26-6041

Supreme Court of the United States

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William Joshua Alston, Petitioner

v.

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SUPREME COURT U.S.

Beth Lawson, et al, Respondents

No 25-6835

August 31, 2026

ORIGINAL

On Writ of Certiorari
to the
United States Court of Appeals
for the Fourth Circuit

Brief of Petitioner

Questions Presented

1) What are the requirements of 42 U.S.C. § 1983 deliberate indifference to serious medical needs claims, specifically delay or denial of care, brought by a plaintiff who was a pretrial detainee at the time of the incidents to satisfy a Constitutional violation of a state actor:
   - is substantial harm, permanent loss, or is the delay itself the deliberate indifference;
   - to show substantial harm, are frequent complaints of pain, or marked exacerbation of the detainees medical condition sufficient?

2) Whether the requirements of a 42 U.S.C. § 1983 deliberate indifference to serious medical needs claims, specifically claims of delays or denials for non-medical reasons, brought by a plaintiff who was a pretrial detainee at the time of the incidents are satisfied by a showing that the state actor participated in a policy, that their supervisor, the Health Services Administrator, has dictated in written submitted evidence, that requires "All pretrial inmates are financially responsible for outside medical care"?

3) Whether the requirements of a 42 U.S.C. § 1983 supervisor liability claim brought by a plaintiff who was a pretrial detainee at the time of the incident are satisfied by a showing of a state actors evident use of a

Constitutional violating policy ?

4) Is the Fourth Circuits Court of Appeals Local Rule 40(c) unduly burdensome on Pro se incarcerated litigants by enforcing a very strict and literal 14 day filing timeframe for Rehearing when denying the application of Rule 26 (a)(1)(A) and 26(c) of the Federal Rules of Appeallate Procedure ?

Parties to the Proceeding

Petitioner

William Joshua Alston

Pro Se

Respondents

Elizabeth Lawson (HSA)

Steve Garman (Medical Director)

Schinitra Swinney (NP)

Alex Petkovsek (NP)

Sally Blake (NP)

Katrina Krystanowicz

Jaime Wilson

Mike Minette

Adrian Small

Shawnette Attaway

Kelsey Ledford

Karen Jones

Rachel Brown

Chasidy Queen

Danielle Winn

Danielle Winns

Jennifer Brown

Michele Squires

Melissa McQueen

Carrie Yost

Brielle Buis

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Opinions and Orders below

The opinion of the United States Court of Appeals for the Fourth Circuit affirming the judgment of the United States District Court for the District of South Carolina is unreported and reprinted in the Joint Appendix (JA) at JA #1. The court of appeals order denying the petition for Rehearing and Rehearing En banc is unreported and reprinted at JA #1. The judgement of the district court is unreported and reprinted at JA #1.

Jurisdiction

The court of appeals entered its judgment on June 1, 2026 (JA #1) and denied Mr Alstons petition for Rehearing and Rehearing en banc on June 26, 2026 (JA #1). Jurisdiction is conferred under 28 U.S.C. § 1254 (1)

Constitutional and Statutory Provisions Involved

The Eighth Amendment to the United States Constitution provides: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted."
U.S. Const. amend VIII

The Fourteenth Amendment to the U.S. Constitution provides in relevant part: "No state shall make or enforce any law which shall abridge the priviledges or immunities of citizens of the United States; nor shall any state deprive any person of life, libecty or propecty without the due process of law...."
US Const Amend XIV § 1

The statutory provision involved is 42 U.S.C § 1983 which 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, privledges 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...."

Introduction

This case presents an important question of federal law that has not been, but should be settled by this Honorable Court. The pages herein, will detail how the Fourth Circuits Court of Appeals, has acknowledged in Formica v. Aylor that the unpublished opinions of Webb v. Hamidullah and Sharpe v. S.C. Department of Corrections, have addressed that substantial harm can be shown through marked exacerbation or frequent complaints of pain in claims of delays, like some of its sister courts, but neglect to honor those showings because Webb and Sharpe are non-binding legal precedent. Instead the Fourth Circuit relies on caselaw that requires substantial harm and nothing further.

Statement of Case

Mr Alston began his incarceration at J. Reuben Long Detention Center (JRLDC) on July 21, 2022. He remained a pretrial detainee until September 3, 2024. Over the course of his over two year incarceration, Mr Alston, repeatedly dealt with far less than adequate medical care as provided by the Constitution. Mr Alston made extensive use of the facilities Kiosk System, which Beth Lawson, the Health Services Administrator (JA # 4 at 355 # 2), explicitely defined as the ONLY means to file sick calls (KC) "All requests to be seen by Nursing or Doctor must be placed on the kiosk and not requested during Medpass or blood sugar checks." (JA # 2 at 62). Mr Alston filed one-hundred and thirty (130) KC's over his incarceration. B. Lawson responded to ninety-nine (99) of them, with delays in responding ranging from two (2) to two-hundred and eighty-nine days (289).

Mr Alston suffered from several different serious medical needs, that ALL were cared for with less than Constitutionally adequate medical care. Some of those serious medical needs outlined throughout the following arguments are:

a) Gunshot Wound care
b) November 2022 Ear pain from Assault
c) December 2023 Ear infection
d) March 2024 Ear infection
e) Pain from ankle while walking
f) Skin abnormalities

g) Lump in Chest

h) Cracking skin on foot

Due to the strict 40 page rule, Mr Alston is forced to minimize the Statement of the Case section to give his questions justifiable arguments. Despite having identical questions as case no. 25-6837, Mr Alston, was required to seperately file the two cases to comply with the rules of this Honorable Court, and he hopes this Honorable Court will forgive the duplication in its review of the cases. Mr Alston has reprinted a complete copy of the entire Brief as submitted to the Fourth Circuits Court of Appeal at JA # 2-4 passim. Mr Alston has also reprinted a complete copy of the Verified Complaint and Verified Supplements at JA # 5-7 passim. These documents have been provided for this Honorable Courts easy reference. Upon review of the arguments submitted herein, this Honorable Court will see the lower courts failure to enforce the laws of the United States Constitution, literally truncated Mr Alstons pleadings in so stark a manner, as to amount to a rubber stamping of approval of the defendants unconstitutional actions or inactions

Question 1 Supporting Argument

The circuits are in agreeance, that delays or denials in medical care can rise to the level of deliberate indifference. The circuit courts, however, are not in agreeance on what showing is required to satisfy a showing of a Constitutional violation. For instance, some circuits simply require "substantial harm" with no definition of what constitutes "substantial harm"

Alston v. Lawson, 2025 WL 2437752 (D.S.C. 2025) (citing Smith v. Walker, 845 F. Supp. 673, 677 (W.D. N.C. 2012)); Easter v. Powell, 467 F. 3d 459, 463 n.16 (5th Cir 2006); Mata v. Saiz, 427 F. 3d 745, 751 (10th Cir 2005).

Other circuits have specified that exacerbation of symptoms, frequent complaints of pain or permanent loss can satisfy a showing of a delay amounting to deliberate indifference. Bernier v. Allen, 38 F. 4th 1145, 1157 (D.C. 2022); McGowan v. Holick, 612 F. 3d 636, 640 (7th Cir 2010); Leavitt v. Corr. Medical Services, Inc., 654 F. 3d 484, 797-98 (1st Cir 2011); Blackmore v. Kalamazoo Cty., 390 F. 3d [redacted] 890, 898 (6th Cir 2004).

With the courts failing to have a singular standard to prove a delay amounts to deliberate indifference, the detrimental effects are felt by prisoners. Valid Constitutional claims are getting unjustly dismissed, and those who are violating the Constitutional rights of prisoners, continue their practices because the courts fail to intervene.

The Fourth Circuits "substantial harm" requirement, was addressed in two unpublished opinions within the circuit, "the delay results in substantial harm to the patient such as marked exacerbation of the prisoners medical condition or frequent complaints of pain." Webb v. Hamidullah, 281 F. App'x 159, 166-67 (4th Cir 2008) (internal quotations omitted); "a delay in treatment may constitute deliberate indifference if the delay exacerbated the injury or unnecessarily prolonged an inmates pain." Sharpe v. S.C. Dept. of Corr., 621 F. App'x 732, 734 (4th Cir 2015). These cases were presented in Formica v. Aylor, 739 F. App'x 745, 755-56 (4th Cir 2018)

"Notably, as unpublished opinions, our Webb and Sharpe decisions do not constitute binding precedent." The court did find them consistent with the Fifth, Tenth, and Eleventh circuits. See Alderson v. Concordia Parish Corr. Facility, 848 F. 3d 415, 422 (5th Cir 2017); Garrett v. Stratman, 254 F. 3d 946, 950 (10th Cir 2001); Hill v. Dekalb Reg'l Youth Det. Ctr., 40 F. 3d 1176, 1188 (11th Cir 1994). Mr Alston has cited Formica, Webb, and Sharpe (JA#2 at 34) and the Court of Appeals affirmed the district courts use of Smith v. Walker sixteen times in its ruling (JA #1 ECF 269 passim) which claims "substantial harm" and nothing further. The most important reason for a need for this Honorable Court to settle what amounts to "substantial harm" is the courts footnote in Formica, "nor do we mean to prohibit Formica from contesting the applicability of the non-precedential decisions in Webb and Sharpe." Formica, 739 F. App'x at 756 n. 7.

Throughout the pleadings Mr Alston has provided evidence to show that delays did amount to substantial harm by "exacerbating the injury or unnecessarily prolonging an inmates pain." Sharpe at 734

A) Ear pain from a November 12, 2022 assault. Mr Alston filed his first KC complaining of pain on November 20, 2022, and was "placed on sick call list" November 21, 2022 (JA#3 at 200). Mr Alston filed four more KC's about pain, and describing his exacerbating symptoms between December 2 and 28, 2022 (JA # 3 at 201-205). B. Lawson responded to all four KC's on January 10, 2023, which was five days after Mr Alston was finally seen by a Dr on January 5, 2023. (JA#3 at 207.

This doctor visit was forty-five (45) days after being "placed on sick call list." (JA # 3 at 200). B. Lawsons delays in responding denied Mr Alston from receiving timely adequate medical care, despite her self-serving affidavit claiming "I ensored he received timely care and treatment...." (JA # 4 at 356 # 5). The district court "contravened rule 56 by accepting [the moving parties] self-serving statements and reading the evidence in the light most favorable to [the moving party]." Pfaller v. Amonette, 55 F. 4th 436, 450 (4th Cir 2022) (quoting Knibbs v. Momphard, 30 F. 4th 200, 222 (4th Cir 2022)).

B) December 2023 Ear infection: On December 2, 2023 "At approx 7:30pm I told Nurse Jaime [Wilson] about pain in my ear, she refused any treatment and said to put it on Kiosk." (JA # 6 at ECF 103-1 at 35). Mr. Alston filed his first KC on December 3, 2023, and Nurse Winn said "you are on the nurse sick call list," on December 4, 2023. (JA # 3 at 209). On December 4, 2023 "I only have one functional ear and it only has about 30% hearing without aid. It currently has an extremely painful infection. My ENT Dr McKracken has warned me of ear infections damaging what little hearing I have left." (JA # 3 at 210). On December 5, 2023 "... Nurse Cassidy [Queen] claims my eardrum is likely fine and not ruptured or not in danger of being ruptured, however the fluid in my ear is yellowy and dries a yellow crust where it leaks out of my ear and onto my pillow. Once again Mediko is just passing over a potential life altering process further proving the lack of care. People left this pod again today to go to medical...." (JA # 3 at 211). At "Approx 7:30 pm Corporal Marsincowitz... stated he would make

the nurse look at me on Medpass." (JA#6 ECF 103-1 at 37). The Corporal was a layperson who recognized the obvious need for Mr Alston to receive medicall attention. A serious medical need is "so obvious that even a lay person would easily recognize the necessity for a doctor's attention." Short v. Hartman, 87 F.4th 593, 612 (4th Cir 2023)(quoting Scinto v. Stansberry, 841 F.3d 219, 225 (4th Cir. 2016)). Nurse Rachel Brown saw Mr. Alston at Medpass and noted in the medical record "S=12/5/23 per cpl pt sick call at pm med-pass...." (JA#3 at 219). Mr Alston was finally seen by NP Alex Petkovsek on December 6, 2023, and documented the encounters on KC "... he looked in my ear and I had an ear infection but no rupture. Then at 10:50 am Alex and Paige show up in C-1 to check my ear again and it was now perferated...." (JA#3 at 213). Mr Alston was seen by Dr Garman on December 19, 2023, and documented in a KC "... after discussing my further hearing loss Dr Garman confirmed he could not determine the extent of the damage done to my ear... said I need an ear nose and throat Dr to truly determine the extent of damage... Mediko and JRLDC would not be sending me to an ENT Dr. that I should upon release...." (JA#3 at 214). In Dr. Garmans self-serving affidavit he states "he questioned whether the ear infection had exacerbated his pre-existing hearing loss. I explained I had no concerns about the ear infection exacerbating the hearing loss...." (JA#4 at 361 #14). Mr Alston documented on December 19, 2023 "my further hearing loss" (JA#3 at 214), as opposed to Dr Garmans self-serving affidavit that he signed on December 26, 2024, over a year later. (JA#4 at 362). His affidavit contradicts his medical record notes "Since right ear

infections, he has less hearing, even with his hearing aid... and consider serous otitis or residual infection...." (JA # 3 at 222). Dr Garmans notes prove he was aware that Mr Alstons hearing loss was already exaccerbated from the infection. Mr Alston had also warned the medical department on December 4, 2023 "My ENT Dr McKracken has warned me of ear infections damaging what little hearing I have left." (JA # 3 at 210). Dr Garmans notes combined with Mr Alston's pre-rupture warning prove his affidavit as self-serving. Pfaller, 55 F. 4th at 450 (4th Cir 2022). Mr Alston also in his Brief to the Court of Appeals with his February 3, 2026, Midland Hearing, hearing test results that show "80-100%" hearing loss. (JA # 4 at 380). This is documented evidence of permanent loss as a result of the delay in treatment.

C) March 2024 Ear infection: Mr Alston filed his first KC on March 28, 2024 "I have an infection of some kind on lobe of ear extremely painful...." and Nurse Davis "added to provider list" on March 29, 2024 (JA # 3 at 230). On March 29, 2024 "the infection on my lobe is causing pain in my ear that feels similar to an inner ear infection." (JA # 3 at 231). On March 30, 2024 "my ear is now swollen shut and the pain extends down into my ear starting from the lobe. pain level is 20 out of 10." (JA # 3 at 232). On March 31, 2024 "I woke up with blood and puss on, in, and around ear and all over towel, still painful." (JA # 3 at 233). Nurse Jaime Wilson responded to both KC's (#232 and #233) on March 31, 2024 "on the provider list". On April 1, 2024 "still dealing with pain in my ear and it wont stop leaking." (JA # 3 at 234). B. Lawson responded on April 1, 2024 " This is a duplicate complaint

and you are on the list to be seen." This was HSA B. Lawson admitting she was aware of multiple complaints of pain, and her "failing to act in the unjustifiably high risk of harm" to the patient, Short, 87 F.4th at 611 (quoting Farmer, 511 U.S at 836-37, 114 S.Ct 1970), and further delaying Mr Alstons needed adequate medical care despite his frequent complaints of pain. Webb, 281 F.App'x at 166-67. Mr Alston was finally seen by NP Alex on April 2, 2024, and documented on KC "... Alex examined my ear lobe and inner ear. he confirmed infection and prescribed anti-biotics for both...." (JA#3 at 235). Mr Alston was delayed access to adequate medical care for five days, with the Health Services Administrator admittedly aware of his frequent complaints of pain.

These first three issues according to the Fourth Circuit failed to show any "substantial harm" by quoting Smith v. Walker from 2012, despite the Court of Appeals acknowledging substantial harm as exacerbation of the medical condition or unnecessarily prolonging pain in Formica 739 F.App'x at 755-56, and comparing to sister circuits published opinions. Alderson, 848 F.3d 422; Garrett, 254 F.3d at 950; Hill, 40 F.3d at 1188.

D) Pain from ankle while walking: Mr Alston had to suffer two-hundred and eighty (280) days in pain from every step he took while walking. He filed his first KC on May 10, 2023 "... im now feeling every impact in my heel where I was shot...." and B. Lawson responded two-hundred and eighty one days (281) later on February 14, 2024 "addressed" (JA#3 at 240). On May 11, 2023, Mr Alston filed two KC's about pain at gun shot wound. B. Lawson responded one-hundred and seventeen (117) days later to one, and two-hundred and eighty nine

(289) days later. (JA #3 at 241-242). Mr Alston filed a KC on May 12, 13 and 15, 2024 still looking for an answer about padded shoes for ankle pain. B. Lawson answered all three, where she acknowledged "duplicate item...." (JA #3 at 243-845). He filed six more KC's between May 17, 2023 and September 6, 2023. All were answered by B. Lawson between six and one-hundred and forty-nine (149) days later. (JA # at 246-251). What Mr. Alston was not aware of, was the fact that Nurse Yost had obtained an "approval for inserts" per Dr. Garman (JA # 4 at 272) on June 2, 2023. He learned of the approval when Nurse Sieklicki responded to a KC on September 14, 2023. "new insoles in the package... you are allowed to have this...." (JA #3 at 252). On September 22, 2023 Nurse Sieklicki obtained an approval for "inserts/ortho shoes per provider...." (JA # 4 at 273) Mr Alstons parents ordered and shipped orthopedic shoes to JRLDC on September 22, 2023. (JA # 3 at 254). On September 26, 2023 "... shoes were delivered monday... needs to be an alert in order to get them... this a means to help with the discomfort in my foot where I feel the pain...." (JA # 3 at 256). On September 29, 2023 "administration responded and stated that medical was to deliver the approval to them...." and Nurse Sieklicki responded on October 2, 2023 "... I was told the shoes from Amazon did not pass security checks. This was reviewed with custody staff and the HSA [B. Lawson] on Friday [September 29, 2023]." (JA # 3 at 257). On October 6, 2023 B. Lawson sent an email to Captain Safford "... I thought they would just cause problems as they are not medically necessary and other people will want to have their own shoes, So medical didn't approve them...." (JA # 1 ECF 272 at 11). The key

part of that email is HSA B. Lawson stating "I thought" and "they were not medically necessary." At that point there were two approvals for treatment options for Mr Alston's foot pain. (JA #4 at 272-273), so her statement to Captain Stafford was false. On October 11, 2023 "Beth Lawson told Major Safford there is no alert... there is a medical alert in the system, so please make your corrections with Major Safford...." Nurse Sieklicki responded on October 12, 2023 "... this is not an issue about alerts. The shoes did not pass security checks." (JA # 3 at 258). On October 19, 2023 Mr Alston wrote a KC to administration "It boyd Medical has approved me for shoes ... medical answered saying they have approved orthopedic slip on sneakers...." Lt Boyd responded on October 20, 2023 "Medical did not approve these shoes. they said there was no medical need for them." (JA #6 ECF 103-1 at 31-32). This is proof in the Verified Complaint that despite putting a provider/doctor approval for shoes to help Mr Alstons pain, B. Lawson as the HSA told she thought they were not medically necessary. Any reasonable jury would have no problem seeing B. Lawsons deliberate indifference by "denying medical care once prescribed." Estelle v. Gamble 429 U.S. 97, 104-105, 97 S.Ct 285 50 L.Ed.2d. 251 (1976) "... denying or delaying access to medical care or intentionally interfering with the treatment once prescribed" B. Lawsons actions also contradict her affidavit. "I carry out the orders of the providers (doctors and nurse practitioners)" (JA # 4 at 355 #3), proving her affidavit to being self-serving. Pfaller 58 F. 4th at 450. Mr Alston saw NP Alex on November 9, 2023 and documented in KC "NP Alex told me that Medicko JRLDC policy will not send me to a specialist to diagnose or be fitted for orthopedic shoes...."

(JA # 3 at 260). NP Alex noted in the record under treatment "orthopedic shoes" (JA # 4 at 286). Mr Alston filed a KC on January 22, 2024 "What do I do about the pain in my ankle from bullet wound, still hurts." B. Lawson responded eleven days later on February 2, 2024 "... this might always be a little painful... you can order ibuprofen or tylenol off canteen if you need additional medication for discomfort." (JA # 3 at 261). This was almost nine months of frequent complaints of pain, prior to medical finally approving shoes and him receiving them on February 14, 2024. Webb. 281. F. App'x at 166-67

E) Skin Abnormalities: Mr Alston filed his first KC on March 21, 2023 "I have two spots on my left leg that have been there for years. They have both changed colors. Skin cancer is extremely common in my family." and on March 22, 2023 he was "placed on sick call list." (JA # 4 at 280). On November 1, 2023 "is anyone on staff capable of identifying skin cancer? I have three spots that have changed over the last year." and on November 2, 2023 was "placed on sick call" (JA # 4 at 281). At that point Mr Alston had been on sick call for over seven months, and still had not been seen by medical. On November 3, 2023 "I asked if anyone was capable of diagnosing skin cancer ... as I said before three have changed on my body." B. Lawson responded two-hundred and fourteen (214) days later "duplicate item, already answered" (JA # 4 at 282). On November 6, 2023 "three of the spots on my body are itchy and painful... please dont keep bumping me." and on November 7, 2023, was again "placed on sick call." (JA # 4 at 283). Mr

Alston was finally seen by NP Alex on November 9, 2023 and documented in KC "... NP Alex ... immediately dismissed as skin tags. I informed him that one spot had been diagnosed as squamace ll skin cancer... he said I may have skin cancer, but the policy at JRLDC is to leave it untreated and recommend seek treatment upon release...." B. Lawson responded fifty-five days later on February 2, 2024 "as a pretrial detainee you can request outside medical care... you can have your family reach out to the provider that you wish to see and set up payment ... All pretrial inmates are financially responsible for outside medical care...." (JA #4 at 284). NP Alex noted under treatment on November 9, 2023 "Derm follow-up" (JA #4 at 286). On January 11, 2024 "three of the spots that Alex previously dismissed as skin tags itch and cause pain...." (JA # 4 at 285). Mr Alston, was given no care in almost ten months despite an order for "derm follow-up". Instead he was delayed or rather denied treatment until his release, the same as his orthopedic shoes. (JA #4 at 286) "A condition is objectively serious if 'diagnosed by a physician as mandating treatment'" Short, 84 F. 4th at 612. and Estelle, 429 U.S at 104-05 (1976).

F) Lump in Chest: Mr Alston filed his first KC on February 20, 2024 "... Nurse Cassidy [Queen] came for sick call, told me ... NP Alex said it is most likely a pulled muscle, he didn't come down here, he didn't speak to me... diagnosing is not professional at all... another example of NP Alex non-chalantly throwing out a diagnosis without effort or... research ...

like he did with the spots on my body . . . or his first look at my ear when he said it was not ruptured . . . . " B. Lawson responded eleven days later on March 4, 2024 " will let him know your concerns." (JA # 4 at 289). On February 23, 2024 " . . . last night when rolling over, I found a lump partly under my nipple and below . . . . " and Mr Alston was "added to the list" on February 24, 2024. (JA # 4 at 290) Mr Alston placed six KC about the painful lump between February 28 2024 and March 5, 2024 (JA # 4 at 291-297), before finally being seen by NP Alex on March 4, 2024 (JA # 4 at 306). This is yet another example of frequent complaints of pain while delayed access to medical care. Webb, 281 F. App'x at 166-67.

G). Foot Cracking : Mr Alston filed five KC's about painful skin cracking under bullet wound. (JA # 4 at 312-317). Mr Alston noted on March 5. 2024 "ill put in multiple requests every time I sit and sit on sick call or have issues just dismissed . . . . " and B. Lawson responded "Noted" (JA # 4 at 313). On March 13, 2024 " . . . to dumb it down for you I HAVE EVERY SINGLE LOTION ON CANTEEN and none of them work . . . . " and B. Lawson responded " . . . we are not responsible for lotion for your dry skin . . . . " (JA # 4 at 316) Mr Alston filed his last KC about this issue on March 17, 2024, which Nurse Sieklicki answered " . . . the medical department is here to treat serious medical needs. Dry skin is not considered a serious medical need . . . . " (JA # 4 at 317). This was not a delay but rather a denial of medical care. Nurse Sieklicki's response means JRLDC was not required to treat non-serious medical needs. The Constitution requires " adequate . . . medical

care." Farmer v. Brennan, 511 U.S. 825, 827, 832, 114 S.Ct. 1970 128 L.Ed.2d 811 (1994). "Delays in treating painful medical conditions that are not life threatening can support Eighth Amendment claims." Gutierrez v. Peters, 111 F.3d 1364, 1371 (7th Cir 1997).

Mr Alston has shown through these seven conditions, he frequently complained of pain, his symptoms exacerbated, or even resulted in permant loss due to the prepeated delays or denials of adequate care. The fact that this Fourth Circuit has aknowledged its unpublished opinions in Webb and Sharpe align with its sister circuits published opinions in Alderson, 848 F.3d at 422; Garrett, 254 F.3d at 950; Hill, 40 F.3d at 1188, regarding "substantial harm" being shown through frequent complaints of pain or exacerbation of the medical condition, while still relying on Smith, 845 F.Supp at 677, which only requires "substantial harm" and nothing further is why this Honorable Court, should settled what is required to show "substantial harm" when bringing claims of delays in medical care.

Question 2 Supporting Argument

It is clearly established throughout the circuits that delaying or denying medical care for non-medical reasons can amount to deliberate indifference. See e.g. Watson v. Caton, 984 F.2d 537, 540 (1st Cir 1993); Burton v. Clinger, 2023 WL 439221 (3rd Cir 2023); Hunt v. Sandhir, 295 F.App'x 584, 586 (4th Cir 2008); Ford v. Anderson County, 102 F.4th 298 (5th Cir 2024); Machicote v. Roethlisberger, 969 F.3d 822, 827-28 (7th Cir 2020); Farrow v. West, 320 F.3d 1235, 1246 (11th Cir 2003).

The Tenth Circuit held "the Eighth Amendment prohibits prison officials from denying an inmate medical treatment due to lack of funds or conditioning the provision of needed medical services upon an inmates ability to pay." Cannon v. Mason, 340 F. App'x 495, 498 (10th Cir. 2009). A "delay in treatment cannot be justified as a means to coerce payment." City of Revere v. Mass. General Hospital, Supra, 463, U.S. 239, 103 S.Ct. 2979, 77 L.Ed.2d. 605 (1983)

The Fourth Circuit was faced with a claim of delaying medical care for a medically necessary, doctor ordered, MRI. There was a seven month delay in the plaintiff receiving medical necessary MRI. The defendants in that case "do not contest that they refused to coordinate plaintiffs MRI because he could not secure . . . the assistance of family members to pay for the procedure." Waldrop v. Mueller, 2020 WL 4670621 at *4 (D.S.C. 2020). "this is not a case of delay, but of denial." id.

Waldrop is instructive in this case for multiple reasons. Waldrop, like Mr Alston was a pretrial detainee. The defendants in that case like here in Mr Alstons "do not contest" requiring payment for the medically necessary treatment. Finally, district Judge, Sheri A. Lydon, was the presiding Judge in Waldrop and here in Mr Alston's case.

Waldrop, is however, distinguishable in one regard. Here in Mr. Alston's case, their is evidence in the medical record that proves a denial of medically necessary care due to requiring prepayment. "Wound care consult - approved, HSA to discuss process of payment PRIOR to scheduling of appointment." (JA # 3 at 113). The lower courts have ignored this evidence, submitted and referenced

in every one of Mr Alstons pleadings, and instead relied solely on the defendants affidavits. B. Lawson stated "deprived of an appointment with an outside wound specialist. However, during the time it took to arrange an appointment with a wound specialist Alstons wound improved...." (JA #4 at 356 #8); Garman stated "based on my assessment... I did not believe the patient needed care from an outside wound specialist...." (JA #4 at 361 # 10); Swinney stated "because there was no signs of infection, and no tissue necrosis, there was no longer a need for a wound care specialist...." (JA #4 at 365 #11) and "wound care consult had been approved, and that the Health Services Administrator would discuss with Mr Alston the process of payment." (JA #4 at 365 #10). These affidavits amount to nothing more than self-serving statements, Pfaller, 55 F.4th at 460, that contradict the medical records, and Mr Alstons Verified Complaint. "When opposing parties tell two 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...." Scott v. Harris, 550 U.S. 372, 380, 127 S.Ct. 1769, 167 L.Ed.2d 686 (2007). The most critical contradiction that was repeatedly ignored by the lower courts, despite Mr Alston's, repeated attempts to make aware, was the fact that NP Swinneys affidavit only partially quoted the medical record, and conveniently left out "PRIOR to scheduling of appointment." (JA #2 at 113).

NP Swinney first assessed Mr Alston's gunshot wound on July 27, 2022, where she noted in the record "left ankle open 5cm long x 1cm wide x 2cm deep wound bed beefy dark red, edges concern for early necrosis, no odor, no drainage, and for the first time ordered a "wound care consult." (JA #2 at 111). Mr. Alston saw NP Swinney for the second

time on August 17, 2022 where she noted "left ankle open 5cm long x 1cm wide x 2cm deep wound, wound bed red, edges concern for early necrosis, moderate drainage" and for the second time ordered a "wound care consult." (JA #2 at 112). Swinney's affidavit states "examination of the wound revealed it had not changed in size or quality since July 27, 2022...." (JA #4 at 364 #9). This is a contradiction, as the July 27, 2022 showed "no drainage" (JA #2 at 111) and on August 17, 2022 it noted "moderate drainage" (JA #2 at 112.) Scott, 550 U.S. at 380. Mr. Alston saw NP Swinney again on September 14, 2022 where she noted "left ankle open 5 cm long x 1cm wide x 2cm non healing wound bed red with yellow tissue present, moderate drainage" and finally forty-nine (49) days later "wound care consult - approved, HSA to discuss process of payment PRIOR to scheduling appointment." (JA #2 at 113) Swinney's affidavit states "again the wound remained unchanged" (JA #4 at 365 #10). This again is a contradiction as the wound now had "yellow tissue present" (#2 at 113). She also states "which was reassuring" (JA #4 at 365 #10), which contradicts the medical record "non-healing wound" (JA #2 at 113). Scott, 550 U.S. at 380.

Mr Alston saw Dr Garman for the first time on September 16, 2022, fifty-one days after first being seen by NP Swinney on July 27, 2022. Dr Garman noted "the wound is healing nicely...." and "some concern about referral for wound management" (JA #2 at 114). This record contradicts what NP Swinney, who at that point had seen Mr Alston on three occassions, noted just two days prior "non-healing wound." (JA #4 at 113). Mr Alston saw NP Swinney again on September 27, 2022 where she noted "scant amount of green drainage" and

"did not remove dressing, per patient request, no drainage noted, toes visible...." (JA #2 at 115). Swinneys affidavit states "Upon examination there were no signs or symptoms of infection"... (JA #4 at 365 #11). This contradicts the medical record, as it shows that NP Swinney "did not remove dressing" and "toes visible" (JA #2 at 115). How did Swinney exam the wound if her own notes prove the only thing she could see were his toes. Mr Alston in his Verified Complaint noted on September 27, 2022 "... Told her my foot was infected. She was not interested in looking at the wound at all. She stated that Mediko Inc Employees have done all they can here at JRLDC ... I need to see a wound care specialist and that it would cost me $1,000...." (JA #5 at 53-54, later amended JA #7 at ECF 152 #23). This contradicts NP Swinneys affidavit, but is cooberated by the medical record. Mr Alston saw NP Blake on October 24, 2022, where she noted "granulation tissue ... refer to Wound Clinic for continue care...." (JA #2 at 119). Mr Alston's Verified Complaint noted on October 24, 2022 "... Sally... mentioned going to see a wound care specialist now that the granular tissue had reached the surface...." (JA #5 at ECF 1 at 74). This is another example of the medical record cooberating the Verified Complaint proving its accuracy and integrity. This encounter was also eighty-nine (89) days after NP Swinneys first referral for a wound care consult on July 27, 2022 (JA #2 at 111), and Mr Alston still had not seen a wound care specialist. The defendants through their self-serving uncooberated affidavits, paint a picture, which the lower courts erroneously accepted, that they made an effort to schedule a wound care specialist, but his wound healed during that time, and a specialist was no longer needed. The self-serving statements

are irreconcilable with NP Swinney's September 14, 2022 "HSA to discuss process of payment PRIOR to scheduling appointment." (JA# 2 at 113). No reasonable jury could accept the affidavits as true, when presented with the medical records. The Constitution requires that "prison officials provide a system of ready access to adequate medical care . . . it must be able to treat . . . or refer prisoners to other who can . . . if there is reasonably speedy access to these other physicians or facilities." Hoptowit v. Ray, 682 F.2d 1237, 1253 (9th Cir 1982).

Mr Alston documented a visit with Dr Garman on December 19, 2023 "after discussing my further hearing loss, Dr confirmed he can not determine the extent of damage done to my ear . . . and said I aneed an ear, nose, and throat Dr to truly determine the extent of damage. He confirmed that Mediko and JRLDC would not be sending me to an ENT Dr. that I should upon release . . . ." (JA# 3 at 214). Garman stated in his affidavit that he "had no concerns about the ear infection exacerbating his pre-existing hearing loss . . . ." (JA# 4 at 361 # 14). This is another example of a self-serving statement, Pfaller, 55 F 4th at 960, that is contradicted by the medical record, Scott, 550 U.S. at 380, Garman in the medical record noted "Since right ear infection, he has less hearing, even with hearing aid . . . Consider serous otitis or residual infection . . . ." (JA# 3 at 222). Garmans medical notes prove he was aware of the pre-existing hearing loss being exacerbated, and despite not knowing the cause chose to not order an ENT referral. "he could coordinate care post-incarceration or ask his family to do so during incarceration. There was no urgent medical need for an ENT referral, and I did not order one." (JA # 4 at 362 # 14). This statement also contradicts the medical record.

Mr Alston documented the December 19, 2023 encounter in a KC on December 19, 2023, the same day, and their was no mention of Mr Alstons family arranging an ENT during incarceration. Garmans "during incarceration" statement is referring to B. Lawsons response to a KC "there has been no provider order for an outside ENT visit. As mentioned in a previous encounter. If you or your family can arrange payment for an outside ENT visit we will do our part to arrange transport." (JA # 3 at 216). This response came on February 2, 2024.

Mr. Alston documented a November 9, 2023 encounter with NP Alex Petkovsek in two seperate KC's "NP Alex... said I may have cancer but the policy at JRLDC is to leave untreated and recommend seek treatment upon release...." B. Lawson responded fifty-five days later on February 2, 2024. "As a pretrial detainee you can request outside medical care at any time. In order for us to send you to an outside appointment that is at your request, you can have your family reach out to the provider that you wish to see and set-up payment with them. Once that has been arranged and we are notified by the doctors office, we will schedule the appointment ...." (JA # 4 at 284). This is the "previous encounter" B. Lawson referred to above (JA # 3 at 216). The responses were on the same day February 2, 2024 but B. Lawson attempted to make it appear like it was not. The second KC from November 9, 2023 "NP Alex told me that Mediko-JRLDC policy will not send me to an specialist to diagnose or be fitted for orthopedic shoes, and its policy to recommending seaking treatment upon release...." (JA # 3 at 260). Whats most interesting about the encounter

is the fact that NP Alex Petkousek noted under treatment "Derm follow-up . . . orthopedic shoes." Here Mr Alston was not treated for his serious medical needs. "A condition is objectively serious if it is "diagnosed by a physician as mandating treatment." Short, 87 F.4th at 612. Petkouseks treatment notes have proven that Mr Alstons needs were serious.

Each medical condition was denied adequate medical care due to a policy at the jail that requires pretrial detainees to seek treatment upon release, and if they wish to seek outside medical care, whether or not it is considered medically necessary, they are financially responsible for the care. Mr Alston documented in his verified complaint three seperate conditions where he was told to seek treatment upon release November 9, 2023 for cancer (JA#4 at 284); November 9, 2023 for orthopedic shoes (JA#3 at 260); December 19, 2023 for hearing loss (JA#3 at 214). These were each documented months befor B. Lawson detailing the policy requiring pretrial detainees to request and pay for outside care (JA#4 at 284 and JA#3 at 216). "The Eighth Amendment prohibits prison officials from denying an inmate medical treatment due to a lack of funds or conditioning the provisioning of needed medical services upon the inmates ability to pay." Cannon, 340 F.App'x at 498. "no showing of resultant harm is needed where a defendant improperly denies or interferes with prescribed treatment." Formica, 739 F. App'x at 756 n.7 (citing Estelle, 429 U.S. at 104-05). The defendants claims of denying medical care from outside specialists, for any excuse other than requiring prepayment, fails due to B. Lawsons response "All pretrial inmates are financially

responsible for outside medical care." (JA #4 at 284). The defendants will not, and can not provide any proof of attempts to scheduling any appointments for outside medical care because the medical records, which discredit the defendants affidavits, says they didn't. "HSA to discuss process of payment [PRIOR TO SCHEDULING APPOINTMENT]." (JA #2 at 113).

It is worth noting a reasonable jury could easily infer that Dr Garmans decision to not send Mr Alston to a specialist to rule out a brain tumor, and chose the less effacious diagnosis of Bells Palsy, was done due to the policy of not sending to outside medical care and requiring detainees to request and pay for the treatment. Regretably Mr Alston was not able to petition for Writ of Certiorari just once due to the courts 40 page limit.

Short v. Hartman is instructive, as each encounter above, "it is enough that the plaintiff show that the defendant ... failed to act in ~~the~~ ~~face~~ the face of an unjustifiably high risk of harm that is either known or so obvious that it should be known." 87 F. 4th at 611 (quoting Farmer, 511 U.S. at 836

Question 3 Supporting Argument

In order to succeed on a § 1983 claim for supervisor liability a plaintiff must show : 1) that the supervisor had actual or constructive knowledge that her subordinate was engaged in conduct that posed "a pervasive and unreasonable risk" of Constitutional injury to citizens like the plaintiff ; 2) that the supervisors response to that Knowledge was so inadequate as to show

deliberate indifference or tacit authorization of the alleged offensive practices; and 3) that their was an affirmative casual link between the inaction and the particular constitutional injury suffered by the plaintiff. Shaw v. Stroud, 13 F.3d 791, 799 (4th Cir 1994).

As to the First element, "establishing a pervasive and unreasonable risk of harm requires evidence that the conduct is widespread or at least has been used on several different occassions and that the conduct engaged in by the subordinate poses an unreasonable risk of harm of constitutional injury." id. Mr Alston, throughout his verified complaint and every pleading over the course of the litigation of this case, has detailed several occurrences of being denied access to outside medical specialists, due to a policy that requires detainees to request and prepay for All outside medical care, PRIOR to scheduling of appointments. Occurrences detailed in Mr Alstons verified complaint and KC's are:

A) December 19, 2023 "after discussing my further hearing loss Dr Garman . . . confirmed Medike and JRLDC would not be sending me to an ENT Dr that I should upon release . . . ." (JA#3 at 214).

B) B. Lawson responded to a January 2, 2024 KC about hearing loss, thirty-one (31) days later on February 2, 2024 "there has been no provider order for an outside ENT visit . . . if you or your family can arrange payment for an outside ENT visit, we will do our part to arrange transport." (JA#3 at 216).

C) November 9, 2023, NP Alex Petkovsek said "I may have

cancer, but the policy at JRLDC is to leave untreated and recco-
mmend seek treatment upon release." (JA #4 at 284).

D) B. Lawson responded to C above fifty-five days later on February 2, 2024 "in order for us to send you to an outside appointment that is at your request you can have your family reach out to the provider that you wish to see and set up payment with them. Once that has been arranged and we are notified by the doctors office, we will shedule the appointment... All pre-trial inmates are financially responsible for outside medical care...." (JA #4 at 284)

E) November 9, 2023 NP Alex Petkousek said "Mediko-JRLDC policy will not send me to a specialist to diagnose or be fitted for orthopedic shoes and its policy to recommend seeking treatment upon release...." (JA #3 at 260)

F) November 9, 2023 medical record NP Alex Petkousek noted under treatment "Derm follow-up" and "orthopedic shoes" (JA #4 at 286).

G) September 14, 2022 NP Swinney noted "wound care consult - approved HSA [B. Lawson] to discuss process of payment PRIOR to scheduling appointment...." JA #2 at 113).

H) September 27, 2022, NP Swinney "informed me that I need to see a wound care specialist and that it would cost me $1,000...." (JA #5 ECF 1 at 54, later amended JA #7 ECF 152 at 23).

B. Lawson, the Health Services Administrator (JA #4 at 355 #2), on multiple occassions, documented the uncon stitutional policy herself. Whether a doctor or provider

ordered outside medical care, made no difference as evidenced by NP Swinneys medical notes "HSA to discuss process of payment prior to scheduling appointment." (JA # 2 at 113), or B Lawsons statement "All pretrial inmates are financially responsible for outside medical care. ..." (JA#4 at 284).

As to the second element, "plaintiff may establish deliberate indifference by demonstrating a supervisors continued inaction in the face of documented abuses." id. B. Lawson herself responded to every KC referenced above, and in those responses she documented the unconstitutional policy. (JA # 3 at 216 & JA # 4 at 284). The most over looked piece of evidence during these pleadings, is Swinney's note "HSA [(Beth Lawson)] to discuss process of payment PRIOR to scheduling appointment." (JA #5 ECF 1 at 54 later ammended JA # 7 ECF 152 at 23).

As to the third element "proof of causation may be direct ... or may be supplied by the tort principal that holds a person liable for the natural consequences of his actions." id. Mr Alston has shown B. Lawson implicating herself by dictating the unconstitutional policy, as it denies ready access to adequate medical care. Hoptowit, 682 F.2d at 1253. Dr. Garman as the medical director (JA # 4 at 359 # 2), implicates himself by his use of the policy when he recommended seeking treatment upon release. (JA # 3 at 214), instead of ordering an outside ENT visit.

Mr Alston made extensive use of the Kiosk during his over two year incarceration. He filed over one hundred and

thirty (130) KC's. B. Lawson responded to ninety-nine (99) of them with delays ranging from two days to the perverse two-hundred and eighty-nine (289) days (JA # 2, #3, and #4 passim). B. Lawson first was aware of the perverse delays in responding to KC's, causing delays in treatment, when she responded to a September 8, 2022 KC fifty-four days later on November 1, 2022. (JA # 2 at 93). Any and all delays in responding to KC's, or sick calls, after that is B. Lawsons tacit authorization of the ineffective sick call system. "Central to the issue of medical staffing is the necessity of a supervising physician to assume the overall system is functioning properly to meet the needs of the population . . . nursing staff should be available to adequately provide daily review of sick call requests." Alexander S. v. Boyd, C/A no 3:90-3062-17 (D.S.C. Nov. 22 1995) (affirmed by Bornside v. Boyd, 89 F.3d 827 at 2 (4th Cir 1996)).

Question 4 Supporting Argument

After extensive research, Mr Alston has not found much information or case law to properly cite in support of his question. The closest information is this Honorable Courts ruling in Houston v. Lack, 487 U.S. 266, 108 S.Ct. 2379, 101 L.Ed.2d 245 (1988). Houston laid the framework for the prisoners mailbox rule. In Houston, it was held "the lack of control of pro se prisoners over delays extends much further than that of the typical civil litigant: pro se prisoners have no control over delays between the prison authorities receipt of the notice and its filing,

and there lack of freedom bars them from delivering the notice to the court clerk personally." id at 273-74. So would it not be suffice to say the same of incoming mail to pro se prisoners?

Here in the instant case, the Fourth Circuit Court of Appeals decided on this case June 1, 2026 (JA#1). Local Rule 40(c) of the Fed. R. App. Proc. for the Fourth Circuit states "The court strictly enforces the time limits of filing petitions for rehearing and petition for rehearing en banc... 14 days after the entry of judgment...." Mr Alston did not receive the court of appeals decision until Friday June 5, 2026. Pro se prisoners do not have access to electronic filings, at least not in South Carolina, and have no control of mail arriving to a jail or prison vs. when they are actually given the mail. Here at Perry Correctional, the mail room sends Orders to Report to mail room for legal mail, the day after they receive and sort through the mail. Inmates are only allotted one scheduled time per day to deposit outgoing legal mail.

The strict enforcement requirement required Alston to draft his petition for rehearing and rehearing en banc in six days, so that he could get up and deposit in the mailroom at 9:00 am on Friday June 12, 2026. Without allowing inmates to rely on Fed. R. App. Proc Rule 26 (a)(1)(A) which is the exclusion of the day of the event that triggers the period. Mr Alston was required, according to the clerk to have his submitted no later than June 14, 2026, which was a Sunday. Pro se inmates are also not allowed to rely on Rule 26(c), which is

where the undo burden arrises. Rule 26(c) extends time for filing by three days, when the paper is not served electronically on the party or delivered to the party on the date stated in the proof of service. This drastically reduces the amount of time pro se inmates are afforded to file a petition for rehearing. The Fourth Circuit is not the only circuit to have a strict time to file rule, however they are the only circuit with a 14 day time frame without allowing the application of Federal Rules of Appeallate Procedure Rule 26.

Regrettably Mr Alston does not have any further argument on this question beyond his simple logic, and seeks this Honorable Courts opinion.

Conclusion

When the courts summarily close their doors to valid prisoners claims of violations of their paramount federal Constitutional rights, involving extreme maltreatment and procedural unfairness, a climate is created in which horrendous abuses are permitted and encouraged to flourish in the nations penal institutionss, with calamitous results for the rehabilitation process. We do not suggest that the federal courts should be prime movers in the growing prison reform movement. However when prisoners are subjected to inhumane treatment, and are denied fundamental procedural safeguards, which deprivations are not justified by the necessities of prison discipline and security, and which infringe upon constitutially protected liberties,

then the courts must excercise their remedial jurisdiction clearly conferred by Congress to establish a due process minimum level of human dignity and procedural fairness, below which the states may not go.

For the foregoing reasons, the judgments below should be reversed, and the case remanded to the district court for further proceedings, and certiorari should be granted for this case.

August 31, 2026

Respectfully Submitted

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I hereby declare under the penalty of perjury, the information herein is true and correct to my knowledge and and experience.

Executed at Perry Correctional on August 31, 2026