

No. 25-255

IN THE
Supreme Court of the United States

DIION HORTON, *et al.*,
Petitioners,
v.

BRUCE R. BEEMER, ADMINISTRATIVE JUDGE, *et al.*,
Respondents.

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

BRIEF IN OPPOSITION OF
WARDEN ORLANDO HARPER

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QUESTION PRESENTED

Whether the Due Process Clause requires a judicial finding that depriving a person of physical liberty pending a probation revocation hearing is necessary to serve a government interest, or whether that person may be jailed (even for months or years) based only on the procedures enumerated in *Morrissey v. Brewer*, 408 U.S. 471 (1972), procedures designed to ensure the accuracy of the ultimate probation revocation decision.

PARTIES TO THE PROCEEDINGS

Petitioners (plaintiffs-appellants below) are Dion Horton, Damon Jones, Craig Brownlee, Rahdnee Oden-Pritchett, Tate Stanford, and Elijah Bronaugh, individually and on behalf of a class of others similarly situated.

Respondents (defendants-appellees below) are Ad ministrative Judge Bruce R. Beemer, in his official capacity; Director of Adult Probation and Parole Alan Pel ton, in his official capacity; Court of Common Pleas Judge Kelly Bigley; Probation Hearing Officers Charlene Christmas, Robert O'Brien, Stephen Esswein, and Renawn Harris, in their official capacities; and Orlando Harper, in his official capacity (the court of appeals granted respondents' motion to substitute Judge Beemer and Mr. Pelton for their predecessors in office Jill Rangos and Frank Scherer after it issued its decision).

An additional defendant appellant below was Court of Common Pleas Judge Anthony Mariani, in his official capacity. The court of appeals dismissed the claims against him as moot upon his retirement.

Orlando Harper is sued in his official capacity. He retired as the Warden of the Allegheny County Jail. That position is currently held by Trevor Wingard.

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TABLE OF AUTHORITIES

None

**BRIEF IN OPPOSITION OF WARDEN ORLANDO
HARPER TO PETITION FOR A WRIT OF
CERTIORARI**

INTRODUCTION

Petitioners allege they were denied this due process right. Each was arrested on new charges while on probation in Allegheny County, Pennsylvania. Under this Court's precedents and the county's procedures, each was entitled to a probation revocation hearing at which a judge would decide if the new charges—of which each petitioner was of course presumed innocent—constituted probation violations and, if so, whether probation should be revoked. But the county prejudged the outcomes of those probation-revocation hearings, detaining each petitioner for *months* while they waited for the hearings to take place, i.e., locked each person up for a prolonged period *before* determining that there was a proper basis to do so. And it did so despite each petitioner being found eligible for pretrial release on their new charges. When their probation revocation hearings finally arrived, moreover, four out of six petitioners did not have their probation revoked. And even when a probation violation was found to have occurred, some petitioners were released back into the community—having lost months of freedom languishing in jail without any finding that their detention had been necessary to serve any government interest.

STATEMENT OF THE CASE

Respondent incorporates by reference the Respondent Judge Beemer's Statement of the Case.

REASONS FOR DENYING THE PETITION AS TO WARDEN ORLANDO HARPER.

Orlando Harper was the Warden of the Allegheny County Jail. Warden Harper offers no comment regarding the claims or defenses of the parties. However, Warden Harper opposes any injunction that would require him to act in a quasi-judicial capacity. His duty as warden is entirely ministerial. He must keep in his custody persons who are committed to the Allegheny County Jail by proper judicial authority and to release those same persons when ordered to do so by proper judicial authority. He has no role in the probation revocation process other than to produce the person of the detainee for a hearing.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted.

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