an accurate reading of what the Majority says and not in the context written.

In *Alexander v. Philip R. Taft Psy D and Associates, P.L.L.C.*, 165 F4th 309, 325-26 (5th Cir. 2025); P. App. 56, the entire statement that seems to have caused Petitioner so much concern reads as follows:

The State must assume some responsibility for [a pretrial detainee’s] safety and general well being. *Deshaney v. Winnebago Cnty. Dept. Of Soc. Serv.*, 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.’

This statement requires a little historical perspective, for years, Courts struggled over whether jail suicide cases should be analyzed for pre-trial detainees under the standard applicable for “medical cases” or the standard applicable for “failure to protect cases.” Until *Hare v. City of Corinth*, 74 F.3d 633, 644 (5th Cir. 1996), the cases against a governmental entity were handled inconsistently, i.e. some were analyzed under a conditions of confinement standard where the liability standard is “whether the conditions amount to punishment of the detainee” or the standard of an unconstitutional episodic act or omission where the liability standard is “deliberate indifference to a serious medical need.” *Id.* Constitutional attacks on general conditions, practices, rules, or restrictions of pre-trial confinement are referred to as “jail condition cases.” *Id.* The *Bell* test works comfortably in such cases because the jail officials state of mind is not a disputed issue. *Id.* The Fifth Circuit separated the two issues: Different versions of the deliberate indifference test govern the two inquiries. *Id.* at 16-14, 20, n.4. To prove an underlying constitutional violation in an individual or episodic act case, a pre-trial detainee must establish that an official acted with subjective deliberate indifference. *Id.* Once the detainee has met her burden, she has proved a violation of her rights under the due process clause. *Id.* To succeed in holding a municipality accountable for that due process violation, however, the detainee must show that the employee’s act resulted from a municipal policy or custom adopted or maintained with objective deliberate

indifference to the detainee's constitutional rights. *Id.* at 14-16.

The only thing the Court was enunciating when it used the phrase "The County provided the constitutional minimum for mental health assistance" is that it fell within the same category as any other medical claim or claim for protection from violence from suicide under the Fifth Circuit's decision in *Hare*. *Id.* at 16-14, 20, n.4. The Court in *Alexander* did not change 5th Circuit precedent or the episodic act standard for convicted inmates in *Estelle v. Gamble*, 429 U.S. 97, 103 (1976). The *Alexander* Court was not limiting mental health responsibility of a County to situations only involving "protection from violence or suicide."

Even if that was somehow read as the intent, which it was not, there is a big difference between the term "limited to" and "includes;" additionally, protection from violence and suicide is a broad category that can include almost anything, especially when added as part of the broad categories of "safety and general well-being" and of "medical care" generally as used in the two preceding sentences of the overall quotation from *Deshaney*. Even the County responsibility just from the phrase "protection from violence and suicide" can include the administration of untold types and numbers of anti-depressant medications, anti-anxiety medications, bi-polar medications, anti-psychotic medications, therapies ranging from counseling in the facility to long or short term commitment in psychiatric hospitals, or if the problem involves organic brain dysfunction, then immediate treatment or long or short term commitment to a hospital specializing in

neurocognitive disorders such as traumatic brain injury, stroke, cardiovascular disorders, metabolic diseases and a host of other disorders.

As is obvious from the above statement on medical care, mental health care is just a subset and specialty branch of medical care. It is not separate. The Majority Opinion does not limit medical care, or its subset mental health care, at all. Lest we forget, with this distraction resolved, what is most important is how the Majority addresses the issues in the instant case.

The Majority puts to bed pretty easily Alexander's first argument as to Philips' licensure. Alexander argued that the Jail allowed Philips, whom he incorrectly alleges in his Petition is unqualified to be a Mental Health Professional. As set forth in the Statement of the Case, 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." *Id.* at 325-26 (citing 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. *Id.* As

the Majority noted in *Alexander*, “Alexander does not allege that Philips falls short of the three categories in § 301.303(48). He therefor cannot rely on her purported lack of qualifications.” P. App. 58. In footnote number 13 (P. App. 58 n.13), the Court goes on to state:

In other words, his Complaint is devoid of factual allegations that Philips (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 allegations of no license, the improper legal conclusion that she cannot legally write assessments, and that she received “no formal period” from Taft is not enough to demonstrate that she is unqualified under 26 Tex. Admin. Code § 301.303(48).

Alexander, P. App. 58, n.13.

Even then, the Court did just not assume there was no constitutional violation just because there was no properly-alleged statutory violation under 37 Tex. Admin. Code § 273.2(13). *Id.* 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. 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 professional three times in seven days, once during his five-day confinement in the Suicide Prevention Cell. *Id.* It matters not that Philips was not licensed to the extent Alexander desired. *Id.* Nor was 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. *Id.* at 58-59. 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 Philips – or anyone else – that he was not suicidal. *Id.* at 59.

Alexander alternatively blames the violent cell for his severe “psychological deterioration,” and also claims Philips did nothing to remove him therefrom. Philips did not have that authority. *Id.* Alexander did not tell anyone, until after he filed his lawsuit, that he had lied about being suicidal and lied about planning to kill himself. How is anyone to know, when Alexander continues to propagate his lie about being suicidal, that his then alleged mental health spiral was not about his PTSD, depression and/or current suicidal ideation. *Id.* The suicide restrictions were to protect him, not to punish him. *See Id.* at 53, 54, 58-59.

Courts, and the legal profession generally, 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. *Id.* They have no authority to confine individuals nor are they free to release detainees from confinement or suicide restrictions. *Id.*; *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 in his attempt to demonstrate that Philips or the Jail knew – or had reason to believe – his mental deterioration was caused by the violent cell’s conditions,

rather than his self-reported suicidal ideation. *Id.* He certainly never avers or infers that he alerted anyone to his alleged condition or ever complained to anyone about his alleged physical or mental condition.

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. *Id.* at 325-26; *Shepherd v. Dallas County*, 591 F.3d 445, 456 (5th Cir. 2009).

Because the Jail’s mental health treatment plan did not violate the Constitution, the the Fifth Circuit did not consider Alexander’s municipal liability claim against the County. *Alexander*, P. App. ____; *see Valle v. City of Houston*, 613 F.3d 536, 541-42 (5th Cir. 2010) (requiring a constitutional violation to impose municipal liability).

II. Question Two:

In *Bell v. Wolfish*, 441 U.S. 520 (1979), this Court held jails may not subject pretrial detainees to conditions that amount to punishment.⁷ Absent an intent to punish, this determination 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” that purpose. The question presented is whether restrictions ostensibly imposed for suicide prevention nonetheless comprise unlawful punishment when they are excessive in both nature and duration relative to that purpose, and also deprive an inmate of the “minimal civilized measure of life’s necessities.”

Petitioner makes the absurd claim that the “Fifth Circuit fundamentally altered the *Bell* test, eliminating its proportionality requirement.” Pet. for Writ of Cert. at 15. This assertion by Petitioner attacking the Majority Opinion is disingenuous. The Majority goes through an in depth analysis of the Fourteenth Amendment Due

7. Punishment is: “any pain, penalty, suffering, or confinement inflicted upon a person by the authority of the law and the judgment and sentence of a court, for some crime or offense committed by him, or for his omission of a duty enjoined by law. *Punishment*, Black’s Law Dictionary 1484 (11th Ed. 2019). In the instant case, Petitioner was not being punished for anything. Consistent with his outcry that he was going to kill himself, he was placed in the Suicide prevention cell. As stated by Petitioner on page 39 of his live pleading (his Third Amended Complaint) “any inmates identified as potentially suicidal were always placed in the violent cell – which has no sink, toilet, shower, or bed – unless they were already full . . .” P. App. 39.

Process Clause. P. App. 44-45. The Court then explains that it determines whether the restrictions and practices “are rationally related to a legitimate non-punitive governmental purpose and whether they appear excessive in relation to that purpose. *Id.* at 46. If there is a related governmental objection, the conditions, without more, do not amount to punishment. *Id.* Conversely, if a restriction or condition is not 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. P. App. 46 (quoting *Bell*, 441 U.S. at 539). If there is a related governmental objective, the conditions, without more, do not amount to punishment. P. App. 46. Therefore, Alexander must demonstrate, *inter alia*, that the restrictions are not reasonably related to a legitimate governmental objection. The Court found that Alexander did not make that showing.

Indeed, the Majority reaffirmed *Bell*, restating the *Bell* test at P. App. 46 (citing *Bell*, 441 U.S. at 561) (emphasis added), as follows:

To determine whether conditions are constitutionally permissible, we ask whether the restrictions and practices “are rationally related to a legitimate non-punitive governmental purpose *and whether they appear excessive in relation to the purpose.*

As the Majority quoted above, proportionality has the exact same role as always – the exact language quoted from *Bell* is the exact language Petitioner cites in his Petition. *Id.*

The *Alexander* Court then explains the next step, re: “Absent a showing of an expressed intent to punish on the part of the detention facility officials,” the Court asks whether the “particular condition or restriction . . . is reasonably related to a legitimate nonpunitive governmental objective.” App. 47; *Bell*, 441 U.S. at 538-39. The Fifth Circuit first considers whether there was an expressed intent to punish, and did not find that there was an inferred intent to punish, and then the Court asked whether the conditions were reasonably related to a legitimate nonpunitive governmental objective. App. 47.

The Court went on to consider whether each of the conditions of the suicide prevention cell were reasonably related to a legitimate governmental interest. App. 50. As discussed throughout the Majority Opinion, pre-trial detainees have a constitutional right to protection from self-harm. App. 50; *Rhyne v. Henderson Cty*, 973 F2d 386, 391 (5th Cir, 1992). As barren as the suicide prevention cell was, it was not conditions of punishment because each condition or restriction was reasonably related to the legitimate government interest of protecting suicidal inmates from self-harm. App. 50. The Majority went through each condition/restriction, and the Majority noted why each condition/restriction was reasonably related to the legitimate interest of protecting suicidal inmates from self-harm and none of the restrictions were excessive. P. App. 48-54.

As an initial matter, the Court noted that Alexander was not transferred until he informed correctional officers that he was suicidal. *Id.* at 48. That alone implies that the officers took his statement at face value, even if they did not subjectively believe him. *Id.* But, Alexander points

to the alleged vulgar comments by officers during his transfer, including that he “really f***** up now, b*****.” *Id.* 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.” *Id.* Alexander asserts “[i]t can be further inferred that they also knew [he] could expect to suffer while he was in the violent cell.” *Id.* Inappropriate as the officers’ statements may be, they do not evince punitive intent, even if they followed several denied requests for relocation. *Id.* The same is true of any threats directed at Alexander while he was in the violent cell. *Id.* at 48-49. 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. *Id.* at 49.

Moreover, it matters not whether the officers believed he was suicidal. *Id.* County jails have a constitutional duty to ensure the safety of potentially suicidal detainees. *Id.* *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.”). *Id.* at 50. Allowing this allegation to bootstrap Alexander’s complaint past a motion to dismiss would create a minefield that the Fifth Circuit declined to enter. *Id.* As the Majority pointed out, 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 and not the general population. *Id.* 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 serious self-harm or death. *Id.* This standard proposed by Petitioner is unworkable and would result in the denial of longstanding constitutional protections requiring protection of detainees and inmates from self-harm and suicide.⁸ *Id.*

As barren as the violent cell may have been, each condition was reasonably related to the legitimate government interest of protecting suicidal inmates from self-harm. *Id.*

Alexander specifically complains that the cell did not have a toilet, a shower, or running water, but each of these are known to pose a drowning risk. *Id.*; see, e.g., *Elliott v. Cheshire County*, 940 F.2d 7, 9 (1st Cir. 1991) (noting that the prisoner stated “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. . .”).

8. Based on historical reporting from the Bureau of Justice Statistics, local jails average around 300 to 350 fatal suicides annually, which translates to an estimated 24,000 to 28,000 suicide attempts per year. State and Federal Prisons see roughly 300 to 350 fatal suicides annually across the country, translating to another estimated 24,000 to 28,000 attempts. 48,000 to 56,000 lives should not rest on an officer’s subjective opinion regarding whether a suicidal outcry is truthful or not.

Alexander also complains of rejected verbal requests, including requests for additional drinking water and to shower or wash his hands, and a lack of recreation time. All inmates have a right to adequate food. *Youngberry v. Romeo*, 457 U.S. 307, 315, 102 S.Ct. 2452, 73 L.Ed.2d 28 (1982). Inherent in such a right, is access to water. Overriding federalism, Petitioner and the dissent at the fifth circuit would have federal courts micromanage the decisions of small rural jailers about whether they are providing the “ideal” amount of drinking water. However, the Fifth Circuit Majority declined to take Alexander’s suggestion that he ought to have received the “ideal” amount of drinking water for an adult male. The Majority could not say that he was provided “inadequate” water to the point of constitutional deprivation, and the Fifth Circuit declined to create a constitutional baseline for daily water consumption for prisoners in suicide prevention cells.

As for Alexander’s inability to shower for five days and his loss of recreation time, the Majority found these restrictions were neither “arbitrary or purposeless.” *Id.* at 50-52. The District Court and the Fifth Circuit Majority found that the inability to shower and the loss of recreation time is also reasonably related to the legitimate interest in protecting Alexander from self-harm. *Id.* 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 recreation time in open space, possibly with other inmates. *Id.* These acts could pose danger to an individual suffering suicidal ideation, so, once again, these restrictions are not “arbitrary or purposeless.” *Id.*; *Bell*, 441 U.S. at 539, 99 S.Ct. 1861.

Alexander also complains he was stripped and provided no bedding. *Id.* But, clothes and sheets carry risks of self-asphyxiation, especially when combined with showers, sinks or toilets. *Id.*; *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”).

Alexander next complains that his requests for toilet paper were denied. But, even toilet paper can pose a choking hazard. *Id.*; *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”); *Patterson v. Schriro*, No. CV 07-1476-PHX-PGR, 2009 WL 3049581 *8 (D. Arizona, Sept. 22, 2009) (The autopsy revealed that the deceased had committed suicide by shoving toilet paper into his mouth occluding his upper airway.).

In addition, Alexander complains of a 24-hour lights-on policy in the suicide cell. Yet, such a rule is not for punishment but permits officers to monitor the inmate’s

activity around the clock to prevent them from self-harming. *Id.*; 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, which Petitioner call “barbaric,” are related to the legitimate governmental interest of protecting an inmate from self-harm, an interest that is constitutionally imposed upon the State. *Id.*

Finally, the Fifth Circuit Majority correctly held, in this particular situation, they need not credit Alexander’s allegation that waste covered the floor. *Id.* The Majority opinion noted that this alleged condition was a far cry from the horrifying facts presented in *Taylor v. Riojas*, 592 U.S. 7, 8-9, 141 S.Ct. 52, 208 L.Ed.2d 164 (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, which was taken from the videos of the suicide prevention cell while Alexander was housed there, discounts any allegation that the suicide prevention cell was in nearly the state of the cell in *Taylor*, or amounted to a punitive condition under the circumstances. *Id.* The fact that this cell “condition” took up only one sentence in his 50-plus page Complaint is also indicative of the fact that this “condition” lacked the severity of that which existed in *Taylor*.⁹ *Id.*

9. Petitioner merely asserted in his Original Complaint and in his three other subsequent complaints that “[t]here was also fecal matter and dried urine on the floor from other inmates who had

Because the conditions were sufficiently related to a legitimate governmental interest, Alexander was not punished in violation of the Due Process Clause of the Constitution. Thus, the majority did not find it necessary to consider the second prong of the qualified immunity defenses of the individual defendants.

Additionally, the Court determined that none of the restrictions were excessive in this particular case.

III. Question Three:

In *NRA of America v. Vullo*, 602 U.S. 175 (2024), this Court reiterated that in reviewing a 12(b)(6) motion to dismiss, courts must draw reasonable inferences in the plaintiff’s favor and consider the allegations as a whole. The question presented is whether a court may categorically disregard any inference as to an actor’s state of mind as “speculative,” irrespective of the plaintiff’s allegations.

In dismissing claims under Federal Rule of Civil Procedure 12(b)(6), must a Court make inferences from purely speculative “state of mind” conclusions in a Plaintiff’s Complaint, based on derogatory comments made by unnamed and unattributed third parties, to set aside the established constitutional right an inmate has to

spent time in the cell.” This solitary statement never changed and was never elaborated on with facts from the Original Complaint through the Third Amended Complaint. Finally, in his Third Amended Complaint, he speculated, without any surrounding supportive facts, that he received a foot infection from being exposed to urine, fecal matter and the generally unsanitary conditions of the floor of the cell. Docket No. 114 at 10.

be protected from his own admitted suicidal ideation, and determine that a County has a punitive intent in imposing established suicide protocols to protect an suicidal inmate. Of course not.

In this case, Petitioner Alexander made, what he still admits, was a direct face- to-face outcry to jail staff members that he was suicidal and was going to kill himself, which he never retracted. After filing suit, for the first time, Alexander claimed he was lying about being suicidal, he claimed jail staff should have known he was lying about being suicidal, and the jail should never have placed him on suicide restrictions. He further claims the Courts should somehow speculate and conclude that derogatory and profane statements made by unidentified inmates and jail staff members should somehow establish a punitive intent in imposing suicide restrictions on Alexander, despite his admitted outcry, which he never took back, that he was suicidal and was going to kill himself. Obviously, Defendants disagree with this bizarre request.

The Supreme Court reviews a lower court's dismissal of claims under Federal Rule of Civil Procedure 12(b)(6) de novo. *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957); *Clyce v. Butler*, 876 F.3d 145, 148 (5th Cir. 2017). The Courts "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, 127 S.Ct. 1955, 167 L.Ed.2d 929 (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, 129 S.Ct. 1937, 173 L.Ed.2d 868 (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). The Courts “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). Threadbare recitals of the elements of a cause of action, supported by conclusory statements, do not suffice. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). For a complaint to survive a motion to dismiss under Rule 12(b) (6), it must contain sufficient factual matter, accepted as true, to “state a claim for relief that is plausible on its face.” *Id.* A claim is facially plausible “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that a particular defendant is liable for the misconduct alleged.” *Id.* To hold a County liable for the acts of a policy-making official, or to hold a supervisory official liable, a plaintiff must show that the policy-making official or supervisory official was personally involved in the deprivation of the plaintiff’s rights – there is no respondeat superior liability and no vicarious liability. *Doe v. Taylor Indep. Sch. Dist.*, 15 F.3d 443, 452 (5th Cir. 1994) (en banc); *Thomas v. Humfeld*, Nos. 92-2177, 92-2719, 1994 WL 442 484, at *5 (5th Cir. 1994).

In a case such as this, where Petitioner cannot identify any of the people that allegedly cursed at him or hurled insults at him, and really cannot even identify whether the individuals were inmates, trustees or correctional officers, Petitioner's Complaint that sues everyone who was on duty over a five-day period, has merely engaged in a "quintessential shot gun pleading, which should properly be disregarded." *Bell v. Wells Fargo Bank, N.A.*, No. 4:14-CV-388-Y, 2017 WL 6761770, at *3 (N.D. Tex. Oct. 13, 2017). After all, Defendants must be given adequate notice of the claims against them and the ground upon which each claim rests. *Alexander v. Hall*, No. 4:20-CV-21-DMB-JMV, 2021 WL 800840, at *3 (N.D. Miss. Mar 2, 2021).

It is axiomatic that a court need only consider well-pleaded allegations of fact and not speculation about another person's state of mind. *Cicalese*, 924 F.3d at 765. In this case, Alexander is asking the Court to speculate about who may have made derogatory statements, and then speculate that those derogatory statements somehow establish a punitive state of mind for imposing suicide restrictions on an admittedly suicidal inmate. Alexander asks the Court to go one step further and speculate, and then conclude that these unnamed individuals had mental telepathy and knew that Alexander was lying about being suicidal.

Of course, mere allegations of verbal abuse do not present actionable claims under Section 1983 anyway. *Bender v. Brumley*, 1 F.3d 271, 274, n.4 (5th Cir. 1993); *McFadden v. Lucas*, 713 F.2d 143, 146 (5th Cir. 1983). As a rule, "mere threatening language and gestures of a custodial officer, even if true, do not amount to

a constitutional violation.” CITE. Then, speculating that such statements from unnamed individuals turn protecting an inmate from self-harm, into a punitive act following an amazing telepathic determination that the inmate was lying about wanting to kill himself, is truly requesting that the Courts, themselves, engage in a telepathic miracle.

It is important to note Alexander was not transferred until he informed correctional officers that he was suicidal. *Alexander v. Taft*, 165 F.4th 309, 321 (5th Cir. 2025); P. App. 43, 48-49 n.5, 6, 7. That fact alone implies the officers took his statement at face value, even if they did not subjectively believe him. P. App. 43, 48-49 n.5, 6, 7. But, Alexander points to the vulgar comments the officers allegedly made during his transfer, including that he “really f***** up now, b*****.” *Id.* 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.” *Id.* Alexander asserts “[i]t can be further inferred that they also knew [he] could expect to suffer while he was in the violent cell.” *Id.* Inappropriate as the statements may be, they do not evince punitive intent, even if they followed several denied requests for relocation. *Id.* The same is true of any threats directed at Alexander while he was in the violent cell. *Id.* Alexander alleges no facts of officers’ explicit intent to punish him, or that they outwardly disbelieved him, or that other suicidal inmates received different treatment. *Id.* As the Majority stated: 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. . . . 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. *Id.*

Finally, as the majority notes, "Alexander's framing requires an inferential leap – from the officers alleged subjective belief to an express intent to punish – that we need not accept." *Id.* at 48, n.5. The Majority nails this point shut. This honorable Court should deny this argument as frivolous and deny Petitioner's Writ of Certiorari.

CONCLUSION

The Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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