

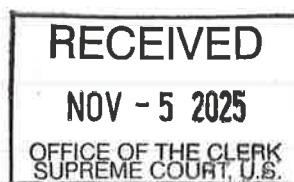
IN THE SUPREME COURT OF THE UNITED STATES

Clerk, Supreme Court of the United States,

the Petitioner, John T. Hardee, hereby submits the following to the Court in advance of Petition for Writ of Certiorari, praying for the requested relief. The documents are as follows:

- Motion for Extension of Time; and,
- Brief in Support of Motion for Extension of Time; and,
- Declaration of John T. Hardee; and,
- Exhibit #1- "Facility Request" Form, issues with not receiving cases; and,
- Exhibit #2- "Memo" from Law Library Supervisor, F. Gilliam, terminating visits to law library; and,
- Exhibit #3- "Written Complaint" against institution attorney, law library supervisor, and warden; and,
- Exhibit #4- "Final Mandate" from U.S. Court of Appeals, filed July 30, 2025, just to provide Court with a copy before the Petition; and,
- Motion for Exceptions for Filing Petition...; and,
- Brief Explanation for Exceptions for Filing Petition....

Respectfully submitted,



John T. Hardee #1491532
JTH

IN THE SUPREME COURT OF THE UNITED STATES

JOHN T. HARDEE, Petitioner,

vs.

CHRISTOPHER WALZ, et al.,

No. _____

Respondent(s).

MOTION FOR EXTENSION OF TIME

John T. Hardee, the Petitioner, in accordance with Rule 30 of the Rules of the Supreme Court, and for the reasons stated in the attached Brief, and the Petitioner's Declaration, request this Court to grant an Extension of Time.

Respectfully submitted,

John T. Hardee #1491532



IN THE SUPREME COURT OF THE UNITED STATES

JOHN T. HARDEE, Petitioner,

Vs.

CHRISTOPHER WALZ, et al.,

No. _____

Respondent(s).

BRIEF IN SUPPORT OF MOTION FOR
EXTENSION OF TIME

COMES NOW Petitioner, John T. Hardee, ("Petitioner"), in accordance with Rule 30 of the Rules of the Supreme Court, and ask this Court to Grant the Petitioner an Extension of Time. The Petitioner states the following in support of the Motion:

1. In light of Petitioner's hardship while at the current prison with regards to not being able to go to the law library (Hardee Dec., para. 2); as well as being forced to use an institutional attorney that isn't even a daily employee (Id. para. 2); leaving him unable to Shepardize case law adequately (Id. para. 2); while being forced to handwrite motions and pleadings (Hardee Dec. para. 3); on paper that's in violation of Supreme Court Rules 33.2 and 34 (Id. para. 3); the Petitioner must be able to handwrite everything and review case law without a time restraint.
2. Petitioner is a security level-4, making him unable to get a job while at Nottaway Correctional Center without being a level-3

or less (Hardee Dec. para. 4). His family is fighting different variants of cancer, so his support system is dwindling (Id. para. 4), thus, leaving indigent - and unable to pay for the cost of copies to serve the respondents (Id. para. 4; para. 8). It should be noted that the Petitioner was allowed to proceed in forma pauperis in both of the lower federal courts (Id. para. 8), so he can not afford an attorney in this matter to quickly type the Petition.

3. Lastly, the Petitioner will provide proof that he didn't receive the Order denying rehearing en banc until almost a month after arriving into the custody of Virginia Department of Corrections (Id. para. 5). He will provide this with his Petition because he only has one copy. As a result of receiving the document late from the Court of Appeals, (Id. para. 6), by no fault of his own, he is requesting this Court to grant him an Extension of Time to be no sooner than November 11, 2025 - since he did not receive the document until August 13, 2025 (Id. para. 6; para. 7; para. 8). Had he still been at Virginia Beach, the (90) day mark would be October 20, 2025 (Id. para. 7).

THEREFORE, the Petitioner respectfully asks this Court for the Extension of Time, to keep Shepardizing case law, and to handwrite his Petition for Writ of Certiorari.

Executed: on the 12th day of
October, 2025, at Wotoway Correctional
Center, Burkeville, Virginia. JHE

Respectfully submitted,
John T. Hardee #1491532
JHE

IN THE SUPREME COURT OF THE UNITED STATES

JOHN T. HARDEE, Petitioner,

vs.

CHRISTOPHER WALZ, et al., No. _____

Respondent(s).

DECLARATION OF JOHN T. HARDEE

John T. Hardee, hereby declares as follows:

1. I have been incarcerated since April 24, 2018, between Hampton Roads Regional Jail, Norfolk City Jail, and Virginia Beach Correctional Center. However, on July 16, 2025, I transferred into the custody of Virginia Department of Corrections ("VADOC") - and I am presently at Nottoway Correctional Center ("NCC"); in Burkeville, Virginia. NCC is VADOC's central reception for all "new intakes".
2. Since I've been here, NCC's current policy for new intakes are to remain in cell 22/2 (i.e. 22 hours in your cell; 1 hour outside recreation; 1 hour pod recreation). Also, as you will see in my Exhibit from Law Library Supervisor, F. Gilliam, new intakes and re-entry prisoners can no longer go to the law library as of August 11, 2025. This legal access has become problematic for me on many levels. As you will see in my other two exhibits, I'm battling with NCC and their Institutional Attorney, Benjamin Spence ("Spence"), because

he isn't bringing me case law - as he is clearly overwhelmed at having to all of a sudden be everyone's "legal access". As a result, I'm unable to adequately Shepardize cases in a timely fashion.

3. I am in the middle of grieving these issues as we speak. For one, I can not type any motions or pleadings - which I know you prefer - nor can I hand write them on 8 1/2 x 11 inch paper pursuant to Supreme Court Rules 33.2 and 34. Not to mention, while I'm having to prepare ~~two~~ Writs to your Court, and two Habeas Corpus as well, I would have preferred to type - to show you and the other court that I cared, and wanted to take it serious. However, I'm being forced to write on this 10 1/2 x 8 inch paper.

4. Furthermore, because I am a security level-4 with a lot of time, I will be unable to receive a job by VADOC while at NCC, because I am not a level-3 or under. I do not have any money, and my mother is fighting Throat Cancer, while my brother is fighting Cancer as well - a tumor in his spine. I do not know how I'm going to be able to pay for the copies, or serve all parties involved - since VADOC charges .10 cent for copies. I need some relief in this trying time and legal hardship. I have to trade trays for envelopes.

5. With regards to your jurisdiction, my time restraints, and my request for extension of time, I hold in my hand proof that I need an extension of time. Because judgment against me was

filed in the U.S. Court of Appeals on June 23, 2025, which was received by me when I was at Virginia Beach Correctional Center. On July 2, 2025, my timely filed Petition for Rehearing En Banc was filed creating a "Temporary Stay of Mandate"; thus, tolling my (90) day time frame to file a Petition for Writ of Certiorari.

6. I now hold a stapled copy of the Order denying the rehearing, filed July 22, 2025. However, I was no longer in Virginia Beach. I have a copy of the envelope that shows Virginia Beach received it at 10:30AM on July 24, 2025; issued a "RETURN TO SENDER" through the Post Master on July 30, 2025; was received by U.S. Marshals; was received by U.S. Court of Appeals who stamped "RECEIVED" on August 4, 2025, at 02:31 PM; it was then re-routed to me and received at VADOC's Centralized Mail Distribution Center for all prisoners (3521 Woods Way, State Farm, VA. 23160) on August 8, 2025; NCC's Mail Room placed their "RECEIVED" stamp on it August 12, 2025; it was signed for by me August 13, 2025.

7. Today being October 12, 2025, the (90) day mark would be October 20, 2025 - leaving me 8 days. However, with the proof I have just explained to you, (90) days from "RECEIPT", which was in fact August 13, 2025, would be November 11, 2025 - technically speaking.

8. At this point, with all of my hardships with the law library,

being indigent, receiving the documents late (by no fault of my own), and of course having to handwrite everything, I have no other recourse other than to request an extension of time to be at least November 11, 2025, or later; and to be able to do it on this size paper; and to only serve one copy to the court - or rather the original. I was infact allowed to proceed in forma pauperis in this matter in both the District and the Court of Appeals. I would provide you with the envelope, but its my only copy, and it will be arriving with my Petition for Writ of Certiorari.

John T. Hardee #1491532

JTH

I declare under penalty of perjury that the foregoing declaration is true and correct.

JTH

Executed: On the 12th day of October, 2025, at Nottoway Correctional Center, Burkeville, Virginia, JTH

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 23-6966

JOHN T. HARDEE,**Plaintiff - Appellant,****v.**

**CHRISTOPHER WALZ, Superintendent, in individual and official capacity;
FELICIA COWAN, Assistant Superintendent, in individual and official capacity;
WINSTON BHAGIRATH, Captain, in individual and official capacity; MARY
CHEESEBORO, Sergeant, in individual and official capacity; T. JONES, Sergeant, in
individual and official capacity; MATTHEW TILLMAN, Officer, in individual and
official capacity; EBONY ATKINS, Officer, in individual and official capacity;
VIRGINIA DEPARTMENT OF CORRECTIONS; HAROLD CLARKE, in
individual capacity; CORRECT CARE SOLUTIONS, a/k/a Wellpath, LLC;
KATHRYN TOPHAM, Registered Nurse, in individual and official capacity;
JENNIFER HODGE, Nurse Practitioner, in individual and official capacity;
CHADWICK DOTSON, Virginia Department of Corrections, Director, in official
capacity,**

Defendants - Appellees.

**Appeal from the United States District Court for the Eastern District of Virginia, at
Richmond. M. Hannah Lauck, District Judge. (3:20-cv-00729-MHL-MRC)**

Submitted: June 13, 2025**Decided: June 23, 2025**

Before NIEMEYER and THACKER, Circuit Judges, and FLOYD, Senior Circuit Judge.

Affirmed in part, vacated in part, and remanded by unpublished per curiam opinion.

John T. Hardee, Appellant Pro Se. Jeff W. Rosen, PENDER & COWARD, PC, Virginia Beach, Virginia; Ann-Marie White Rene, Acting Assistant Attorney General, OFFICE OF THE ATTORNEY GENERAL OF VIRGINIA, Richmond, Virginia; Angela Boice Axselle, WIMBISH GENTILE MCCRAY & ROEBER, Richmond, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

John T. Hardee, a former Virginia pretrial detainee, appeals the district court's order granting the motion to dismiss his claims against two defendants¹ and granting summary judgment to the remaining defendants in his 42 U.S.C. § 1983 action.² On appeal, Hardee does not challenge the district court's grant of the motion to dismiss, but he challenges the grant of summary judgment. Because we limit our review to issues raised in the informal brief, *see* 4th Cir. R. 34(b); *Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014), we affirm the grant of the motion to dismiss, but we vacate the grant of summary judgment.³

Consistent with our precedent at the time that it entered its order, the district court assessed Hardee's claims alleging failure to protect his health and inadequate medical care in violation of the Fourteenth Amendment using the Eighth Amendment test for deliberate indifference claims of convicted prisoners. *See, e.g., Younger v. Crowder*, 79 F.4th 373, 382 (4th Cir. 2023); *Moss v. Harwood*, 19 F.4th 614, 624 & n.4 (4th Cir. 2021). That test has both an objective element and a subjective element. *See Younger*, 79 F.4th at 382.

¹ The motion to dismiss was filed in the district court by Appellees Harold Clarke and the Virginia Department of Corrections. (PACER No. 118). On appeal, Chadwick Dotson has been substituted for Harold Clarke in his official capacity. (ECF No. 12).

² After this appeal was filed, Appellee Correct Care Solutions, a/k/a Wellpath, LLC ("Correct Care") was discharged from liability by the United States Bankruptcy Court for the Southern District of Texas for claims against it involving incidents that occurred before November 11, 2024; and the automatic stay was lifted. We therefore lift our stay and grant Correct Care's motion to dismiss it from this cause of action. (ECF No. 33).

³ We decline to consider other issues raised in the informal brief, because the district court may revisit the challenged rulings on remand.

After the district court entered its order, we held that the Supreme Court’s decision in *Kingsley v. Hendrickson*, 576 U.S. 389 (2015), abrogated our prior precedent applying a subjective deliberate indifference standard to pretrial detainee claims and permitted “pretrial detainees to state Fourteenth Amendment claims for deliberate indifference to a serious risk of harm on the purely objective basis that the ‘governmental action’ they challenge is not ‘rationally related to a legitimate nonpunitive governmental purposes’ or is ‘excessive in relation to that purposes.’” *Short v. Hartman*, 87 F.4th 593, 610-11 (4th Cir. 2023) (quoting *Kingsley*, 576 U.S. at 398). “Now, it is sufficient that the plaintiff show that the defendant’s action or inaction was . . . ‘objectively unreasonable,’” i.e., “that the defendant acted or failed to act ‘in the face of an unjustifiably high risk of harm that is either known or so obvious that it should be known.’” *Id.* at 611 (citations omitted).

Because the district court did not have the benefit of our decision in *Short* and thus applied the wrong legal standard when addressing Hardee’s claims, we conclude that the district court committed reversible error. *See Simmons v. Whitaker*, 106 F.4th 379, 387-88 (4th Cir. 2024). We therefore vacate the district court’s grant of summary judgment and remand for the district court to apply the correct legal standard to Hardee’s claims.

Accordingly, we affirm the district court’s grant of the motion to dismiss, but we vacate the district court’s grant of summary judgment and remand for further proceedings consistent with this opinion. We dispense with oral argument because the facts and legal contentions are

adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED IN PART,
VACATED IN PART,
AND REMANDED*

FILED: July 22, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 23-6966
(3:20-cv-00729-MHL-MRC)

JOHN T. HARDEE

Plaintiff - Appellant

v.

CHRISTOPHER WALZ, Superintendent, in individual and official capacity; FELICIA COWAN, Assistant Superintendent, in individual and official capacity; WINSTON BHAGIRATH, Captain, in individual and official capacity; MARY CHEESEBORO, Sergeant, in individual and official capacity; T. JONES, Sergeant, in individual and official capacity; MATTHEW TILLMAN, Officer, in individual and official capacity; EBONY ATKINS, Officer, in individual and official capacity; VIRGINIA DEPARTMENT OF CORRECTIONS; HAROLD CLARKE, in individual capacity; CORRECT CARE SOLUTIONS, a/k/a Wellpath, LLC; KATHRYN TOPHAM, Registered Nurse, in individual and official capacity; JENNIFER HODGE, Nurse Practitioner, in individual and official capacity; CHADWICK DOTSON, Virginia Department of Corrections, Director, in official capacity

Defendants - Appellees

O R D E R

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 40. The court denies the petition for rehearing en banc.

For the Court

/s/ Nwamaka Anowi, Clerk