

No. 25–1128

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

REPLY TO BRIEFS IN OPPOSITION

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QUESTIONS PRESENTED

1. 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.”

2. In *Bell v. Wolfish*, 441 U.S. 520 (1979), this Court held that 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.”

3. In *National Rifle Assn. of America v. Vullo*, 602 U.S. 175 (2024), this Court reiterated that in reviewing a Rule 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.

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INTRODUCTION

Respondents' briefs in opposition contain numerous inaccuracies and incorrect conclusions, but there is insufficient space to respond to them all here. Rather, this reply focuses on a few of the most central points raised that were not fully addressed in the petition.

ARGUMENT

I. The Fifth Circuit's Analysis of the Mental Healthcare Provided by Taft Is Tied Solely to Suicide Prevention.

The Taft respondents argue that (a) the majority's analysis of the mental healthcare claims shows it did not mean what it said when it held, "the constitutional minimum for mental health assistance [is] 'protection from violence or suicide'"; and (b) this Court should not grant certiorari because even if that holding were reversed, petitioner would lose anyway for alternative reasons stated by the majority. These positions are both wrong for the same reason: the entirety of the majority's analysis—including the alternative (or more precisely, subordinate) holdings—is inextricably intertwined with its holding that a jail need not provide any mental healthcare beyond protection from suicide or violence.

The Taft respondents argue that the majority went beyond suicide prevention when it stated that "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." Brief of Taft, et al. in Opposition 8; App. 58. On its face, this comment by the majority expressly contextualizes

Alexander's interaction with mental healthcare staffer Jessica Philips in terms of suicide prevention. Moreover, the interaction in question was laughably insubstantial; Philips abandoned it after deciding immediately that Alexander was too confused to answer basic orientation questions. App. 55. Such a superficial interaction cannot constitute "treatment," especially considering Philips was "not a clinician" and "unqualified to make a clinical assessment," let alone provide any treatment. *Ibid.* Moreover, the paragraph concludes by finding that "[it is not] of any moment that [Alexander] disagreed with both her determination that he was too confused to continue to interview and her decision not to recommend his release" because—ignoring the fact that Alexander was too confused to communicate—he did not expressly tell Philips that he was not actually suicidal. *Id.*, at 58–59. In other words, the majority was only concerned with whether Philips was ensuring Alexander was protected from self-harm.

This conclusion is buttressed by further comments made by the majority. First, it states that "Alexander provides only conclusory allegations demonstrating that Philips . . . knew—or had reason to believe—that his mental deterioration was caused by the violent cell's conditions, rather than his self-reported suicidal ideation."¹ App. 59.

¹ This bizarre statement defies common sense (how exactly does suicidal ideation cause subsequent confusion?) and is also one of many inferences improperly drawn in the defendants' favor. Alexander alleged that Philips saw him twice immediately preceding his placement in the violent cell and had no concerns with his present mental health status, allowing an inference that

Most tellingly, the majority goes on to distinguish the case from another one involving a detainee (Cody Albritton) who was never deemed suicidal, by saying,

“[Phlips] could have drawn the inference that [Alexander] was *not* ready to be released from a suicide protection cell because he had deteriorated between visits.² Such a conclusion would be logical, given that he had previously reported to her that he struggled with depression and subsequently reported suicidal ideation. . . . We therefore reject Alexander’s argument that she should have reported these findings to Taft. *The Jail provided Alexander with necessary protections. In Phlips’s view, his mental health was being treated.*” *Id.*, at 62–63, and n. 15 (emphasis added).

In other words, the majority held that Alexander’s mental health was being “treated” by his mere placement in the violent cell. These comments make it abundantly clear that the majority considered suicide prevention the only “mental healthcare” Alexander had a right to.

Relatedly, the Taft respondents point to the majority’s holding that mental healthcare staff, as a matter of law, have no authority to release someone from a

the obviously disorienting and distressing conditions of the violent cell were the cause of his extreme confusion. Pet. App. 40. Moreover, whether Phlips could determine the cause of Alexander’s confusion is secondary to the fact that she had a duty to respond in some professional fashion to her observation of his severe psychological deterioration (such as by reporting it to jail medical staff).

² This repeats the same improper inference discussed above.

violent cell or “[improve] the conditions of their protective confinement.” Again, this holding is intertwined with the holding that no mental healthcare is necessary beyond protection from suicide or violence. Limiting the required mental healthcare in such a way allowed the majority to ignore the fact that even if Philips could not transfer Alexander herself, there are other measures she should have taken (such as reporting Alexander’s severe psychological deterioration to someone who *did* have authority to release him, or provide treatment). Moreover, this holding has no basis in established law; the majority cited a single, unpublished case that is both non-binding and incapable of being read to support the majority’s very broad holding. See *McClure v. Foster*, 465 Fed. Appx. 373, 375 (CA5 2012) (on summary judgment, plaintiff provided no evidence that a nurse had a duty to satisfy an isolated request for toilet paper).

Finally, it is worth noting that the majority was incorrect in stating that the mental healthcare claim “begin[s] and end[s] with deliberate indifference.” While that may be true in a typical claim under *Estelle v. Gamble*—and Philips was arguably deliberately indifferent in failing to respond to an observed psychological crisis—petitioner’s primary claim was that the mental healthcare at the jail was so systemically deficient that it completely deprived the inmates of both mental healthcare and professional medical oversight of the violent cell, and that this was an unlawful condition of confinement in and of itself.³ See App. 46

³ In short, despite psychologist Taft specifically taking on the role as mental healthcare provider, he outsourced the entire job

(identifying one of the issues on appeal as “whether the Taft defendants and the County completely deprived [Alexander] of qualified mental health care, creating an unlawful condition of confinement”). Such a claim under *Bell* requires a resultant harm that is more than *de minimis*, but does not require the condition to cause a subsequent act by an official that is itself subjectively deliberately indifferent. *Bell*, 441 U.S., at 538–539, and n. 21; see also *Hare v. City of Corinth*, 74 F.3d 633, 644–645 (CA5 1996) (discussing the difference between conditions-of-confinement claims and episodic acts or omissions).

II. The Fifth Circuit Has Curtailed Rights of Pretrial Detainees Compared to Convicted Prisoners.

To state an Eighth Amendment conditions-of-confinement claim, a plaintiff need only show that an official “acted or failed to act despite his knowledge of a substantial risk of serious harm”—there is no consideration of whether some justification existed. *Farmer v. Brennan*, 511 U.S. 825, 842 (1994). Here, though, in holding that restrictions it admits are arguably barbaric are nonetheless lawful with the barest rational justification, the Fifth Circuit has given an affirmative defense to local jails for imposing conditions that would constitute cruel and unusual punishment—irrespective of any supposed justification—if they were imposed on a convicted prisoner.

to a single, unsupervised individual who had no professional licensing and admitted in deposition that she was “not a clinician,” meaning she could not make clinical assessments or provide treatment. See App. 55–57.

The most illuminating example of this is the total deprivation of running water and every imaginable element of basic human hygiene. The majority never attempted to explain why—even assuming that the prevention of direct access to elements of human hygiene is a justifiable suicide prevention measure—the jail has no duty to mitigate this deprivation by allowing, for example, occasional supervised access to a shower or sink.

As JUSTICE SOTOMAYOR recently reiterated, “It is well established that officers may not ‘deprive inmates of the minimal civilized measure of life’s necessities.’” *Smith v. Kind*, 609 U.S. ___, ___ (2026) (dissenting from denial of certiorari) (slip op., at 5) (quoting *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981)). Various circuits across the country—including the Fifth Circuit—have long recognized that access to basic human hygiene and/or running water is an essential element of the “minimal civilized measure of life’s necessities.” *E. g.*, *Wright v. McMann*, 387 F.2d 519, 526 (CA2 1967); *Keenan v. Hall*, 83 F.3d 1083, 1091 (CA9 1996); *Young v. Quinlan*, 960 F.2d 351, 363 (CA3 1992); *Surprenant v. Rivas*, 424 F.3d 5, 20–21 (CA1 2005); *Palmer v. Johnson*, 193 F.3d 346, 352–353 (CA5 1999) (deprivation of toilet facilities for only seventeen hours violated Eighth Amendment); *McCray v. Burrell*, 516 F.2d 357, 365–368 (CA4 1975) (finding Eighth Amendment violation where inmate was solitarily confined for forty-six hours with no clothing or blankets, no running water or personal hygiene items, and a toilet consisting of a hole in the floor); *Carver v. Bunch*, 946 F.2d 451, 452 (CA6 1991); *Gillis v. Litscher*, 468 F.3d 488, 489, 493–494 (CA7 2006) (comparing conditions less severe than those

suffered by petitioner to “a stay at a Soviet gulag in the 1930s”); *Williams v. Adams*, 935 F.2d 960, 961 (CA8 1991); *Chandler v. Baird*, 926 F.2d 1057, 1063–1065 (CA11 1991) (conditions including no clothes except undershorts; a plastic-covered mattress without bedding; deprivation of toilet paper for three days; deprivation of running water for two days; lack of soap, toothbrush, toothpaste, and linen violated Eighth Amendment).

In a telling example, former Supreme Court Justice Tom Clark⁴ addressed an allegation that a North Carolina prison used so-called “Chinese cells,” “where prisoners are occasionally placed in which there is no bedding, no light, and no toilet facilities, save a hole in the floor.” *Kirby v. Blackledge*, 530 F.2d 583, 586 (CA4 1976). Justice Clark was taken aback by this, describing the allegation as “so bizarre that it is difficult to believe that such a situation could exist in our society; it is reminiscent of the Black Hole of Calcutta.” *Ibid.*

This Court once held that the Eighth Amendment “must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.” *Trop v. Dulles*, 356 U.S. 86, 101 (1958) (plurality opinion). It would be a remarkable tragedy if, seventy years later, conditions that decades ago reminded judges of “the Black Hole of Calcutta” or “a Soviet gulag in the 1930s” no longer offend the American sense of common decency.⁵

⁴ Justice Clark was retired from the Supreme Court but sitting on the panel for this appeal by designation. *Kirby v. Blackledge*, 530 F.2d 583, n. * (CA4 1976).

⁵ “Evolving standards,” indeed.

In light of the broad consensus described above, it is beyond apparent that the majority panel in this case not only upended *Bell*'s proportionality requirement but in so doing, curtailed the rights of pretrial detainees compared to those of convicted prisoners, whenever a jail can point to even an attenuated justification for deprivations of basic human needs.

III. Respondents' Briefs in Opposition Highlight the Inapplicability of the Artificial Dilemma at the Heart of the Fifth Circuit's Opinion.

The respondents cite several times to the Fifth Circuit majority's description of a hypothetical "jailer's dilemma" that misunderstands the facts and allegations of this case. The passage in question is the following:

"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.

This hypothetical fundamentally thwarts the central proposition of *Bell*, which is that pretrial detainees may not be arbitrarily punished. It is important to observe that *Bell*'s reasonable-relationship test comes into play only "[a]bsent a showing of an

expressed intent to punish on the part of detention facility officials.” Bell, 441 U.S., at 538 (emphasis added).

The ultimate truth of the underlying existence of such an intent is a binary yes-or-no question; it is not the *post hoc* analysis of a discretionary judgment call, which is what the Fifth Circuit’s hypothetical assumes. Put another way, this case is simply not about whether a jailer overreacted in good faith to a statement indicating possible self-harm; it is about whether that statement was knowingly used as pretext to inflict intentional punishment for other reasons. It defies common sense to imagine a jailer in a state of subjective ambivalence as to whether he is imposing restrictions on a detainee for punitive or protective reasons.

The majority’s reasoning might be applicable in a completely different case where the only evidence of punitive intent is an allegation that jailers disbelieved a detainee’s statement of potential self-harm. However, petitioner’s claims here were based on extensive evidence of outward hostility, from which it can easily be inferred that the comment “You really f***ed up now, b*****” expressed an intent to punish petitioner. Instead, as Judge Dennis pointedly warns in his dissent, the majority has opened the door for jailers to use self-harm prevention as pretext for unlawful punishment and abuse. App. 66–72, 76.

IV. The Majority’s Alternative Holdings Are Inherently Intertwined with the Questions Presented.

The Taft respondents argue that the Court should deny this petition because it is not an ideal “vehicle”

for the issues involved. Generally, consideration of whether a particular case is a proper “vehicle” arises in the context of a circuit split or a longstanding question of law that has not been squarely answered by this Court. Neither is the case here. As noted in the petition, this case involves several substantial errors that fundamentally undermine or contradict this Court’s established precedent. It is an example of the Fifth Circuit diverging from the rest of the country in several critical ways. Leaving these issues unattended would have dangerous ramifications for pretrial detainees across the Circuit (and as to the question of allowable inferences inherent in the pleading standard, plaintiffs of all types). Fixing these issues now is immeasurably more economical than allowing them to fester and then having to address them later in multiple separate cases.

Much of the Taft respondents’ argument is based on an erroneous assertion that reversal will not alter the outcome in this case (this is incorrect, as discussed above). However, even if the Court believes that the outcome for petitioner might not change with a reversal of this particular holding, the adverse effects of the holdings at issue extend far beyond this case. The Court should not let stand egregious errors that clearly contradict its established precedents and endanger pretrial detainees across the Fifth Circuit.

V. Miscellaneous Misstatements by the County Respondents.

The County respondents’ brief plays fast and loose with a variety of assertions, including advancing its own counterfactual narrative, mischaracterizing petitioner’s arguments, and misconstruing Texas

statutory law. Primarily, the brief attempts to argue the underlying merits of the case and relies mostly on parroting the Fifth Circuit majority's reasoning. There is not nearly sufficient space in this reply to rebut every misstatement, but a few examples merit highlighting.

The County asserts that at oral argument "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." Brief of Henderson Cty., et al., in Opposition 12. This is absolutely false. It is simply a repackaging of the false dilemma presented by the majority, discussed above. Petitioner has never argued this, in briefing or at oral argument.

The County further states that "it has never been clear what cognizable harm Alexander alleges," and that he could have easily gotten himself out of the violent cell at any time by simply admitting that he was not suicidal. Br. of Henderson Cty., et al., in Opp. 10–11. These are absurd propositions that have no basis in the complaint.

The County suggests a laundry list of possible treatments that might be considered "protection from suicide," and therefore may have been contemplated by the majority. Br. of Henderson Cty., et al., in Opp. 15–16. Again, as discussed above, this is belied by the majority's holding that Alexander's mere presence in the violent cell was "protection from suicide" and therefore sufficient "treatment" from Philips's perspective. Moreover, it is exactly the kinds of treatments proposed by the County that were unavailable to detainees at the jail because the only mental health provider was not a clinician.

The County asserts that “the Court determined that none of the restrictions were excessive in this particular case.” Br. of Henderson Cty., et al., in Opp. 28. In fact, it did the opposite, which is discussed at length above and in the petition.

Finally, the County asserts:

“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.’”

Br. of Henderson Cty., et al., in Opp. 31.

This flagrantly false statement has no basis in the complaint or the majority opinion, which clearly recognized petitioner’s allegations were regarding the jailers who took him to the violent cell and those who were responsible for it while he was there. App. 40–41.

CONCLUSION

This Court should grant certiorari

Respectfully submitted.

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