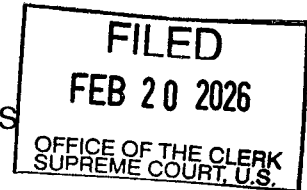


25-7236

No. \_\_\_\_\_

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES



JASON A. CZEKALSKI — PETITIONER  
(Your Name)

VS.

HELEN HANKS, ET AL. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE FIRST CIRCUIT  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JASON A. CZEKALSKI  
(Your Name)

P.O. BOX 14  
(Address)

CONCORD, NH 03302  
(City, State, Zip Code)

N/A  
(Phone Number)

**QUESTION(S) PRESENTED**

1. WHETHER A PLAINTIFF CAN BE REQUIRED TO PROVE MALICIOUS INTENT, A STATE-OF-MIND QUESTION, AT SUMMARY JUDGMENT.

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

HELEN HANKS, COMMISSIONER, N.H. DEPT. OF CORRECTIONS;  
CHRISTOPHER KENCH, DEPUTY COMMISSIONER, N.H. DEPT. OF CORRECTIONS;  
PAOLA MATTIS, DIRECTOR, FORENSIC AND MEDICAL SERVICES, N.H.  
DEPT. OF CORRECTIONS; AND

JON FOOTS; DIRECTOR OF SECURITY, N.H. STATE PRISON FOR MEN.  
DEPENDANTS

JASON A. CZEKALSKI, PLAINTIFF

## RELATED CASES

~~157A~~

JASON A. CZEKALSKI V. HELEN HANKS, ET AL.

17-CV-557-JL (USDC DNA 2017)

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>FARMER V. BRENNAN</u> , 511 U.S. 834 (1994)	7, 9
<u>ANDERSON V. LIBERTY LOBBY, INC.</u> , 477 U.S. 242 (1986)	7, 9
<u>SCOTT V. HARRIS</u> , 550 U.S. 380 (2007)	7, 9

STATUTES AND RULES

8<sup>TH</sup> AMENDMENT, CRUEL AND UNUSUAL PUNISHMENT CLAUSE, U.S. CONSTITUTION OF THE UNITED STATES

TITLE 42 U.S.C. §1983

4

OTHER

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### APPENDIX A

*OPINIONS OF U.S. COURT OF APPEALS FOR THE FIRST CIRCUIT.*

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### APPENDIX F

IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

reported at 2025 U.S. APP. LEXIS 9962; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

reported at 2021 U.S. DIST. LEXIS 274382; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was APRIL 22, 2025.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: JULY 22, 2025 ~~or~~ OCT. 2, 2025, and a copy of the order denying rehearing appears at Appendix C.

An extension of time to file the petition for a writ of certiorari was granted to and including MARCH 1, 2026 (date) on JANUARY 6, 2026 (date) in Application No. A. APPEARS AT APPENDIX D.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

### UNITED STATES CONSTITUTION, AMENDMENT 8

EXCESSIVE BAIL SHALL NOT BE REQUIRED, NOR EXCESSIVE FINES,  
NOR CRUEL AND UNUSUAL PUNISHMENTS INFLICTED.

### 42 U.S.C. § 1983 CIVIL ACTION FOR DEPRIVATION OF RIGHTS

EVERY PERSON WHO, UNDER COLOR OF ~~ANY~~ STATUTE, ORDINANCE,  
REGULATION, CUSTOM, OR USAGE, OF ANY STATE OR TERRITORY OR THE  
DISTRICT OF COLUMBIA, SUBJECTS, OR CAUSES TO BE SUBJECTED, ANY  
CITIZEN OF THE UNITED STATES OR OTHER PERSONS WITHIN THE JURISDIC-  
TION THERE OF TO THE DEPRIVATION OF ANY RIGHTS, PRIVILEGES, OR IM-  
MUNITIES SECURED BY THE CONSTITUTION AND LAWS, SHALL BE LIABLE  
TO THE ~~INJURED~~ PARTY INJURED IN AN ACTION AT LAW, SUIT IN  
EQUITY, OR OTHER PROPER PROCEEDING FOR REDRESS.

## STATEMENT OF THE CASE

Petitioner's case below was an action brought under 42 U.S.C. 1983 based on violations of the 8th Amendment's Cruel and Unusual Punishment clause due to the refusal to provide appropriate medical treatment. The complaint sought monetary damages and equitable relief. The suit focused on three (3) primary issues:

- a) mattresses that inflict injury and unnecessary pain;
- b) refusal to fill prescriptions in a timely manner; and
- c) unacceptable and unexplainable delays in diagnosing and treating urinary bleeding.

### MATTRESSES

At the time of his initial incarceration, petitioner was already rated at 60% disabled, service-connected, by the Department of Veterans Affairs. This rating was for arthritis in his knees due to his service with an airborne unit in the United States Army. Petitioner also had damage to his left hip for which he had yet to obtain a service-connected rating.

During his incarceration, both his knees and his left hip degraded, as demonstrated by X-ray, CT Scan, and MRI.

Petitioner raised concerns, starting during his time at the Cheshire County House of Corrections pretrial, regarding his pain and injury being exacerbated by the mattresses provided by both correctional facilities (the mattresses lay directly on concrete or metal). Medical repeatedly stated that mattresses are controlled by Security department. Security would then refer petitioner to medical. During summary judgment stage, defendants repeatedly gave contradictory statements as well as statements directly contradicted by the record (a record that was incomplete due to restrictions the district court placed on petitioner's discovery efforts).

Petitioner has ultimately had his left hip replaced.

Petitioner's case against defendants rests on questions of credibility.

Petitioner was seeking equitable relief (an appropriate mattress) and mone-

tary damages.

#### PRESCRIPTION REFILLS

At the time petitioner arrived at the New Hampshire State Prison for Men on December 17, 2013, defendants already had a long-established pattern of practice of not filling prescription medications in a timely manner. Inmates, to include petitioner, would submit refill requests one-to-two weeks (or more) early but not receive his prescription until one-to-two weeks (or more) after to prior month's supply had run out..

Soon after petitioner filed suit, which included a motion for a preliminary injunction, defendants "miraculously" starting getting prescriptions delivered on-time. again, this occurred after defendants claiming for years that they were unable to meet the demand.

This issue rested on the credibility of the defendants as much as it did on the record.

Petitioner had sought both equitable relief and monetary damages on this issue, but the equitable relief request became moot after the preliminary injunction stage.

#### URINARY BLEEDING

Urinary bleeding is considered a medical emergency until proven otherwise (a fact supported by statements of the treating urologist and never contested by defendants). However, defendants delayed treatment of petitioner's bleeding for over six (6) months. This delay occurred despite the fact that petitioner had filed grievances about the issue that defendants never answered. Most important are the facts that petitioner was in his mid-50s and had a family history of prostate cancer: facts that were known to defendants. Defendants have never addressed the reasons for the delays. Only by luck did petitioner not suffer from a life-threatening condition.

Again, the question centered on credibility as much as it did the record.

Petitioner sought monetary damages on this issue for his unnecessary pain and suffering.

The district court granted summary judgment on all of these issues.

The Court of Appelas summarily affirmed the district court's ruling adding that petitioner had not proven the element of malicious intent to support his claim of deliberate indifference. Petitioner contends that "malicious intent" is a state-of-mind question, a question of credibility. This contention was addressed in petitioner's post-order filings with the Court of Appelas, but this was ignored.

## REASONS FOR GRANTING THE PETITION

Deliberate indifference is a state of mind. Farmer v. Brennan, 511 U.S. 825, 834(1994). At summary judgment, issue of credibility are reserved for the finder of fact and may not be resolved on the record. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 255(1986). If the non-moving party's evidence is merely colorable, or is not sufficiently probative, no genuine dispute as to a material fact has been proved, and summary judgment may be granted. Liberty Lobby, at 249-250. When two parties tell different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of facts for the purpose of ruling on a motion for summary judgment. Scott v. Harris, 550 U.S. 380(2007).

In this case, petitioner provided sufficient evidence to show that: a) he was suffering injury and pain; b) that defendants' mattresses were causing and/or exacerbating his injury and pain; and c) that defendants were well-aware of both the injuries and their source. Petitioner also provided evidence that there were conflicting opinions between the parties' medical experts.

Additionally, defendants' medical expert made statements that placed his credibility in question. First, he stated that petitioner's injuries could not be caused by the mattresses. This flies in the face of "common knowledge," popular literature and mattress advertising.

Second, defendants' medical expert stated that if he believed petitioner needed a different mattress, he would have prescribed one. This statement is contrary to defendants' published policy which prohibits medical personnel from prescribing a special mattress. This is a policy defendants' medical expert, the chief medical officer for the New Hampshire prison system, was required to know.

Lastly, petitioner made claims under oath that defendants' medical expert had told petitioner that petitioner would benefit medically from a different mattress.

This created a he-said-he-said situation that, since it was not patently false or blatantly contrary to the established record, could only be resolved by the jury after in-court testimony.

At this point, sufficient credibility questions have been presented so as to make the grant of summary judgment improper. This alone should have resulted in a summary reversal by the Court of Appelas, not a summary affirmation. The Court of Appeals' additional finding that petitioner had failed to demonstrate malicious intent by defendants was inapposite to the case before it. The case required remand to the district court for a trial on the merits based solely on the credibility issues between the parties' experts and the conflicting statements of petitioner and defendants' medical expert. Conflcits that only a jury could resolve.

However, petitioner's case does not stop there. His case requires more precise definition of exactly what constitutes a credibility question.

In this case, the Court of Appeals' required petitioner to demonstrate defendants' "malicious intent." The problem here is that malicious intent, being a state-of-mind issue, can rarely be demonstrated on the record barring a defendant being stupid enough to write an email or letter, or make a statement on inmate correspondance. Only dumb luck during discovery could hope to find such a document equivocally stating "I intentionally hurt petitioner." This is a fact that must be inferred from the record and in-court testimony. And while petitioner may occasionally be lucky enough to find such a paice of evidence, the absence of such a piece of evidence can never be definitive in finding for defendants.

As is already implied in the existing standards for summary judgment, the only place to test the believability of a witness is in court in front of a jury. Getting to a defendant's "malicious intent" requires placing that defendant or other witness before a jury, subjecting them to direct and cross examination, and trusting the jury's common sense to determine who is telling the trust. Given how rare is the evidence that directly demonstrates malicious intent, allowing the

the issue to be resolved for defendants at summary judgment effectively places government officials beyond accountability and would deny all but a rare injured party any relief.

Stated more succinctly: except in those rare cases where irrefutable evidence exists supporting the presence or absence of malicious intent, malicious intent is an issue of credibility that must be resolved by a jury. This would bring the issue within the existing framework Celotex Corp., Liberty Lobby, and Scott. To allow a lesser standard denies almost all legitimate plaintiffs any redress against government abuse.

As petitioner views this case, this presents the Court with two possible routes to resolve this question and disposition this petition.

FIRST, the Court could under Rule 16.1 grant summary reversal and remand for trial., finding that "malicious intent" is already encompassed within the existing rubrick of credibility.

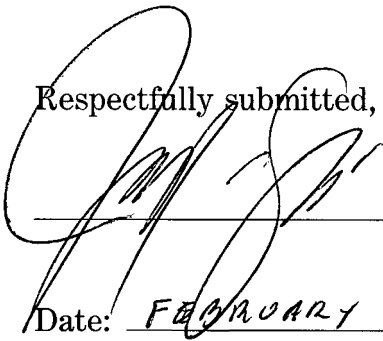
IN THE ALTERNATIVE, the Court could grant certiorari for full briefing and detailed deliniation of the hows, wheres, and whys of when malicious intent is or is not a credibility issue.

Petitioner leaves this question to the discretion of the Court.

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,



A handwritten signature in black ink, appearing to be 'R. J.', is written over a horizontal line. The signature is stylized and cursive.

Date: FEBRUARY 20, 2026