No.

In the Supreme Court of the United States

ANTONIO M. SMITH,

Petitioner,

v.

JOHN KIND, ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

In an effort to stop Petitioner Antonio Smith's hunger strike, prison officials left him in a cell for 23 hours, naked and without heat, at temperatures that dropped to 25 degrees Fahrenheit. Petitioner challenged the officials' conduct under the Eighth Amendment. A Seventh Circuit panel unanimously held that housing Petitioner in those conditions violated his Eighth Amendment rights because the record would support a finding that the officials were deliberately indifferent to the health risks inherent in Petitioner's exposure to the extraordinary cold, "left naked in a frigid cell overnight." But, over a vigorous dissent, the panel majority granted these officials qualified immunity. The majority acknowledged that "inmates have a well-established constitutional right to protection from extreme cold." The court nevertheless held that no case "squarely governs" here, and the officials therefore enjoy qualified immunity, because the Seventh Circuit had never specifically held that it violates the Eighth Amendment "to house an inmate in a cell that ranged in temperature from 25 to 57 degrees over a 23-hour period without clothes or a way to keep warm."

The question presented is:

When a government official acts in an obviously unconstitutional manner, is that sufficient for the violation to be clearly established, as this Court has held and other Circuits have ruled in analogous circumstances, or is a violation clearly established only if there is binding precedent in a factually indistinguishable case, as the Seventh Circuit required here?

PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT

The Petitioner in this case is Antonio M. Smith, and the Respondents are Alexander Bonis, John Diedrick, John Kind, Jay Van Lanen, Cole Meyer and Timothy Retzlaff.

Petitioner is an individual and therefore no Rule 29.6 disclosure is required.

RELATED PROCEEDINGS

There are no related proceedings in state or federal courts, or in this Court.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Antonio M. Smith respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit in this case.

Petitioner brought Eighth Amendment claims under 42 U.S.C. § 1983 against prison officials for the inhumane treatment he received while in their custody at the Green Bay Correctional Institute in Wisconsin. As the Seventh Circuit panel unanimously concluded, Petitioner adduced sufficient evidence for a jury to conclude that housing Petitioner naked in a frigid "control cell" without any bedding or protection from the cold for nearly 24 hours, without any "legitimate penological purpose," violated Petitioner's Eighth Amendment rights. App., *infra*, 2a.

Nevertheless, the panel majority affirmed the grant of summary judgment for the Respondent officials. The majority reasoned that, notwithstanding precedent from this Court recognizing inmates' Eighth Amendment right to be protected from extreme cold, and several Seventh Circuit decisions finding that "cold cell conditions violated an inmate's Eighth Amendment rights," there was no Supreme Court or Circuit precedent on all fours factually with this case. App., *infra*, 21a-22a. The panel majority could "locate no case that 'squarely governs' [the prison officials'] conduct," because that court "had never held it unconstitutional on closely analogous facts to house an inmate in a cell that ranged in temperature from 25 to 57 degrees over a 23-hour period without clothes or a way to keep warm." App., *infra*, 21a.

The Seventh Circuit's ruling breaks from several of this Court's decisions holding that the obvious nature of a constitutional violation alone makes the violation clearly established. Indeed, the panel majority's "rigid, overreliance on factual similarity," *Hope* v. *Pelzer*, 536 U.S. 730, 742 (2002), is precisely what this Court has repeatedly admonished courts to avoid. The decision below also conflicts with the rule in other Circuits.

The Court should grant review or, in the alternative, summarily reverse as it did when presented with similar error in *Taylor* v. *Riojas*, 592 U.S. 7 (2020).

OPINIONS BELOW

The Seventh Circuit's opinion is reported at 73 F.4th 763, and reproduced at App., *infra*, 1a-37a. The district court's order is unreported but may be found at 2022 WL 4448965 (Sept. 23, 2022), and is reproduced at App., *infra*, 40a-83a.

JURISDICTION

The Seventh Circuit entered judgment on May 30, 2025. A timely petition for rehearing was denied on September 2, 2025. This Court granted Petitioner an extension of time to file this petition to January 30, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1). On December 1, 2025, Justice Barrett extended the time within which to file a petition for a writ of certiorari to and including January 30, 2026, and the petition was filed on that date.

CONSTITUITONAL AND STATUTORY PROVISIONS INVOLVED

The Eighth Amendment to the U.S. Constitution provides:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

42 U.S.C. § 1983 provides in relevant part:

> 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 person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

STATEMENT

In October 2017, Petitioner, an inmate at Green Bay Correctional Institute in Wisconsin ("Institute"), began a hunger strike to protest conditions there. App., *infra*, 2a. Petitioner reported to the Institute's health unit over the next 45 days, declining a wellness check on each occasion. App., *infra*, 2a-3a.

Although authorized to use force to remove Petitioner from his cell for medical examinations, the officers never needed to use force during this period, because Petitioner never posed any threat. App., *infra*, 3a. Nevertheless, on November 28, "for reasons not clear in the record," Respondents changed their tactics. App., *infra*, 3a-6a. First, Respondent Captain Jay Van Lanen, supported by a four-man extraction team in full tactical gear, pepper-sprayed a prone, defenseless Petitioner, with full knowledge that the spray was contraindicated due to Petitioner's asthma, "immediately triggering" an asthma attack. App., *infra*, 4a. "[F]or eight minutes, [Petitioner] had difficulty

breathing, seemed disoriented, and was drooling, coughing, spitting, and moaning." *Ibid.*

Next, Petitioner was forced to strip naked and was marched down the hallway to the health unit. App., *infra*, 4a-5a. And after refusing a wellness check, instead of returning Petitioner to his cell, as on previous occasions, Respondents Van Lanen and Retzlaff placed him in a "control cell" (which was used for disruptive inmates), still naked. *Ibid.*

Petitioner's evidence showed that the cell was extremely cold, with a heating vent blowing air at outside temperatures of 25 to 57 degrees Fahrenheit. App., *infra*, 5a. Three-and-a-half hours after arriving in the cell, Petitioner asked Respondent Lieutenant Timothy Retzlaff for clothing, bedding, and a mattress. *Ibid.* Petitioner also asked to be placed in a warmer cell. *Ibid.* Retzlaff told Petitioner that he would need to check with Van Lanen. *Ibid.*

Retzlaff never returned with a response from Van Lanen, and Petitioner ultimately remained in the freezing cell, without clothing, bedding, or a mattress, for 23 hours. App., *infra*, 5a-6a. Petitioner "described his time in the cell as painful, adding that he could not sleep and spent most of the 23 hours on his feet." App., *infra*, 5a.

Petitioner filed suit pro se against Respondents[1] and other defendants in the U.S. District Court for the Eastern District of Wisconsin. Petitioner originally

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[1] Respondents are Security Director John Kind, Captain Jay Van Lanen, Lieutenant Timothy Retzlaff, Correctional Officer Alexander Bonis, Correctional Officer John Diedrick, and Correctional Officer Cole Meyer. Only Respondents Van Lanen and Retzlaff are defendants in the Eighth Amendment claim Petitioner raises in the petition.

brought excessive force claims against several correctional officers and a nurse, conditions-of-confinement claims against Respondents Van Lanen and Retzlaff, and a substantive due process claim. After screening Petitioner's initial and amended complaints, the district court allowed Petitioner to proceed with his excessive force claims against the officers who extracted him from his cell after pepper-spraying him and then marched him to the health unit on November 28. The district court also allowed Petitioner's conditions-of-confinement claims against Van Lanen and Retzlaff to proceed for the 23 hours Petitioner spent naked in the freezing control cell.

The district court granted summary judgment for Respondents, concluding that Petitioner's allegations did not "rise to the level of a constitutionally recognizable injury." *See* App., *infra*, 81a-82a.

Petitioner, still proceeding pro se, timely appealed to the Seventh Circuit, who appointed pro bono counsel to address, *inter alia*, whether Respondents violated Petitioner's Eighth Amendment rights by extracting him from his cell using pepper spray and by housing him naked in the frigid control cell.

On the excessive force claim against Respondent Van Lanen for pepper-spraying Petitioner with knowledge of his contraindication for asthma, the panel unanimously held that Van Lanen violated Petitioner's Eighth Amendment rights. The court held that the "evidence supports a 'reliable inference' that Van Lanen knew that [Petitioner]—on the verge of starvation, with no documented history of violence while incarcerated—posed no credible threat to officer safety or prison administration." App., *infra*, 15a-16a. On these facts, the court "conclude[d] that a reasona-

ble jury could infer that Captain Van Lanen's deployment of pepper spray under the circumstances presented here was malicious and sadistic." App., *infra*, 10a-11a. The panel nonetheless held that qualified immunity applied. App., *infra*, 21a-22a.

On the conditions-of-confinement claim, all members of the panel held that a reasonable juror could conclude that Respondents Van Lanen and Retzlaff were deliberately indifferent to Petitioner's "exposure to extreme cold." App., *infra*, 20a. Van Lanen, the court reasoned, "placed [Petitioner] naked in a cold cell surely knowing that it was November 28 in Green Bay, Wisconsin when the temperature would (and did) drop below freezing." *Ibid.* Van Lanen "did so with full awareness of [Petitioner's] weakened state and pepper spray-induced asthma attack." *Ibid.* Van Lanen also "chose not to follow his usual practice of making a smock and bedding available to [Petitioner] in the control cell." *Ibid.* "Nor did he ever return to the cell that night to discuss clothing, even though he promised [Petitioner] he would do so." *Ibid.* As to Respondent Retzlaff, the panel concluded that the "analysis is even more straightforward," because Petitioner had "asked Retzlaff to provide him with clothes and bedding or move him to a warmer cell," but "Retzlaff did neither." App., *infra*, 21a.

A majority of the panel determined, however, that qualified immunity shielded Respondents Van Lanen and Retzlaff from liability. The majority explained that it found no case that "'squarely governs' Van Lanen's or Retzlaff's conduct" sufficient to put them on notice that their actions violated the Eighth Amendment. App., *infra*, 21a. Seventh Circuit cases holding "that cold cell conditions violated an inmate's

Eighth Amendment rights" were inadequate to provide notice, the majority continued, because the "temperature in those cases was more extreme" or the "duration extended far beyond 23 hours." App., *infra*, 21a-22a. Nor did the majority believe that the "constitutional violation was so 'obvious' as to avoid the need to point to a closely analogous case." App., *infra*, 22a.[2]

Judge Hamilton vigorously dissented—describing Petitioner's conditions of confinement in the control cell as "torture" and criticizing the majority's qualified immunity analysis as a "rigid, overreliance on factual similarity." App., *infra*, 24a-26a. Citing "elementary notions of human decency and dignity," Judge Hamilton concluded that "a reasonable prison official would have understood it to be unlawful to deliberately expose a naked prisoner to cold conditions in an effort to coerce different behavior." App., *infra*, 26a.

The dissent also cited (i) United States law and international covenants to which the United States is a party, which recognize that deliberately subjecting a prisoner to extreme cold is a form of torture; (ii) prior case law showing that deliberately subjecting a naked prisoner to extreme temperatures is "beyond the pale of arguably tolerable conduct"; and (iii) the absence of any argument from the correctional officers as to "how an official in this situation might have thought this deliberate refrigeration of a naked human being could have been permissible." App., *infra*, 26a-32a.

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[2] On the excessive force claim against the cell extraction team—Respondents Bonis, Diedrick, and Meyer—the panel found insufficient evidence that Petitioner's Eighth Amendment rights were violated in escorting him from the cell to the health unit after the pepper spray incident. App., *infra*, 22a-23a.

In sum, the Seventh Circuit held that "a jury could find that both actions—using pepper spray and housing [Petitioner] in the frigid cell—lacked a legitimate penological purpose and thus violated the Eighth Amendment." App., *infra*, 2a. But "in the end," and despite being "troubled" by "what endured," App., *infra*, 2a, the panel affirmed summary judgment in Van Lanen's and Retzlaff's favor on the conditions-of-confinement claim—because qualified immunity shielded what, according to the dissent, App., *infra*, 26a-32a, amounted to the torture of starved, weakened human being.

The Seventh Circuit denied Petitioner's petition for rehearing en banc, App., *infra*, 86a-87a, and Petitioner timely filed this petition for certiorari.

REASONS FOR GRANTING THE PETITION

I. THE DECISION BELOW BREAKS WITH THIS COURT'S PRECEDENT AND DECISIONS BY OTHER COURTS OF APPEAL.

A. The Seventh Circuit's Ruling Conflicts With This Court's Repeated Holding That Obvious Constitutional Violations Are Clearly Established, And Therefore Are Not Protected By Qualified Immunity, Even Without Factually Analogous Precedent.

1. "[Q]ualified immunity operates 'to ensure that before they are subjected to suit, officers are on notice their conduct is unlawful.'" *Hope* v. *Pelzer*, 536 U.S. 730, 739 (2002) (quoting *Saucier* v. *Katz*, 533 U.S. 194, 206 (2001)). But that does not mean "that an official action is protected by qualified immunity unless the very action in question has previously been held un-

lawful." *Hope*, 536 U.S. at 739. On the contrary, "officials can still be on notice that their conduct violates established law even in novel factual circumstances." *Id.* at 741; see also *United States* v. *Lanier*, 520 U.S. 259, 271 (1997) ("[A] general constitutional rule already identified in the decisional law may apply with obvious clarity to the specific conduct in question, even though the very action in question has [not] previously been held unlawful.") (internal quotation mark omitted). Were it otherwise, qualified immunity would protect the most egregious offenses, which are less likely to occur and produce guiding precedent. See *Safford Unified Sch. Dist. No. 1* v. *Redding*, 557 U.S. 364, 377-378 (2009) ("[O]utrageous conduct obviously will be unconstitutional"; "this being the reason * * * that the easiest cases don't even arise.") (internal quotation marks omitted).

Thus, in *Hope*, this Court rejected the notion that "previous cases" must be "materially similar" or "fundamentally similar" to the current case for the law to be clearly established. *Hope*, 536 U.S. at 731. As the Court admonished, this "rigid gloss on the qualified immunity standard * * * is not consistent with our cases." *Id.* at 739. The question, rather, "is whether the state of the law * * * gave [officials] fair warning that their alleged treatment of [Petitioner] was unconstitutional." *Id.* at 741.

More recently, in *Taylor* v. *Riojas*, 592 U.S. 7, 9 (2020), this Court summarily vacated the Fifth Circuit's finding of qualified immunity in a conditions-of-confinement case because, given "the particularly egregious facts of the case, any reasonable officer should have realized that [the] conditions of confinement offended the Constitution." As in *Hope*, there was no need for factually analogous precedent, for "no

reasonable correctional officer could have concluded that, under the extreme circumstances of [the] case, it was constitutionally permissible" to subject the inmate to those conditions. *Id.* at 8. That was particularly so where, as here, there was no "reason to suspect that the conditions * * * could not have been mitigated, either in degree or duration," and "the record suggest[ed] that at least some officers involved in [the inmate's] ordeal were deliberately indifferent to the conditions of his cells." *Id.* at 9.

2. The decision below breaks sharply from this precedent, applying the "rigid gloss on the qualified immunity standard" that this Court has held "is not consistent with [its] cases." *Hope*, 536 U.S. at 739. The panel majority recognized that reasonable jurors could find that Respondents Van Lanen and Retzlaff were "deliberately indifferent to the serious health risk arising from [Petitioner's] exposure to extreme cold," "left naked in a frigid cell overnight." App., *infra*, 20a-21a. Van Lanen acted "with full awareness of [Petitioner's] weakened state and pepper spray-induced asthma attack," and he never "return[ed] to the cell that night to discuss clothing, even though he promised [Petitioner] he would do so." App., *infra*, 20a. And although Petitioner "asked Retzlaff to provide him with clothes and bedding or move him to a warmer cell," "Retzlaff did neither." App., *infra*, 21a.

Nevertheless, the Seventh Circuit concluded that Supreme Court and Seventh Circuit precedent failed to address the facts of this case with "the appropriate level of particularity." App., *infra*, 21a. The majority recognized that "a low cell temperature at night plus failure to issue blankets can combine to create unconstitutional conditions of confinement," App., *infra*, 19a (citing *Wilson* v. *Seiter*, 501 U.S. 294, 304 (1991)). And

as Judge Hamilton observed, the Seventh Circuit has explicitly denied qualified immunity in a case "with facts extraordinarily similar to this case," including housing an inmate naked, in a cold cell, because it is well established "that denial of shelter, heat, and hygiene items implicate[s] an inmate's constitutional rights." App.¸ *infra*, 34a-35a (citing *Gillis* v. *Litscher*, 468 F.3d 488, 495 (7th Cir. 2006)). Other Seventh Circuit decisions are to the same effect. See *Henderson* v. *DeRobertis*, 940 F.2d 1055, 1056-1059 (7th Cir. 1991) (violation of constitutional rights, and basis for jury to find deliberate indifference, where prisoners were held without blankets or extra layers in "below freezing" temperatures inside after a "heating system malfunctioned"); *Lewis* v. *Lane*, 816 F.2d 1165, 1171 (7th Cir. 1987) (plaintiff may have Eighth Amendment claim based on "inadequate heating" where plaintiff "claimed that the temperature at times fell to between 52 and 54 degrees"); *Del Raine* v. *Williford*, 32 F.3d 1024, 1035-1036 (7th Cir. 1994) (citing *Lewis* as persuasive authority and finding the relevant question to be whether "prison officials failed to provide adequate heat and shelter").

But the majority below required Petitioner "to show that the *specific conditions* he faced in the control cell were unconstitutional." App., *infra*, 21a (emphasis added). Cases like *Henderson*, *Del Raine*, and *Lewis*, the court held, differed factually from this case in some manner, because either the temperature was different in those cases or they involved a different period of unconstitutional behavior.[3] App., *infra*, 21a-

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[3] The Seventh Circuit thus not only broke with this Court's clear precedent that obvious constitutional violations are not shielded by qualified immunity—without a need for factually analogous precedent—but the decision below also falls on the far end of the

22a. That is precisely the "overreliance on factual similarity" that this Court has repeatedly condemned, however. *Hope*, 536 U.S. at 742. As in *Hope*, the "obvious cruelty inherent in" this conduct "should have provided [Respondents Van Lanen and Retzlaff] with some notice that their alleged conduct violated [Petitioner's] constitutional protection against cruel and unusual punishment." *Id.* at 745. Because the violation was obvious, there was no need for precedent involving the "specific conditions" in Petitioner's case.

B. The Decision Below Also Conflicts With The Law In Other Circuits.

The Seventh Circuit not only broke from this Court's repeated admonition that qualified immunity does not protect obvious constitutional violations, but it also split from other Circuits in applying qualified immunity here.

In *Palmer* v. *Johnson*, the Fifth Circuit found a violation of an inmate's Eighth Amendment right to "the minimal civilized measure of life's necessities" where he was kept in cold conditions, "below fifty-nine degrees Fahrenheit," for 17 hours. 193 F.3d 346, 349, 353 (5th Cir. 1999). And the "mutually enforcing effect" of various conditions, including the denial of

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well-recognized spectrum of Circuit standards on how factually similar prior decisions must be for a rule to be clearly established. Indeed, "courts of appeals are divided—intractably—over precisely what degree of factual similarity must exist" to find a clearly established constitutional violation. *Zadeh* v. *Robinson*, 928 F.3d 457, 479 (5th Cir. 2019) (Willett, J., concurring in part and dissenting in part). Here, the panel majority required Petitioner to marshal precedent finding an Eighth Amendment violation on nearly identical facts.

"shelter, jacket, blanket, or source of heat," demonstrated a violation of the inmate's clearly established rights sufficient to defeat a qualified immunity defense. *Ibid.* To be sure, the court considered multiple factors in denying the defendants' claim to qualified immunity on summary judgment, but the court emphasized, in a case seemingly involving much warmer temperatures than this one, that "[p]risoners have a right to protection from extreme cold," and "a prison official may not subject inmates to significantly cold temperatures." *Id.* at 353, 354 (internal quotation marks omitted).

Likewise, in *Chandler* v. *Baird*, the Eleventh Circuit held that an inmate's Eighth Amendment claim survived summary judgment where he adduced evidence that he was held "in a cold cell"—"as low as 60 degrees"—"with no clothes except undershorts and with a plastic-covered mattress without bedding," in unsanitary conditions. 926 F.2d 1057, 1063 (11th Cir. 1991). The court found that "the right of a prisoner not to be confined in a cell at so low a temperature as to cause severe discomfort and in conditions lacking basic sanitation was well established in 1986," such that defendants would not be entitled to qualified immunity. *Id.* at 1065-1066 (11th Cir. 1991). And again, although the cell in *Chandler* was purportedly much warmer than Petitioner's here, the court devoted pages of its opinion to the established Eighth Amendment bar on housing inmates in cold cells. *Id.* at 1064-1065.

Further, the Courts of Appeals are split over whether a finding of deliberate indifference—required to find an Eighth Amendment violation—alone defeats any claim to qualified immunity. The Fourth Circuit embraces this rule. See *Thorpe* v. *Clark*, 37

F.4th 926, 993-934 (4th Cir. 2022) (holding that when "plaintiffs have made a showing sufficient to demonstrate an intentional violation of the Eighth Amendment, they have also made a showing sufficient to overcome any claim to qualified immunity," for "qualified immunity does 'not allow the official who *actually* knows that he was violating the law to escape liability for his actions") (internal quotation marks omitted); see also *Hammock* v. *Watts*, 146 F.4th 349, 364 (4th Cir. 2025) (quoting and following *Thorpe*).[4] Other courts expressly reject this approach, recognizing the split. See, *e.g.*, *Clark* v. *Valletta*, 157 F.4th 201, 218 n.15 (2nd Cir. 2025) ("Some circuits have collapsed the objective-reasonableness prong of qualified immunity into the subjective element of deliberate indifference. But we decline to follow this approach.") (citation omitted).

Petitioner would have prevailed had the Seventh Circuit followed the rule in decisions like *Thorpe*, which deny qualified immunity to officials who act with deliberate indifference.

In sum, the decision below is in square conflict with this Court's repeated admonitions, and it breaks from the law in other Circuits as well.

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[4] Previously, the Seventh Circuit also followed this approach. See *Delgado-Brunet* v. *Clark*, 93 F.3d 339, 345 (7th Cir. 1996) ("the two inquiries effectively collapse into one").

II. THE QUESTION PRESENTED IS EXCEPTIONALLY IMPORTANT, AND THIS CASE OFFERS AN IDEAL VEHICLE TO ANSWER IT.

1. Lower court decisions that conflict with this Court's precedent, and break from the law applied in other Circuits, alone warrant Supreme Court review. But this Court's intervention is especially crucial where, as here, a precedential Circuit Court ruling denies a remedy for particularly egregious unconstitutional conduct. Such obviously unlawful behavior is less likely to have occurred before, making it all the more essential to enforce this Court's rule treating such conduct as violating clearly established law. Otherwise, the extreme nature of the conduct would alone immunize it from suit, rewarding the worst abuses. This Court's intervention is needed to overturn a decision that courts and parties can cite to deny a remedy for egregious, unconstitutional conduct simply because there is no factually on-point precedent.

2. This case offers an ideal vehicle to reassert this Court's repeated admonition that such obvious constitutional violations are not protected by qualified immunity. The relevant facts on summary judgment are clear and straightforward. Petitioner was housed naked in a freezing cell for 23 hours despite pleas for clothes, a blanket, or a mattress. And the panel unanimously reached the constitutional question, rather than proceeding directly to qualified immunity, and held that reasonable jurors could find that Respondents Van Lanen and Retzlaff violated the Eighth Amendment by acting with deliberate indifference to Petitioner's health and without "a legitimate penological purpose."

Nor does this case involve any spur-of-the-moment decision-making, as many § 1983 challenges do. Respondents Van Lanen and Retzlaff deliberately changed their tactics in responding to Petitioner's hunger strike after 45 days, and they had 23 hours to respond to his request to provide any relief from his conditions.

In short, this case offers an ideal vehicle to answer the critically important question presented.

III. IN THE ALTERNATIVE, THE SEVENTH CIRCUIT'S JUDGMENT SHOULD BE SUMMARILY REVERSED.

At the least, this case is appropriate for summary reversal. The Court will reverse a lower court judgment summarily when that ruling is "squarely contrary to [this Court's] holdings." *Maryland* v. *Dyson*, 527 U.S. 465, 467; see also *Marmet Health Care Ctr., Inc.* v. *Brown*, 565 U.S. 530, 532 (2012) (per curiam) (summarily reversing decision that was "both incorrect and inconsistent with clear instruction in the precedents of this Court"). Just as in *Taylor* v. *Riojas*, the panel majority here broke from this Court's repeated holding that obvious constitutional violations are not protected by qualified immunity, even where there is no precedent on all fours factually. And as in *Taylor*, summary reversal would be a proper alternative here.[5]

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[5] If the Court is not inclined to grant the certiorari petition for review or summary reversal, Petitioner requests that the Court hold this petition for a decision whether to grant, and for any final disposition of the merits on, the pending petition in *National Rifle Association of America* v. *Vullo*, No. 25-479 (filed Oct. 15, 2025). Among the questions presented, that petition asks,: "When it is obvious that a government official's conduct violates

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted.

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the Constitution under longstanding Supreme Court precedent, is the violation clearly established for purposes of qualified immunity despite some factual distinctions that are irrelevant under the governing constitutional rule?" If this Court resolves that question in *Vullo*, it may bear directly on the proper disposition of this case.