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APPENDIX A

PUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1449

RANDLE JACKSON, individually and as the Personal Representative of the Estate of Dashaun Simmons,
Plaintiff - Appellant,

v.

GERALD BUSH; DONTAI PARKS; CHERYL YOUNGQUIST; MICHELLE MAPP; THOMAS ROBERTSON,
Defendants - Appellees.

Appeal from the United States District Court for the District of South Carolina, at Aiken.

Jacquelyn Denise Austin, District Judge. (1:23-cv-04955-JDA)

Argued: March 19, 2026 Decided: July 9, 2026

Before DIAZ, Chief Judge, and GREGORY and BENJAMIN, Circuit Judges.

Affirmed by published opinion. Chief Judge Diaz wrote

the majority opinion, in which Judge Benjamin joined. Judge Gregory wrote a separate opinion concurring in part and dissenting in part.

ARGUED: Joshua Thomas Hawkins, HAWKINS & JEDZINIAK, LLC, Greenville, South Carolina, for Appellant. Andrew Lindemann, LINDEMANN LAW FIRM, P.A., Columbia, South Carolina, for Appellees. **ON BRIEF:** Helena LeeAnn Jedziniak, HAWKINS & JEDZINIAK, LLC, Greenville, South Carolina, for Appellant. William H. Davidson, II, Brian C. Mauldin, DAVIDSON & WREN, P.A., Columbia, South Carolina, for Appellee Gerald Bush. Russell W. Harter, Jr., CHAPMAN HARTER, P.A., Greenville, South Carolina, for Appellee Dontai Parks. David A. DeMasters, RILEY POPE & LANEY, LLC, Columbia, South Carolina, for Appellees Cheryl Youngquist, Michelle Mapp, and Thomas Robertson.

DIAZ, Chief Judge:

After a South Carolina Department of Corrections officer let inmates Jonathon Dominick and Dashaun Simmons out of their cells, Dominick retrieved a homemade weapon and brutally murdered Simmons. Simmons's estate sued several prison officials, alleging that they violated the Eighth Amendment by being deliberately indifferent to Simmons's safety and medical needs.

The district court granted summary judgment for the officers, and we now affirm. Simmons's death was a tragedy, but as we explain, the officers' conduct did not violate the Eighth Amendment.

I.

A.

Over the roughly six years that Simmons was incarcerated, other inmates attacked him at three different correctional facilities. He was stabbed twenty-three times in 2017 and was stabbed, bitten, and thrown down a flight of stairs in 2019.

After the 2019 attack, Simmons was transferred to McCormick Correctional Institution, a maximum-security prison. He lived in Dorm F-2 of the "A-Wing," which houses "inmates [who] were denied state-wide protective custody." Joint Appendix (J.A.) 2372. Inmates in the A-Wing don't "have contact with the rest of the inmate population." J.A. 2372.

Simmons was threatened at this facility, which he reported to some unidentified officers. And other inmates assaulted him there—by punching him and throwing hot water on him—at least once before his death. At one point, Simmons asked medical staff if it was "necessary[] for someone to die before someone will take him seriously." J.A. 19.

B.

Then came the fateful day in November 2020. Officer Gerald Bush and trainee Michelle Mapp were on duty in Dorm F-2. Bush normally worked in a different dorm, so he wasn't "familiar with everybody" in Simmons's unit. J.A. 258.

Bush was responsible for "opening the top tier" of the dorm to let inmate workers out of their cells. J.A. 2372. When he let Simmons out, Simmons was "smiling and joking." J.A. 2372–73. Bush wasn't aware that other inmates had previously attacked and threatened Simmons.

An unidentified inmate worker told Bush that two other inmates, Jonathon Dominick and Darius Ransom, were barbers and could be let out to cut inmates' hair. Protocol called for Bush to consult a list of authorized workers or contact a supervisor to verify that they could be released. But Bush failed to do so. His typical practice was instead to "let barbers out if they asked to be let out." J.A. 668.

Bush walked over to Dominick and Ransom and asked them, "don't bullshit me, do y'all cut hair[?]" J.A. 670–71. They confirmed, "yeah, man, we cut hair." J.A. 671. Bush then opened their cells without further verification.

But Dominick lied about being a barber.[1] According to an investigative report prepared by the South Carolina Department of Corrections, security footage shows that Dominick left his cell at 7:42 a.m.

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[1] Dominick worked as a "ward keeper assistant." J.A. 148. We don't have access to the authorized worker's list, but a Department official submitted a declaration that Dominick would have been permitted to leave his cell even as a ward keeper assistant. At the same time, Youngquist testified that Bush "should not have let anybody out" that day because he was the only certified officer on duty. J.A. 163.

and returned shortly after. He left his cell again at 7:48 a.m., this time holding an eight-inch ice pick made from a sink. At 7:54 a.m., Dominick walked out of the security cameras' view, and there is no footage of the attack on Simmons.

An inmate witness reported that Dominick, Ransom, and Simmons crossed paths in the top tier and began arguing. Ransom hit Simmons in the face, and Dominick then stabbed Simmons in the back. Simmons managed to return to his cell, where the inmate witness found him "near[ly] passed out." J.A. 572. The other inmate picked Simmons up and began to look for help.

At that moment, Officer Cheryl Youngquist came to replace Bush on duty. She saw an inmate carrying Simmons and running toward her. The inmate called for her to open the dorm's entrance door. Youngquist initially "thought they were playing" and didn't open the door. J.A. 567. But within two minutes, she realized that Simmons was bleeding heavily and called for medical help.

Officer Dontai Parks was on a golf cart headed to his post. When he heard Youngquist's call, he drove to the F-2 dorm and allowed two inmates to put Simmons on the cart. He then drove Simmons to the yard gate and let the medical team take over.

Simmons was transported to a hospital, where he died from the stab wound.

C.

The representative of Simmons's estate, Randle Jackson, sued Bush, Mapp, Youngquist, Parks, and Thomas Robertson (the prison's associate warden) under 42 U.S.C. § 1983 and state law.[2]

Jackson alleged that the officers violated Simmons's Eighth Amendment rights. According to the complaint, the defendants knew that Simmons faced a substantial risk of serious harm from other inmates, yet they failed to protect him from the attack and to provide him with adequate medical care afterward.

The defendants asserted qualified immunity and moved for summary judgment. A magistrate judge issued a report recommending that the district court enter judgment for the officers. Jackson filed objections to that report. But the district court overruled all of Jackson's objections, adopted the magistrate judge's findings, and granted the defendants summary judgment.

This appeal followed.

II.

"We review district court decisions on motions for summary judgment and qualified immunity de novo." *Quinn v. Zerkle*, 111 F.4th 281, 290 (4th Cir. 2024). "[W]e must view the undisputed facts and all

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[2] Jackson also sued the warden, John Palmer, but the district court granted Palmer summary judgment. Jackson doesn't appeal that decision.

reasonable inferences drawn therefrom in the light most favorable to [Jackson] to determine whether there is a genuine dispute as to any material fact." *Id.*

III.

Since Jackson sued the officers in their individual capacities, they're protected by qualified immunity so long "as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). To overcome this defense, Jackson must show "(1) that the government official[s] violated a statutory or constitutional right and (2) that right was clearly established at the time of the challenged conduct." *King v. Riley*, 76 F.4th 259, 265 (4th Cir. 2023). "[W]e may address the prongs in whatever order we choose." *Id.*

We focus our analysis on the first prong: whether the officers' conduct violated the Eighth Amendment.

A.

We start with Jackson's claim that Bush and Mapp were deliberately indifferent to Simmons's risk of being attacked. "The Eighth Amendment protects a convicted inmate from physical harm at the hands of fellow inmates resulting from the deliberate or callous indifference of prison officials to specific known risks of such harm." *Pressly v. Hutto*, 816 F.2d 977, 979 (4th Cir. 1987) (citation modified).

Such a claim "requires two showings, one

objective and one subjective." *Jehovah v. Clarke*, 798 F.3d 169, 181 (4th Cir. 2015). First, the plaintiff must establish "that the deprivation of a basic human need was objectively sufficiently serious." *De'Lonta v. Angelone*, 330 F.3d 630, 634 (4th Cir. 2003) (citation modified). Second, the plaintiff must demonstrate "that subjectively the officials acted with a sufficiently culpable state of mind." *Id.* (citation modified).

Satisfying the subjective prong requires "something more than mere negligence," but "something less than acts or omissions for the very purpose of causing harm or with knowledge that harm will result." *Farmer v. Brennan*, 511 U.S. 825, 835 (1994). The standard is close to recklessness: an official is liable when he "knows of and disregards an excessive risk to inmate health or safety." *Id.* at 837. "[T]he official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." *Id.*

While it's a high bar, "prison officials may not simply bury their heads in the sand and thereby skirt liability." *Makdessi v. Fields*, 789 F.3d 126, 133 (4th Cir. 2015). A plaintiff can show that an officer knew about a substantial risk through circumstantial evidence, including "the very fact that the risk was obvious." *Farmer*, 511 U.S. at 842.

We consider a risk "obvious" when the "plaintiff presents evidence showing that a substantial risk of inmate attacks was longstanding, pervasive, well-documented, or expressly noted by prison officials

in the past, and the circumstances suggest that the defendant-official being sued had been exposed to information concerning the risk." *Id.* at 842–43 (citation modified).

"[I]t does not matter whether the risk comes from a single source or multiple sources, any more than it matters whether a prisoner faces an excessive risk of attack for reasons personal to him or because all prisoners in his situation face such a risk." *Id.* at 843. "Nor may a prison official escape liability . . . by showing that, while he was aware of an obvious, substantial risk to inmate safety, he did not know that the [injured inmate] was especially likely to be assaulted by the *specific* prisoner who eventually committed the assault." *Id.* (emphasis added).

Still, prison officials "remain[] free to rebut the deliberate indifference charge, even in the face of an obvious risk." *Makdessi*, 789 F.3d at 134. For example, they might show "that they did not know of the underlying facts indicating a sufficiently substantial danger and that they were therefore unaware of a danger, or that they knew the underlying facts but believed (albeit unsoundly) that the risk to which the facts gave rise was insubstantial or nonexistent." *Farmer*, 511 U.S. at 844.

At oral argument, Jackson conceded that his claim against Mapp might not rise to the level of deliberate indifference. We agree.

Since Mapp was only a trainee, not a certified officer, she couldn't handle keys or open any doors in

the facility herself. She believed that Bush had verified that Dominick and Ransom could be released before he opened their cells. And Mapp also wasn't aware that Simmons was being threatened by other inmates at McCormick, that he'd been attacked at other facilities, or that Dominick had a weapon. So there's no evidence that Mapp knew that Simmons faced a substantial risk of harm.

With Mapp in the rear-view mirror, we consider Bush's liability.

2.

Only the subjective prong of the deliberate indifference test is in dispute. Jackson argues that Bush disregarded an obvious risk to Simmons's safety by failing to properly verify that Dominick and Ransom were allowed out of their cells and by failing to closely supervise the inmates.

In hindsight, letting Dominick and Ransom out posed a significant threat. But we must consider how Bush perceived the risk at the time. *See Parrish ex rel. Lee v. Cleveland*, 372 F.3d 294, 303–04 (4th Cir. 2004). And the record doesn't show that he subjectively perceived a risk when he let the two inmates out.

Jackson contends that the risk was obvious because letting inmates out of their cells without proper verification violates the prison's protocol. But even "knowingly violating a prison policy does not amount to deliberate indifference." *King*, 76 F.4th at 267. Instead, "[t]o establish that a risk is 'obvious' . . .

a plaintiff generally is required to show that the defendant 'had been exposed to information concerning the risk and thus must have known about it.'" *Danser v. Stansberry*, 772 F.3d 340, 348 (4th Cir. 2014) (quoting *Farmer*, 511 U.S. at 842). This Jackson failed to do.

Simmons allegedly told some unidentified officers at McCormick that he was being threatened. But there's no evidence that Bush knew this. According to Bush, Simmons never told him that he had "a problem with other inmates." J.A. 272. Without more, we can't say that Bush must have known there was a risk in letting other inmates out around Simmons. *Cf. Cox v. Quinn*, 828 F.3d 227, 237 (4th Cir. 2016) (finding that officers knew of a risk where the plaintiff "repeatedly informed [them] that he feared for his safety").

Jackson argues that circumstantial evidence suggests that Bush knew about the risk. He emphasizes that McCormick is a maximum-security prison and that all inmates in Simmons's unit "had previously applied for and been denied protective custody." Appellant's Br. at 17. So, the argument goes, "Bush should have known that there was a reasonable possibility that Simmons had been attacked in the past and was therefore vulnerable to further violence." *Id.* at 18. Finally, Jackson claims that Bush should have appreciated the risk because when he was working at a different prison, he witnessed another incident "where inmates obtained weapons and attempted to attack other inmates." *Id.*

But it's not enough to show "that an official

should have known of a risk." *Jackson v. Lightsey*, 775 F.3d 170, 178 (4th Cir. 2014). Bush testified that no one ever told him about the prior attacks inflicted on Simmons. And Bush wasn't "required to check the prison databases in which that information was contained" before letting inmates out of their cells. *Danser*, 772 F.3d at 348. Nor is there evidence that Bush "actually knew Dominick was carrying a weapon on the morning of the assault." J.A. 2418.

It's true that Simmons and Dominick both lived in the restricted A-wing unit. Yet, that doesn't mean that Bush perceived a risk in letting them out at the same time. In *Danser*, we explained that "[t]he mere fact that [two inmates] each had separation orders with respect to other inmates does not show that [the officer] would have appreciated the risk posed by putting [those two inmates] in the same recreation cage." 772 F.3d at 348.

And while A-wing inmates couldn't mingle with the general population, Jackson hasn't shown that they couldn't do so within their own unit—indeed, the prison's practice of letting inmate workers out of their cells shows that some interaction in the dorm was expected. *Cf. Case v. Beasley*, 167 F.4th 651, 656 (4th Cir. 2026) (Eighth Amendment claim survived summary judgment because the officers knew that some inmates were to be separated from the general population yet still let the two groups interact). We found an Eighth Amendment violation in *Case* where the safety risk of violating the separation policy was "expressly noted by prison officials and communicated to the [defendants]." *Id.* at 660. But here, there isn't

any evidence that the risk of letting an inmate worker out without proper verification was previously communicated to Bush.[3] So we can't say that the risk "was so obvious as to justify an inference of actual knowledge." *Parrish*, 372 F.3d at 305.

Finally, the other incident of inmate violence that Bush witnessed occurred at a separate facility and involved different inmates. And we don't know how the inmates at that other facility orchestrated their attack and, specifically, whether they too lied to Bush about their job status to be released. Without that context, the anecdote doesn't show that Bush appreciated the risk in Simmons's case.

Bush's lax verification standards are troubling. So is the fact that Dominick walked around the dorm with a weapon for over six minutes. But the deliberate indifference standard is a high one, and Jackson didn't establish that Bush acted with the requisite state of mind.[4]

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[3] Our colleague would have us infer that Bush knew about the risk because he relied on inmates to verify Dominick's and Ransom's jobs despite knowing that inmates aren't always honest. Dissent at 24–25. But Bush's statements don't suggest that he subjectively believed his actions created an unreasonable safety risk. Tragically, we now know he was wrong. But hindsight has no role in deciding whether Bush was deliberately indifferent to the risk of harm.

[4] We would be satisfied to end our analysis here. Our colleague though tackles the second step of qualified immunity, but here too he gets it wrong. The dissent says that "'exacerbat[ing] a known and substantial risk that the plaintiff

B.

We turn next to Jackson's claim that Youngquist and Parks were deliberately indifferent to Simmons's medical needs after he was stabbed. Prison officials may violate the Eighth Amendment when they "fail[] to provide adequate medical care to an inmate." *Iko v. Shreve*, 535 F.3d 225, 241 (4th Cir. 2008). Again, such a claim involves an objective and subjective component. *Id.*

The plaintiff must first establish that the inmate had an objectively "serious medical need[]." *Id.* (citation modified). He must then show that the prison official subjectively "[knew] of and disregard[ed] the risk posed by the serious medical needs of the inmate." *Id.* (citation modified).

The official's actions must be "so grossly

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would be attacked by other incarcerated individuals'" violates clearly established law. Dissent at 28 (quoting *Case*, 167 F.'th at 663). But *Case* isn't on all fours: we said there that the risk was "known" because the officers were "repeatedly admonished" about the safety risk associated with violating prison policy. 167 F.'th at 662; *see also Cox*, 828 F.3d at 239 (affirming denial of qualified immunity where officers were "repeatedly informed" of threats to an inmate). Bush had no such warning.

Without that link, Jackson needs precedent establishing a constitutional right to have an officer properly verify inmate workers before releasing them from their cells. *See King*, 76 F.'th at 266 (defining the right at issue as the inmate's "right to have . . . a correctional officer look into the cell window while conducting a security check"). Jackson hasn't pointed to such a case, nor have we found one.

incompetent, inadequate, or excessive as to shock the conscience or to be intolerable to fundamental fairness." *Hixson v. Moran*, 1 F.4th 297, 303 (4th Cir. 2021) (citation modified). "[A] significant delay in the treatment of a serious medical condition may" support an Eighth Amendment violation if the delay caused "some substantial harm to the patient." *Webb v. Hamidullah*, 281 F. App'x 159, 166 (4th Cir. 2008).

1.

At oral argument, Jackson conceded that he may not have a viable claim against Parks. We agree that Parks, who drove Simmons to first responders on his golf cart, wasn't deliberately indifferent to Simmons's medical needs.

There's no evidence that Parks knew that driving Simmons directly to the medical team posed any risk to his health. Nor is there evidence that transporting Simmons on the cart unduly delayed his treatment. Parks's actions were instead "good-faith efforts" to help Simmons. *Koon v. North Carolina*, 50 F.4th 398, 407 (4th Cir. 2022).

2.

As to Youngquist, once again, only the subjective prong is at issue. Jackson argues that Youngquist was deliberately indifferent to Simmons's medical needs because when another inmate called for help after the attack, she initially "thought they were playing" and didn't open the dorm's entrance door immediately. J.A. 567.

The magistrate judge found that "nothing in the record showed that Youngquist's . . . actions were grossly incompetent" or otherwise rose to the level of deliberate indifference. J.A. 2412. The judge concluded that Youngquist instead "acted to assist Simmons immediately upon [her] realization of his serious medical need." J.A. 2386.

Jackson objected to these findings, but he didn't offer any argument or evidence as to why the magistrate judge was wrong. So the district court found his objections conclusory and overruled them.

The lack of specificity in Jackson's objections means that he has forfeited them on appeal. *See United States v. Midgette*, 478 F.3d 616, 622 (4th Cir. 2007) ("[T]o preserve for appeal an issue in a magistrate judge's report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.").

And on the merits, the deliberate indifference claim still fails. Youngquist "must have actually known that [her] response was inadequate to address [Simmons's] needs." *Iko*, 535 F.3d at 241 (emphasis omitted). But there's no evidence that Youngquist knew that Simmons needed medical attention when she arrived at the dorm.

Another inmate called for her to open the door, but it doesn't appear that he told her why. And when Youngquist realized—just a few minutes later—that Simmons was hurt, she "responded reasonably to the

risk" by immediately opening the door and calling for medical help. *Farmer*, 511 U.S. at 844. So Youngquist didn't "significant[ly] delay" Simmons's care. *Webb*, 281 F. App'x at 166.

C.

Finally, Jackson brought a supervisory liability claim against Robertson, the associate warden. But at oral argument, he also conceded this claim. We agree with the district court that Jackson failed to show "that Robertson had actual or constructive knowledge that Bush was engaged in conduct that posed a pervasive and unreasonable risk 5 of constitutional injury to inmates." J.A. 2422.[5]

IV.

Since Jackson didn't establish an underlying constitutional violation, the officers are entitled to qualified immunity and summary judgment.

AFFIRMED

GREGORY, Circuit Judge, concurring in part and dissenting in part:

Three weeks before Dashaun Simmons's death, he

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[5] Of course, we've found that Bush's actions didn't breach constitutional norms. For that reason alone, no supervisory liability could extend to Robertson. *See Doe v. Rosa*, 664 F. App'x 301, 304 (4th Cir. 2016) ("There can be no supervisory liability when there is no underlying violation of the Constitution.")

asked prison staff if it was "necessary for someone to die before someone will take him seriously." J.A. 344 (cleaned up). And now, even after Simmons's death, his haunting question is left unanswered. Simmons is not here to flesh out the record before us, to tell us what happened and who was responsible. As we attempt to understand the events leading to his death, we must view the record in the light most favorable to the nonmovant. The majority instead fully credits the account of the moving party—Bush—and dismisses any inferences that may be made against him. I believe this is error, so I would reverse the district court's decision as to Bush.

1.

Dashaun Simmons was a prisoner in the South Carolina Department of Corrections ("SCDC") between 2014 and his death in November 2020. His time in SCDC tells a horrific and shameful story of individual and institutional failure. In June 2017, Simmons began to be threatened by other prisoners at the Broad River Correctional Institution in Columbia, South Carolina. He reported these threats to prison officers, but he was ignored. In July 2017, one prison officer opened several cell doors, which allowed other prisoners to assault Simmons. Simmons was stabbed twenty-three times, and his jaw was broken. J.A. 18.

After returning from the hospital, he was transferred to Perry Correctional Institution. But the threats continued, this time from other prisoners at Perry. He told prison officers about the threats and his fear of being killed, yet the officers did not move

Simmons. In April 2019, Simmons was again attacked: he was "stabbed twice in the neck, bitten multiple times on the face, and pushed down a flight of stairs." J.A. 19. Simmons was transferred to McCormick Correctional Institution following the attack, where he remained until the fatal encounter that spawned this litigation.

At McCormick, Simmons was housed in the "adjustment unit," Dorm F-2, which houses prisoners who requested and were denied protective custody by SCDC. J.A. 185–86. Superintendent Robertson could not explain why Simmons was denied protective custody and claimed no knowledge of Simmons's history, though Simmons's medical records indicate that Simmons repeatedly discussed his trauma history with prison employees. J.A. 212, J.A. 1754. In fact, prison employees kept detailed notes of Simmons's grueling experiences. Simmons cut himself once to "get out of the cell" because another prisoner had told him, "I'm going to beat the hell out of you and then fuck you afterwards." J.A. 1753. One prisoner threw hot water on Simmons, burning him, while another prisoner "intentionally punched" him in the stomach. J.A. 351–56, J.A. 1723. During a mental health session in October 2020, Simmons stated that he believed "nothing [was] being done about [his] situation. J.A. 1723. He asked prison staff if it was "necessary(6) [*sic*] for someone to die before someone will take him serious[ly]." J.A. 344.

A few weeks later, on November 3, 2020, Defendant Gerald Bush was assigned to the adjustment unit. Bush had worked the unit "several

times in the past." J.A. 254. Bush was responsible for "open[ing] top tier," which he testified meant that he was to release the prisoners who worked particular jobs in the prison, such as barbers. J.A. 254.* He was the only certified officer in the unit at the time. J.A. 624. Bush also testified that he always let the workers and barbers out of their cells if they asked to be let out, and he did not consult any list to determine if they were actually workers. J.A. 255, 270.

After Bush released Simmons, a prisoner told Bush that two prisoners in a different area of the adjustment unit—Jonathan Dominick and Darius Ransom—were barbers as well. J.A. 258, 264–65. Bush then asked another prisoner across the hall whom he "had a good rapport" with whether Dominick and Ransom were barbers, and that prisoner confirmed they were. J.A. 258, 265. After speaking to these three prisoners, Bush approached Ransom and Dominick and said, "y'all don't bullshit me, do y'all cut hair." J.A. 670–71. Dominick responded that they were barbers. J.A. 267. Bush recognized that he perhaps should not have trusted the prisoners—"they ain't going to really keep it a hundred with you, honest with you." J.A. 265. Bush nonetheless accepted Dominick's assertions that they were barbers and opened the door to Dominick and Ransom's cells. J.A. 266–67.

After releasing the prisoners, Bush was called to Dorm F-4. J.A. 260–61. Bush gave Youngquist the keys

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* Other defendants dispute that Bush's role involved letting barbers out of their cells, as detailed further below.

to the adjustment unit and left for F-4. *Id.* Bush recognized that Simmons likely would not have been stabbed had Bush remained in the building. J.A. 285.

Security footage shows that Dominick exited his cell, went back into his cell, and exited again "clutching a white object in his right hand." J.A. 561. Dominick and Ransom then walked up the stairs to the fire escape on the top level, out of view of security cameras. Simmons was stabbed there soon after. Before Bush reached F-4, nearly an hour later, he saw two prisoners carrying Simmons. J.A. 261. Simmons was pronounced dead from the stab wound hours later. Dominick and Ransom were eventually charged with Simmons's murder. J.A. 1417–19.

II.

We review the district court's grant of summary judgment de novo. *Aleman v. City of Charlotte*, 80 F.4th 264, 283 (4th Cir. 2023). We view "all the evidence and reasonable inferences drawn therefrom in the light most favorable to the nonmovant." *Case v. Beasley*, 167 F.4th 651, 659 (4th Cir. 2026). Doing so "usually means adopting . . . the plaintiff's version of the facts." *Scott v. Harris*, 550 U.S. 372, 378 (2007).

Prison officials have a duty "to protect prisoners from violence at the hands of other prisoners." *Farmer v. Brennan*, 511 U.S. 825, 833 (1994) (internal citations omitted). "Whether a prison official acted with 'deliberate indifference' is a question of fact that can be proven through direct or circumstantial evidence." *Cox v. Quinn*, 828 F.3d 227, 236 (4th Cir.

2016). And relevant to that question is whether "a prison official's response to a known threat to [prisoner] safety" is "reasonable." *Id.* A prison official could, for example, be deliberately indifferent if he knows a prisoner "faces a serious danger to his safety and they could avert the danger easily yet they fail to do so." *Brown v. N. Carolina Dep't of Corr.*, 612 F.3d 720, 723 (4th Cir. 2010) (citing *Case v. Ahitow*, 301 F.3d 605, 607 (7th Cir. 2002)). Put simply, deliberate indifference is "the *intentional* taking of a risk that the defendant knows *might cause harm* while *lacking any intent to cause such harm*." *Anderson v. Kingsley*, 877 F.3d 539, 545 (4th Cir. 2017) (emphasis in original).

A risk might be "so obvious that the factfinder could conclude that the [prison official] *did* know of it because he could not have failed to know of it." *Makdessi v. Fields*, 789 F.3d 126, 133 (4th Cir. 2015) (quoting *Brice v. Va. Beach Corr. Ctr.*, 58 F.3d 101, 105 (4th Cir. (emphasis in original)). A prison official "may not escape liability if it is shown, for example, that he merely refused to verify 'underlying facts that he strongly suspected to be true,'" or that he "'declined to confirm inferences of risk that he strongly suspected to exist.'" *Brice*, 58 F.3d at 105 (quoting *Farmer*, 511 U.S. at 843 n. 8).

The majority disposes of any claim against Bush because Bush did not "subjectively perceive[] a risk when he let the two inmates out." Maj. Op at 10. We should not accept Bush's bare assertion against a record rife with contrary circumstantial evidence. Bush was well "aware of facts from which the inference could be drawn" and "drew the inference"

that Dominick and Ransom could pose a substantial risk of serious harm if released. *Cox*, 828 F.3d at 236 (citing *Farmer*, 511 U.S. at 837).

Every defendant in this case testified that Bush failed to properly verify that Dominick and Ransom were barbers before he released them. Defendant Mapp testified that asking another prisoner whether a prisoner is a barber is not an acceptable method of verifying a prisoner's work status. J.A. 740. She noted that releasing a prisoner without checking if they are on the dorm worker list is "inappropriate" and a "violation of policy." J.A. 743. Defendant Parks agreed that officers must check a dorm worker list before unlocking cell doors. J.A. 66. Defendant Robertson, too, stated, per prison "practice," J.A. 193, Bush should have checked "with a supervisor" to determine if the prisoners could be released. J.A. 221. He reiterated Bush's own point that prisoners at McCormick are "of course" untruthful, hence the guardrails to ensure prison officers corroborate worker status through official channels. J.A. 221.

Youngquist likewise stated that prisoners are often untruthful about their work status, so Bush should have verified that Dominick was a barber by using his radio to check with a supervisor or by checking the list of dorm workers posted to the lieutenant's door. J.A. 161. In the morning, dorm workers who assist with feeding and cafeteria workers may be permitted into the dorm, but "nobody else should be out." J.A. 161. She further noted that Bush was alone, and "you're really not supposed to let nobody out when you're in the dorm by

yourself"—"every officer knows" that. J.A. 161–62.

These rules are obvious. It hardly takes a model employee to recognize that in a maximum-security facility, a prisoner is not released from his cell simply because he asks to be released. At the summary judgment stage, despite Bush's claims of ignorance, we must side with the nonmovant—and the overwhelming tide of circumstantial evidence—to determine that Bush understood this most basic prison practice.

And when we accept that Bush understood this practice, we must also accept that he knew the risk inherent in its violation. We cannot "ignore the reality that prisons are places where violent criminals are detained, presenting risks of harm far greater than exist on the outside." *United States v. Gore*, 592 F.3d 489, 493 (4th Cir. 2010). As this Court has frequently recognized, prison violence is so commonplace a risk that it functions as a background assumption underlying the law of liability in prisons. *See King v. Riley*, 76 F.4th 259, 266 (4th Cir. 2023) (acknowledging that the "general risks that all inmates pose[] to one another" is not alone enough to render prison officials liable for resulting harm) (internal citations omitted). I have no trouble assuming Bush, an employee in a maximum-security prison, was aware of that risk of violence, as all his colleagues were. *See* J.A. 164 (Youngquist testifying that one reason officers should not arbitrarily open cell doors is for the "general safety" of both officers and prisoners).

The majority appears to agree that this risk of violence exists, and that McCormick's protocol

endeavors to guard against that risk. Its qualm is instead that the policy against "letting an inmate worker out without proper verification" was never "previously communicated to Bush." Maj. Op. at 12. The majority has correctly identified that nothing in the record spells out the risks to Bush of letting prisoners roam about the unit in a maximum-security prison. For similar reasons, a pilot need not be reminded to keep his plane airborne. Warning Bush not to release prisoners from cells on request because of the potential for prison violence is self-evident. The testimony of all the other defendants only emphasizes the farce of Bush's claims that he perceived no risk allowing Dominick to wander the halls of the unit.

The majority also finds it persuasive that, based on an SCDC employee declaration, both Dominick and Ransom would have been permitted to leave their cells because of their assignments as Ward Keeper and Barber. Maj. Op. at 5. Even so, no facts in the record state that Dominick and Ransom could be released that morning. Had Bush checked the authorized dorm worker list, he would have known that. J.A. 161. The privileges afforded to workers— including barbers—allow them to leave their cells at scheduled times, not whenever they please. *See* J.A. 161 (Youngquist testifying that only certain dorm workers may be released in the mornings). "Worker" is not a shibboleth in a maximum-security prison.

Nor must we accept Bush's assertion that he was unaware that the prisoners in the adjustment unit had applied for and been denied protective custody. Robertson testified that all prisoners in Simmons's

unit had requested—and been denied—protective custody by SCDC. J.A. 185–86. For that reason, each prisoner's contact with other prisoners is heavily regulated. J.A. 219. Bush had worked the adjustment unit "several times in the past." J.A. 254. Dorm F-2 is also repeatedly referred to as the "adjustment unit" in notes by prison employees in Simmons's medical records. *See e.g.*, J.A. 1753.

Again, Bush attempts to escape liability behind a shield of ignorance. His defense hinges upon this Court accepting his mystifying assertions: that he did not know that all the prisoners under his care had requested protective custody, and he did not perceive any risk from releasing prisoners who claimed to be barbers at their request.

Perhaps at trial, that ignorance might have been borne out. But accepting Bush's claimed obliviousness is hardly "adopting . . . the plaintiff's version of the facts," as we must do at the summary judgment stage. *Scott*, 550 U.S. at 378. We need not bury our heads in the sand and accept Bush's assertions in a case where his actions resulted in the cruel death of a man who had screamed loud and long for protection.

Bush's own actions demonstrate that he knew there was risk in permitting unauthorized prisoners free rein about the prison. For one, Bush immediately asked another prisoner "across the hall" whether Dominick and Ransom were barbers after he was told of Dominick and Ransom's status. J.A. 266. He then warned Dominick and Ransom not to "bullshit" him. J.A. 265. His attempts to verify Dominick and

Ransom's worker status betray his knowledge of the harm inherent in accepting prisoners' insistence that they could be released. Bush himself conceded his decision to trust a prisoner's representation of their worker status was dubious—"they ain't going to really keep it a hundred with you, honest with you." J.A. 265. But rather than attempting to corroborate their status through *any* official channels, Bush relied only upon sources that he admitted were unlikely to be honest with him. J.A. 265. This is far from "hindsight"; Bush recognized in the moment that his actions flouted reason. Maj. Op. at 10.

Bush's liability also turns on an objective component: the Eighth Amendment "requires *reasonable* action." *Cox*, 828 F.3d at 237 (emphasis added). "[A] factfinder may conclude that the officer's response to a perceived risk was so patently inadequate as to justify an inference that the officer actually recognized that his response to the risk was inappropriate under the circumstances." *Parrish ex rel. Lee v. Cleveland*, 372 F.3d 294, 303 (4th Cir. 2004). Bush's decision to ignore basic prison practice, release Dominick and Ransom, and subsequently fail to monitor them—enabling them to re-enter their cells and procure the weapon—would permit a jury to draw such an inference here.

Bush also need not have known that Simmons was vulnerable to these particular perpetrators. *See* Maj. Op. at 11. It is enough that Bush was aware that Dominick and Ransom should not have been released, and that their release could cause serious harm. A prison officer may not avoid liability simply because he

was unaware that a prisoner was "especially likely to be assaulted by the specific prisoner who eventually committed the assault." *Cox*, 828 F.3d at 236 (citing *Farmer*, 511 U.S. at 843). *See Case*, 167 F.4th at 660 (reversing district court's grant of summary judgment to prison officers because they "were subjectively aware of the significant risk of serious harm resulting from" permitting one group in the prison to "com[e] into contact with individuals incarcerated in the general population"). And Bush was well aware that attacks among prisoners are a feature of prison life—he had witnessed one himself. *See* J.A. 283.

Bush's decision to release Dominick and Ransom was illogical, especially in light of the unanimous condemnation from Bush's coworkers and fellow defendants. So, while I agree with the majority that a violation of prison protocol does not per se violate the Constitution, Maj. Op. at 10, it may be evidence of knowledge. *See Brooks v. Johnson*, 924 F.3d 104, 122 (4th Cir. 2019) (in the excessive force context, holding that "whether an officer has complied with or, alternatively, violated a relevant use-of-force policy, while not dispositive, is highly relevant to [the subjective intent prong of the] inquiry").

The majority's reliance on *Danser v. Stansberry*, 772 F.3d 340 (4th Cir. 2014) does not permit us to ignore the evidence stacked against Bush. There, we vacated the district court's denial of qualified immunity to a prison officer when a sex offender was attacked by a member of a prison gang while unsupervised in a recreation space, even though both prisoners had separation orders. *Id.* at 348. But we did

not hold that the prison officer acted with the requisite culpability. We merely recognized the district court had failed to make any findings on that question. *Id.* Moreover, there was *no* evidence confirming the prison officer was aware of the prisoner's status as a sex offender: the only information about the offender's status existed in an isolated prison database that the official was not required to consult. *Id.* at 343. We therefore concluded that the district court's denial of qualified immunity to the officer was inappropriate.

But we have never held that an official's claim of ignorance can overcome overwhelming circumstantial evidence. In fact, we have said the opposite: despite a prison official's claims, a risk "might be so obvious that the factfinder could conclude that the guard *did* know of it because he could not have failed to know of it." *Brice*, 58 F.3d at 105. The record here teems with evidence of Bush's scienter. We can infer that Bush knew the vulnerable status of prisoners in Dorm F-2, based on both the widespread understanding that F-2 was the "adjustment unit" and Bush's own experience working the dorm. And we can interpret from Bush's behavior that he knew the risk of letting unauthorized prisoners leave their cells.

Viewing the record in the light most favorable to the nonmovant, I cannot endorse the majority's conclusion that Bush did not know about the substantial risk he created. At the very least, I am skeptical that Bush is the one prison official in the country that did not know the risks of allowing any requesting prisoner to wander the unit of a maximum-security facility.

I believe, as a result, a dispute of fact remains as to whether Bush's actions violated the Eighth Amendment.

III.

I would also hold that Bush's misconduct violated clearly established law. When facts remain in dispute at the summary judgment stage, we may grant qualified immunity to an officer if the facts "viewed in the light most favorable to" the nonmovant support the claim that the officer did not violate clearly established law. *Barricks v. Wright*, 168 F.4th 210, 214–15 (4th Cir. 2026).

Case again supplies the relevant precedent. 167 F.4th at 663. In *Case*, we recognized that the Eighth Amendment right at issue was clearly established where "the actions of the correctional officers exacerbated a known and substantial risk that the plaintiff would be attacked by other incarcerated individuals." *Id.* Bush "exacerbated rather than abated a known and substantial risk of harm" in the adjustment unit when he "purposefully" opened the door to workers he knew could be misrepresenting their worker status. *Id.* That act directly culminated in Simmons's death. Thus, I believe it was error to grant Bush qualified immunity.

The majority distinguishes *Case* because the risk there was "known." Maj. Op. at 13 n.4. But for the same reasons I outline above, I am comfortable concluding that Bush was aware of the blatant risk his actions created. To accept otherwise is to assume

Bush's remarkable unawareness, which the record does not require of us at this stage.

Bush released Dominick and Ransom on the insistence of prisoners he recognized were unreliable. Simmons was killed by both men soon after. Yet the majority asks us to scrutinize Bush's conduct through rose-colored glasses, as though it would be ludicrous to assume that a professional correctional officer would know the risks involved in letting unauthorized prisoners roam a unit in a maximum-security prison. Because I cannot, in good conscience, hold that we may absolve Bush of liability at this stage, I would vacate the district court's decision as to Bush.

Thus, I respectfully dissent.

APPENDIX B

UNITED STATES DISTRICT COURT
for the District of South Carolina

Randle Jackson, individually and as the Personal Representative of the Estate of Dashaun Simmons,
Plaintiff

v.

Gerald Bush, Dontai Parks, Cheryl Youngquist, Michelle Mapp, Thomas Robertson, and John Palmer,
Defendant

Civil Action No. 1:23-cv-04955-JDA

JUDGMENT IN A CIVIL ACTION

The court has ordered that *(check one):*

■ summary judgment is entered in favor of the defendants, Gerald Bush, Dontai Parks, Cheryl Youngquist, Michelle Mapp, Thomas Robertson, and John Palmer. The Plaintiff, Randle Jackson, individually and as the Personal Representative of the Estate of Dashaun Simmons, shall take nothing of the defendants, Gerald Bush, Dontai Parks, Cheryl Youngquist, Michelle Mapp, Thomas Robertson, and John Palmer, and this action is dismissed with prejudice.

This action was *(check one)*:

□ tried by a jury, the Honorable _____ presiding, and the jury has rendered a verdict.

□ tried by the Honorable _____ presiding, without a jury and the above decision was reached.

■ decided by the Court, the Honorable Jacquelyn D. Austin, U.S. District Judge, presiding. The Court having accepted the Reports and Recommendation of US Magistrate Judge Shiva V. Hodges, granting defendants' motions for summary judgment.

Date: April 15, 2025

ROBIN L. BLUME, CLERK OF COURT

s/C. Priester
Signature of Clerk or Deputy Clerk

APPENDIX C

IN THE DISTRICT COURT
OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Randle Jackson, *individually and as the Personal Representative of the Estate of Dashaun Simmons*, Plaintiff,

v.

Gerald Bush, Dontai Parks, Cheryl Youngquist, Michelle Mapp, Thomas Robertson, Defendants.[1]

Case No. 1:23-cv-04955-JDA

OPINION AND ORDER

This matter is before the Court on Plaintiff's objections to the Magistrate Judge's Order denying Plaintiff's motion for leave to file an amended complaint (the "Order Denying Amendment") [Doc. 33] and motions for summary judgment filed by Defendants Dontai Parks [Doc. 40]; Michelle Mapp, Thomas Robertson, and Cheryl Youngquist [Doc. 41]; and Gerald Bush [Doc. 43]. In accordance with 28

[1] This caption represents the current parties involved in this litigation.

U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2), D.S.C., this matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings.

On April 2, 2024, the Magistrate Judge issued the Order Denying Amendment [Doc. 26], and on April 16, 2024, Plaintiff filed objections to that ruling [Doc. 33]. On July 1, 2024, the Magistrate Judge issued a Report and Recommendation ("Report") recommending that the three summary judgment motions be granted. [Doc. 53.] The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. [*Id.* at 21.] On July 15, 2024, Plaintiff filed objections to the Report [Doc. 54], and on July 29, 2024, Parks, Mapp, Robertson, Youngquist, and Bush filed replies to Plaintiff's objections [Docs. 58–60].

STANDARD OF REVIEW

Regarding dispositive motions, the Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of only those portions of the Report that have been specifically objected to, and the Court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). The Court will review the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that

"in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation" (internal quotation marks omitted)). Although "objections need not be novel to be sufficiently specific," *Elijah v. Dunbar*, 66 F.4th 454, 460 (4th Cir. 2023), "a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection," *Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017) (internal quotation marks omitted); *see Regassa v. Warden of FCI Williamsburg*, No. 8:22-cv-466SAL, 2023 WL 2386515, at *2 (D.S.C. Mar. 7, 2023) (concluding an objection was nonspecific because the petitioner "ignore[d] the magistrate judge's analysis and repeat[ed] the arguments he made in his opposition brief"); *Velez v. Williams*, No. 9:19-cv-03022JMC, 2021 WL 837481, at *5 (D.S.C. Mar. 5, 2021) (reviewing for clear error only when the petitioner's objections were "rehashed, general, and non-specific"), *appeal dismissed*, 2021 WL 5879177 (4th Cir. Dec. 13, 2021).

On the other hand, review of the Magistrate Judge's decisions on non-dispositive matters is deferential, and such rulings will be modified or set aside only if they are "clearly erroneous or . . . contrary to law." Fed. R. Civ. P. 72(a); *see also* 28 U.S.C. § 636(b)(1)(A). A ruling "is clearly erroneous when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." *United States v. Gypsum Co.*, 333 U.S.

364, 395 (1948) (internal quotation marks omitted).

BACKGROUND

This case concerns an inmate, Dashaun Simmons, who died while he was in the custody of the South Carolina Department of Corrections ("SCDC") and housed at McCormick Correctional Institution ("McCormick"). The Magistrate Judge provided a thorough recitation of the relevant facts, which the Court incorporates by reference. Accordingly, the Court provides only the background information necessary for the Court to address Plaintiff's objections.

Security video footage from November 3, 2020, in the A-wing of McCormick's F2 dorm, shows that Defendant Bush, a correctional officer, opened the door to inmate Jonathan Dominick's cell.[2] [Doc. 46-2 at 3–4.] Dominick exited the cell, walked back into the cell, and then exited the cell again while "clutching a white object in his right hand." [*Id.* at 4.] Another inmate, Darius Ransom, walked down the stairs and into Dominick's cell but then exited again. [*Id.*] Soon after, Dominick walked up the stairs to the top tier's fire escape, which is out of view of the security cameras. [*Id.*] Simmons was subsequently assaulted out of view of the security cameras. [*Id.*]

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[2] Defendant Mapp was also working in the A-wing of the F2 dorm on November 3, 2020. [Doc. 46-4 at 8 (7:21–25), 12 (11:5–9).] At the time, Mapp was still being trained and was shadowing Bush. [*Id.* at 12 (11:5–9); Doc. 46-5 at 8 (8:23–9:4), 18 (18:9–16).]

Defendant Youngquist, another correctional officer, arrived to work late on the day of the assault. [Doc. 46-7 at 7 (6:20–21).] When she arrived, she walked inside the F2 dorm, Bush gave her keys, and then Bush exited the dorm. [*Id.* at 8 (7:4–5).] Youngquist testified that, as she was trying to put the keys on her belt,

> there's two inmates at the door jumping up and down. Come on Youngquist, hurry up. Open up this door. I'm like come on, y'all. Y'all just seen I just walked in the door. Give me a minute. And they turned around and walked away, then they came back, and they're like Youngquist, come on now. Open the door. I said hold on. I'm getting ready to open up the door. So about that time I went over there, and I opened up the door. And when he was holding a guy – [another inmate] was holding Simmons like in a chair position. I was like what are y'all doing? And he was like look, and he turned and he had been stabbed on the side.

[*Id.* at 8–9 (7:14–8:1).] Youngquist then radioed for assistance. [*Id.* at 9 (8:3–4).]

Defendant Parks, a correctional sergeant, was on the yard driving a golf cart at the time that Youngquist radioed for assistance. [Doc. 40-2 at 2–3 (5:11–6:2).] Parks drove to the F2 dorm, and the inmate carrying Simmons put Simmons on the golf cart. [*Id.* at 3 (6:2–9).] Parks drove Simmons across the yard, and he and the inmate carried Simmons to

medical. [*Id.* at 3 (6:14–19).] Simmons was subsequently pronounced dead from a stab wound to the back. [Doc. 46-2 at 35.] Dominick and Ransom were charged with Simmons's murder. [*Id.* at 6.]

DISCUSSION

The Order Denying Amendment and Plaintiff's Objections

In the Order Denying Amendment, the Magistrate Judge denied Plaintiff leave to file an Amended Complaint because the Magistrate Judge concluded that (a) Plaintiff had not established good cause under Rule 16(b) to allow amendment after the Scheduling Order's deadline for amended pleadings and (b) amendment would be futile under Rule 15(a). [Doc. 26 at 7–13.] Plaintiff has filed objections to that Order, stating that he objects to the ruling denying Plaintiff's motion to amend and to the following findings: that he "failed to show good cause to modify the scheduling order to allow an amendment to correctly identify [Charles] Burton as McCormick's warden during the relevant period," that he "failed to argue why he was unable to meet the scheduling deadline to identify the proper warden despite diligent efforts," that "amendment would be futile," that he "is unable to satisfy the requirements of Fed. R. Civ. P. 15(c)," that "Burton could not and should not have known that the action would have been brought against him but for a mistake concerning the proper party's identity," that his "mistake was due to lack of knowledge rather than due to misnomer," that "equitable tolling is not available," that he "was not

prevented from asserting a claim by the defendants' wrongful conduct," that "equitable tolling is not available because extraordinary circumstances do not apply," and that he "has failed to meet his burden that amendment is appropriate." [Doc. 33 ¶¶ 2– 12.] Because the Order Denying Amendment decided a non-dispositive matter, *see Rollinson v. Top Tier Solar Sols., LLC*, 2024 WL 4274697, at *2 (W.D.N.C. Sept. 24, 2024), the Court has reviewed it along with Plaintiff's objections pursuant to Rule 72(a) of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1)(A) and concludes that it was neither contrary to law nor clearly erroneous. Accordingly, the Order Denying Amendment is affirmed.

The Report and Plaintiff's Objections

The Magistrate Judge recommends that all three pending motions for summary judgment be granted. [Doc. 53.] With respect to Plaintiff's failure to protect claim, the Magistrate Judge concluded that Plaintiff failed to produce any evidence that Bush or Mapp knew that Simmons was in danger of being attacked by Dominick, Ransom, or any other inmate on the date of the incident or any time before that. [*Id.* at 14–16.] With respect to Plaintiff's deliberate indifference to medical needs claim, the Magistrate Judge concluded that nothing in the record showed that Youngquist's or Parks's actions were grossly incompetent and that, to the extent Plaintiff asserts a medical indifference claim against Bush or Mapp, such claim should be dismissed. [*Id.* at 17–18.] Finally, the Magistrate Judge concluded that Robertson's motion for summary judgment should be granted because a claim against

him in his supervisory capacity could not survive when there was no underlying constitutional violation by Bush and because Plaintiff failed to offer any evidence to support a supervisory liability claim against Robertson. [*Id.* at 18– 20.]

Plaintiff raises 20 objections to the Report. [Doc. 54.] Five of the objections merely object to the Magistrate Judge's findings that Plaintiff has not produced any evidence to establish specific facts or elements required for his claims.[3] [*Id.* ¶¶ 1, 5, 9, 12,

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[3] These five objections state:

1. The plaintiff objects to the Magistrate Judge's finding in footnote 3 on page 3 of the Report and Recommendation that there is no evidence in the record that Simmons told SCDC officials that a hit had been taken out of him.

. . .

5. The plaintiff objects to the Magistrate Judge's finding on page 14 of the Report and Recommendation that there is no evidence that Bush knew Simmons was endangered by his actions when he released Dominick and Ransom from their cells because this finding fails to draw all reasonable inferences in favor of the nonmoving party.

. . .

9. The plaintiff objects to the Magistrate Judge's finding on page 16 of the Report and Recommendation that th[e] plaintiff has failed to show that Bush and Mapp buried their heads in the sand or otherwise ignored an obvious risk of harm to Simmons.

. . .

17.] However, Plaintiff fails to direct the Court to any record evidence supporting those facts or elements, and "an objection stating only 'I object' preserves no issue for review." *Elijah*, 66 F.4th at 460 (internal quotation marks omitted). Similarly, three other objections merely object to the Magistrate Judge's findings and recommendations without providing any further argument.[4] [Doc. 54 ¶¶ 13, 14, 19.] Finally,

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12. The plaintiff objects to the Magistrate Judge's finding on page 17 of the Report and Recommendation that there is no evidence that Youngquist's or Park's actions were grossly incompetent, inadequate or excessive as to shock the conscience, or intolerable to fundamental fairness.

. . .

17. The plaintiff objects to the Magistrate Judge's finding on page 19 of the Report and Recommendation that the plaintiff failed to satisfy the necessary elements of a supervisory liability claim as established by *Shaw [v.] Stroud*, 13 F.3d 791, 799 (4th Cir. 1994).

[Doc. 54.]

[4] These three objections state:

13. The plaintiff objects to the Magistrate Judge's factual finding on page 17 of the Report and Recommendation that Youngquist and Parks immediately assisted Simmons upon their realization of his serious medical need, as well as the implicit factual finding that Youngquist's and Parks' actions were made in good faith and were reasonable.

. . .

14. The plaintiff objects to the Magistrate Judge's

Plaintiff's last objection conclusorily objects to the overall recommendation that the three motions for summary judgment be granted because Plaintiff contends that the Report "fails to draw all reasonable inferences in favor of the nonmoving party, and it may not make credibility determinations or weigh the evidence." [Doc. 54 ¶ 20 (internal quotation marks omitted).] However, this objection fails to direct the Court to any specific inferences that were not drawn in Plaintiff's favor. Accordingly, the Court has reviewed these nine objections for clear error. *See Rucker v. Stirling*, No. 1:19-00310-MGL, 2020 WL 4381975, at *3 (D.S.C. July 31, 2020) (finding that an objection merely stating the defendants "object to the Report and Recommendation's conclusion" regarding an issue was "a conclusory objection failing to require de novo review" (internal quotation marks omitted)). Having found no error, the Court overrules objection numbers 1, 5, 9, 12, 13, 14, 17, 19, and 20.

The Court will now turn to the remaining

> recommendation on page 18 of the Report and Recommendation that Youngquist's and Parks' motions for summary judgment be granted.
>
> . . .
>
> 19. The plaintiff objects to the Magistrate Judge's finding on page 20 of the Report and Recommendation that letting inmates out of their cells without confirming whether they should be allowed out does not rise to the level of constitutional deprivation.

[Doc. 54.]

objections and discuss them with respect to the claims they address.

The Failure to Protect Claim and Related Objections

As the Magistrate Judge explained [Doc. 53 at 12], to establish a failure to protect claim, a plaintiff must satisfy a two-part test consisting of both an objective and a subjective inquiry. First, the plaintiff "must show that he is incarcerated under conditions posing a substantial risk of serious harm." *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). Second, the plaintiff must show that the prison official had a "sufficiently culpable state of mind," which, in this context, consists of "deliberate indifference to inmate health or safety." *Id.* (internal quotation marks omitted); *see Makdessi v. Fields*, 789 F.3d 126, 133 (4th Cir. 2015). The prison official must "be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." *Farmer*, 511 U.S. at 837. "[A] factfinder may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious." *Id.* at 842. In the end, "the test is whether the [prison officials] know the plaintiff inmate faces a serious danger to his safety and they could avert the danger easily yet they fail to do so." *Brown v. N.C. Dep't of Corr.*, 612 F.3d 720, 723 (4th Cir. 2010) (internal quotation marks omitted).

In objection number 2, Plaintiff contends that "a genuine issue of material fact exists as to whether it was appropriate for Bush to let inmates out of their

cells without verifying their work status" because "Bush's assertion that it is usual practice for officers to let workers out when opening tier doors without first consulting a list or contacting a supervisor to verify their work status is contradicted by testimony . . . that such actions were inappropriate."[5] [Doc. 54 ¶ 2.] But whether it was "appropriate" for Bush to let inmates out of their cells is not the test to establish a failure to protect claim. As the Magistrate Judge indicated [Doc. 53 at 14], even "knowingly violating a prison policy does not amount to deliberate indifference" and "[n]ot every violation of prison policy is a violation of the constitution," *King v. Riley*, 76 F.4th 259, 267 (4th Cir. 2023). Nothing in this objection impacts the Magistrate Judge's conclusion that the record does not show that Bush or Mapp had any specific knowledge that Simmons was in danger of being attacked. Accordingly, this objection is overruled.[6]

In objection numbers 3 and 4, Plaintiff objects to the Magistrate Judge's consideration of evidence

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[5] Plaintiff argued in opposition to Bush's motion for summary judgment that Bush was permitted to let out of their cells only inmates who were authorized workers but that Bush failed to verify that Dominick and Ransom had job assignments that would have allowed them to be out of their cells. [Doc. 46 at 10–12.]

[6] The final sentence of objection number 4 similarly argues that "[g]enuine issues of material fact remain as to whether it was appropriate for Bush to release . . . Dominick and Ransom and whether Bush was allowed to release *any* inmates without another officer present." [Doc. 54 ¶ 4.] That portion of objection number 4 is overruled for the same reason objection number 2 is overruled.

regarding Dominick's and Ransom's job assignments. [Doc. 54 ¶¶ 3, 4.] First, Plaintiff objects to the Magistrate Judge's consideration of a declaration by Brandon Byrd, the Assistant Division Director of the Division of Classification and Inmate Records with the Central Classification Office of the South Carolina Department of Corrections, because Byrd had not been identified as a potential witness before the discovery deadline expired and because relevant job assignment records had not been produced during discovery. [*Id.* ¶ 3.] Although the Magistrate Judge cited to Byrd's declaration in the Factual and Procedural Background section of the Report [Doc. 53 at 5 n.6], in her analysis, the Magistrate Judge noted that the Court may take judicial notice of the same information regarding Dominick's and Ransom's job assignments that is publicly available on a government website [*id.* at 11]. Nonetheless, Plaintiff also objects to the Magistrate Judge's taking judicial notice of this information, arguing that the information on the website "is limited and does not conclusively establish that Dominick and Ransom were allowed to be out of their cells at the time of the attack." [Doc. 54 ¶ 4.] Even though the Magistrate Judge took judicial notice of Dominick's and Ransom's job assignments, their job assignments did not factor into the Magistrate Judge's analysis regarding Plaintiff's failure to protect claim because, as stated, the Magistrate Judge recommends granting summary judgment to Bush and Mapp on that claim based on their lack of knowledge that Simmons was in danger of being attacked by any other inmates. [Doc. 53 at 14–16.] Thus, the Court overrules these objections.

In objection numbers 6, 7, and 8, Plaintiff objects to the Magistrate Judge's recommendation that Bush and Mapp are entitled to summary judgment, arguing that their lack of knowledge about Simmons's prior attacks at other institutions, about a threat by Dominick and Ransom regarding attacking Simmons, and about Simmons being in danger of being attacked by any inmates is insufficient for granting summary judgment. [Doc. 54 ¶¶ 6 (citing *Farmer*, 511 U.S. at 842–43, for the proposition that a trier of fact could find that an officer has knowledge of a risk of inmate attacks if the officer has been exposed to information about that risk such that the officer must have known about it, and *Brice v. Virginia Beach Correctional Center*, 58 F.3d 101, 105 (4th Cir. 1995), for the proposition that a prison official cannot hide behind the excuse of being unaware of a risk that was obvious), 7 (citing *Madkessi*, 789 F.3d at 136, for the proposition that whether a prisoner complains before he is injured may be irrelevant), 8 (citing *Farmer*, *Brice*, and *Madkessi*).] Plaintiff is correct that a factfinder may conclude that an officer knew of a substantial risk of harm because the risk is obvious. *Farmer*, 511 U.S. at 842. But, under the relevant holdings in *Farmer*, *Brice*, and *Madkessi*, the risk of harm *must* be obvious. And Plaintiff has directed the Court to no evidence in the record that the risk of harm to Simmons was so obvious that it must have been known by Bush and Mapp. Accordingly, these objections are overruled.

In objection number 11, Plaintiff argues that the Magistrate Judge's finding that there is no evidence that Bush or any other Defendant knew of a

substantial risk to Simmons "fails to draw the reasonable inference that Bush and/or Mapp should have discovered Dominick visibly carrying an eight-inch weapon for over six minutes." [Doc. 54 ¶ 11.] However, "[t]o show an Eighth Amendment violation, it is not enough that an official *should* have known of a risk; he or she must have had actual subjective knowledge." *Jackson v. Lightsey*, 775 F.3d 170, 178 (4th Cir. 2014). As Plaintiff has failed to direct the Court to any evidence in the record establishing that Bush or Mapp actually knew Dominick was carrying a weapon on the morning of the assault, this objection is overruled.

Nothing in Plaintiff's objections directs the Court to any evidence showing that Bush or Mapp was aware of facts from which the inference could be drawn that a substantial risk of serious harm to Simmons existed and that they actually drew that inference. As the Magistrate Judge stated, "this lack of evidence is fatal to Plaintiff's claim" for failure to protect. [Doc. 53 at 14.] Moreover, because Plaintiff has failed to demonstrate that Bush or Mapp violated Simmons's constitutional rights, Bush and Mapp are also entitled to qualified immunity from liability for damages as to this claim. *See Tolan v. Cotton*, 572 U.S. 650, 655–66 (2014) (stating that for qualified immunity to attach to a defendant, it must be true that either the facts viewed in the light most favorable to the plaintiff fail to demonstrate the violation of a constitutional right or that the right was not clearly established at the time of the violation). As such, Plaintiff's objection number 10 regarding qualified immunity is overruled.

The Deliberate Indifference to Medical Needs Claim and Related Objections

Deliberate indifference to medical needs exists when prison officials know of a substantial risk to a prisoner's health or safety and consciously disregard that risk. *See Farmer*, 511 U.S. at 837. As the Magistrate Judge explained [Doc. 53 at 16–17], the Fourth Circuit Court of Appeals has held that, to violate a prisoner's Eighth Amendment rights, "the treatment must be so grossly incompetent, inadequate, or excessive as to shock the conscience or to be intolerable to fundamental fairness." *Miltier v. Beorn*, 896 F.2d 848, 851 (4th Cir. 1990), *overruled on other grounds by Fidrych v. Marriott Int'l, Inc.*, 952 F.3d 124 (4th Cir. 2020).

In objection number 15, Plaintiff challenges the Magistrate Judge's recommendation that summary judgment be granted as to Plaintiff's deliberate indifference to medical needs claim against Bush and Mapp, arguing that the Magistrate Judge provided no support for that conclusion. [Doc. 54 ¶ 15.] Having conducted a de novo review of this claim against Bush and Mapp, the Court agrees with the Magistrate Judge that summary judgment should be granted. As an initial matter, the Court notes that the Magistrate Judge stated, "To the extent that Plaintiff asserts this claim against Bush or Mapp, the undersigned recommends dismissal of those claims." [Doc. 53 at 18.] Having reviewed Plaintiff's responses in opposition to the motions for summary judgment, the Court understands why it was not clear to the Magistrate Judge that the deliberate indifference to medical needs

claim has been asserted against Bush and Mapp. In his response to Bush's motion for summary judgment, with respect to the deliberate indifference to medical needs claim, Plaintiff only conclusorily argued that a "genuine issue of material fact exists as to whether Bush was deliberately indifferent . . . by failing to provide a seriously injured Simmons with necessary medical care." [Doc. 46 at 13.] However, Plaintiff failed to direct the Court to any evidence that *Bush* failed to provide necessary medical care. [*See generally* Doc. 46.] In his response to Mapp's motion for summary judgment, Plaintiff seemed only to argue that Mapp failed to protect Simmons and did not address a deliberate indifference to medical needs claim against Mapp. [Doc. 48 at 9–10, 12–13.] Upon review, the Court concludes that Plaintiff has made no showing that Bush or Mapp engaged in the type of conduct required by controlling case law to establish a claim of deliberate indifference to medical needs against a non-medical defendant. *See Staton v. Arcer*, No. 8:22-cv-02545-BHH-JDA, 2023 WL 5338037, at *6 (D.S.C. July 31, 2023) ("To establish a claim for denial of medical care against nonmedical personnel, a prisoner must show that the non-medical personnel failed to promptly provide needed medical treatment, deliberately interfered with prison doctors' treatment, or tacitly authorized or were indifferent to the prison physicians' misconduct."), *Report and Recommendation adopted by* 2023 WL 5333286 (D.S.C. Aug. 18, 2023). Accordingly, this objection is overruled.

The Supervisory Liability Claim and Related Objections

Because the doctrine of respondeat superior does not apply to § 1983 claims, *Monell v. Dep't of Soc. Servs. of City of New York*, 436 U.S. 658, 691–94 (1978), a defendant is liable in his individual capacity only for his personal wrongdoing or supervisory actions that violated constitutional norms, *see Shaw v. Stroud*, 13 F.3d 791, 799 (4th Cir. 1994) (setting forth elements necessary to establish supervisory liability under § 1983). As the Magistrate Judge noted [Doc. 53 at 19], a plaintiff must establish three elements to prevail under § 1983 on a theory of supervisory liability:

> (1) that the supervisor had actual or constructive knowledge that his subordinate was engaged in conduct that posed "a pervasive and unreasonable risk" of constitutional injury to citizens like the plaintiff; (2) that the supervisor's response to the knowledge was so inadequate as to show "deliberate indifference to or tacit authorization of the alleged offensive practices[ ]"; and (3) that there was an "affirmative causal link" between the supervisor's inaction and the particular constitutional injury suffered by the plaintiff.

Shaw, 13 F.3d at 799 (citations omitted).

Plaintiff's objection number 18 challenges the Magistrate Judge's finding that the only evidence in this case regarding Robertson establishes that he knew Bush had attendance issues because Plaintiff

argues the evidence "shows that Robertson found Bush to be undependable and would not allow him to transfer until he improved his overall performance." [Doc. 54 ¶ 18.] Plaintiff's objections do not direct the Court to specific evidence showing Robertson's knowledge, but in his opposition to Robertson's motion for summary judgment, Plaintiff cited to Robertson's deposition testimony that he knew Bush "wasn't coming to work, and he wasn't showing up. He wasn't accounting – we weren't able to depend on him." [Doc. 48 at 11 (citing Doc. 48-4 at 50 (49:13–15)).] Plaintiff also cited to Robertson's testimony that Bush would need to improve his overall performance before they would allow him to transfer. [*Id.* (citing Doc. 48-4 at 50 (49:3–11)).] However, nothing in this testimony satisfies the requirement that Robertson had actual or constructive knowledge that Bush was engaged in conduct that posed a pervasive and unreasonable risk of constitutional injury to inmates. Therefore, this objection is overruled.[7]

CONCLUSION

Based upon the foregoing, the Court accepts the Report and Recommendation of the Magistrate Judge

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[7] Because the Court overrules this objection related to Robertson's supervisory liability and concludes that the Magistrate Judge correctly found that Plaintiff failed to offer any evidence to support his assertion that Robertson should be held liable as Bush's supervisor, the Court need not address Plaintiff's objection "to the Magistrate Judge's finding that [Plaintiff] does not have a claim against Robertson in his supervisory capacity because there was no underlying constitutional violation as to Bush." [Doc. 54 ¶ 16.]

and incorporates it by reference. Accordingly, Dontai Parks's motion for summary judgment [Doc. 40] is GRANTED; Michelle Mapp, Thomas Robertson, and Cheryl Youngquist's motion for summary judgment [Doc. 41] is GRANTED; and Gerald Bush's motion for summary judgment [Doc. 43] is GRANTED. Additionally, the Order Denying Amendment [Doc. 26] is AFFIRMED.

IT IS SO ORDERED.

s/ Jacquelyn D. Austin
United States District Judge

April 14, 2025
Columbia, South Carolina

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Randle Jackson, individually and as the Personal Representative of the Estate of Dashaun Simmons,
Plaintiff,

vs.

Gerald Bush, Dontai Parks, Cheryl Youngquist, Michelle Mapp, Thomas Robertson, and John Palmer,
Defendants.

C/A No.: 1:23-4955-JDA-SVH

REPORT AND RECOMMENDATION

This case concerns an inmate who died on November 3, 2020, while in the custody of the South Carolina Department of Corrections ("SCDC") at McCormick Correctional Institution ("MCCI") in McCormick, South Carolina. The inmate's representative sues the following MCCI employees: Gerald Bush ("Bush"), correctional officer; Dontai Parks ("Parks"), correctional sergeant; Cheryl Youngquist ("Youngquist"), correctional officer; Michelle Mapp ("Mapp"), correctional officer; Thomas Robertson ("Robertson"), associate warden; and John

Palmer ("Palmer"), warden.[1]

Randle Jackson ("Plaintiff"), individually and as the personal representative of the estate of Deshaun Simmons ("Simmons"), originally filed this case in the McCormick County Court of Common Pleas ("state court"), and this case was removed to this court on October 3, 2023. [ECF No. 1]. Pursuant to 28 U.S.C. § 636(b) and Local Civ. Rule 73.02(B)(2)(d) (D.S.C.), the case was referred to the undersigned for all pretrial proceedings.

This matter comes before the court on the motions for summary judgment filed by Parks [ECF No. 40], Mapp, Robertson, and Youngquist [ECF No. 41], and Bush [ECF No. 43]. The motions having been fully briefed [ECF Nos. 46, 47, 48, 50, 51, 52], they are ripe for disposition.

Having carefully considered the parties' submissions and the record, the undersigned recommends the district judge grant the pending motions.

I. Factual and Procedural Background

Plaintiff has submitted evidence that after

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[1] The undersigned has previously issued a report and recommendation, recommending the district judge grant Palmer's motion for summary judgment, dismissing him from this case. [See ECF No. 26]. That report and recommendation remains pending with the district judge.

Simmons was transferred to MCCI,[2] he reported threats he had received from other inmates to unknown MCCI personnel, sought medical treatment on a burn that he sustained when an inmate threw hot water on him on September 17, 2020, and, on October 16, 2020, during a mental health session, asked SCDC medical staff if "it was necessary for someone to die before someone will take him seriously." [See ECF No. 46 at 4, see also ECF No. 46-1 at 12, 19, 22, 26, 28].[3]

On November 3, 2020, Simmons was housed in Dorm F2, where Bush, Mapp, and, eventually, Youngquist were on duty. [*See, e.g.*, ECF No. 46-2 at 3–4, 5].[4] The F2 A-Wing was an adjustment unit at MCCI where inmates that were denied state-wide protective custody were housed. [ECF No. 46-6 at

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[2] Plaintiff has also sued additional SCDC employees in this court and in state court concerning previous non-fatal attacks on Simmons taking place prior to the instant attack in other SCDC facilities, first in July 2017 at Broad River Correctional Institution and then in April 2019 at Perry Correctional Institution. [*See, e.g.,* ECF No. 46 at 1–2].

[3] Plaintiff states in briefing that Simmons reported to SCDC officials that a "hit" was taken out on his life. [ECF No. 46 at 3 (citing ECF No. 1 ¶ 23)]. However, the only evidence cited in support is to Plaintiff's complaint, not to evidence in the record.

[4] Mapp was not a certified officer on November 3, 2020, and was "shadowing" Bush. [ECF No. 46-5 at 8:15–25]. Because Mapp was not a certified officer at the time, she could not open any cell doors. *Id.*

9:18–10:2].[5] Inmates in the adjustment unit do not have contact with the rest of the inmate population at MCCI. *Id.* at 42:19–43:10. There were no overcrowding issues and MCCI was fully staffed on November 3, 2020. *Id.* at 33:1–33:22.

On the day in question, Bush, who was usually assigned to Dorm F3 not Dorm F2, was tasked with opening the top tier. [ECF No. 46-4 at 7:13– 8:6, 8:22–25]. Upon opening the top tier, Bush first encountered Simmons, who was smiling and joking. *Id.* at 11:11–12:5. Bush then spoke with unidentified top tier inmate workers, who told him two inmates on the bottom tier, Jonathon Dominick ("Dominick") and Darius Ransom ("Ransom"), also worked as barbers, as testified by Bush:

> I've got a good rapport with the [unidentified] convict. He cut hair, too. He say yeah, they cut hair. So me trusting that convict, because I had a good rapport with him, coming—you know, they ain't going to keep it a hundred with you, honest with you. So that's when I open the door, and I said don't y'all bullshit me, do y'all cut hair. They said yeah, we cut hair, man. We wouldn't lie to you. And that was it, but . . . . So they say barbers. They say they barbers, too, barbers of the unit.

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[5] Robinson testified that the MCCI staff did not make any determinations related to Simmons seeking to be placed in statewide protective custody and that decision was made prior to Simmons being transferred to MCCI. [ECF No. 46-6 at 39:4–23].

Id. at 19:8–22 (errors in original). Bush then opened Dominick and Ransom's cells, after Ransom confirmed he and Dominick cut hair. *Id.* at 21:4–19.

Bush testified that the usual practice when an officer opened a tier was to let the workers out, including barbers. *Id.* at 8:22–9:5. Bush testified the practice was to release workers without consulting a list or supervisor. *Id.* at 10:4–11:3. However, Bush also testified he looked and did not see a list. *Id.* at 24:11–19.

According to Mapp, it is not appropriate to verify an inmate's work status by asking another inmate. [ECF No. 46-5 at 11:12–12:14]. When asked if Bush was sufficiently thorough in his interactions with Dominick, Robertson responded that Bush, "should have checked to see if he should be out of the cell." [ECF No. 46-6 at 50:25-51:3]. According to Robertson, Bush "should have checked with someone, is this guy the worker. He should have determined if he was." *Id.* at 16:13–15. Youngquist testified that Bush should have verified that Dominick was a barber, either by radioing another officer or by checking the list of dorm works that was posted to the lieutenant's door. [ECF No. 46-7 at 12:10–17]. According to Youngquist, Bush should not have released any inmates that morning because he was the only certified officer on the dorm, and "you're really not supposed to let nobody out when you're in the dorm by yourself." *Id.* at 12:3–9.[6]

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[6] The Assistant Division Director of the Division of Classification and Inmate Record Central Classification Office, Brandon Byrd

Roy Cox, III ("Cox") prepared a report for the SCDC Office of Investigations and Intelligence concerning the incident in question, and stated, based on review of the security video footage from dorm F2 A-Wing, the following:

> 7:38 a.m. Bush and Mapp can be seen talking to two inmates.[7]
>
> 7:40 a.m. Bush opens Dominick's cell door, letting him out of his room on the dorm's bottom tier.
>
> 7:42 a.m. Dominick exits his cell briefly before walking back into his cell.
>
> 7:48 am. Dominick exits his cell clutching a white object in his right hand. Ransom walks from the top tier fire escape, down the stairs, and into Dominick's cell only to exit shortly after.

("Byrd"), has submitted a declaration that, at the time of the incident, Dominick was a ward keeper assistant and Ransom was a barber. [ECF No. 43-2 ¶ 4]. Both inmates were specially permitted to leave their cells to perform their assignments. *Id.*

[7] During the interaction with Bush and the top tier inmate workers, Mapp stated that she told one of the workers she did not remember Dominick or Ransom being a barber. [ECF No. 46-2 at 67].

[8] During Cox's investigation, another inmate offered a statement identifying this object as an eight-inch-long ice pick made from part of a sink. [ECF No. 46-2 at 38].

> 7:54 a.m. Dominick walks up the stairs to the top tier's fire escape, out of view of the MCCI security cameras. The assault on D. Simmons is out of view of the security cameras.

[ECF No. 46-2 at 3–4 (edited for clarity)].[9]

According to Cox's report, and based on statements made by another inmate, the following then occurred:

> [The inmate] heard the day before that D. Simmons intended to stab inmate [Dominick,] a validated Blood gang member. On the morning of November 3, 2020, the dorm's top tier was released from their cells. He was upstairs exercising when he saw Dominick's cell door opened. Dominick walked upstairs to the fire escape door . . . . Dominick and D. Simmons exchanged a few words that he could not hear. D. Simmons walked away and got into the shower. When D. Simmons exited the shower, [another inmate, Demontay Payne ("Payne") and Ransom], a validated Blood gang member,

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[9] Bush testified he saw Dominick speaking to Mapp for at least 15 minutes after he released Dominick and confirmed afterwards with her that she knew Dominick. [ECF No. 46-4 at 13:25–14:15]. Bush testified he suspected nothing based on his encounters with the inmates. *Id.* at 14:15–15:2. Mapp confirmed "[i]t didn't seem like anything was out of the ordinary . . . ." [ECF No. 46-5 at 15:21–22].

> walked upstairs to the hole where Dominick stood. D. Simmons walked towards them and began to argue with Dominick, Ransom, and Payne. He saw Ransom strike D. Simmons in the face. Dominick grabbed D. Simmons from behind and stabbed him in the back. D. Simmons stumbled towards his cell. He followed D. Simmons into his cell before carrying him out of the dorm.

Id. at 2.[10]

On the day in question, Youngquist arrived to work late. [ECF No. 46-7 at 6:20]. When she arrived, around 8:40 a.m. [see ECF No. 46-2 at 42], she walked inside Dorm F2, Bush gave her keys, and then Bush exited the unit. *Id.* at 7:4–5.[11] As Youngquist was trying to attach her keys to her belt, the following occurred:

> I'm trying to get the keys on. While I'm trying to get the keys on there's two inmates at the door jumping up and down. Come on Youngquist, hurry up. Open up this door. I'm like come on, y'all. Y'all just seen I just walked in the door. Give me a minute. And they turned around and walked away, then they came back, and they're like Youngquist,

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[10] Ransom and Dominick were both charged with murder due to the incident with Simmons. [ECF No. 46-2 at 7].

[11] Bush testified that after Youngquist took over, he left the dorm and went to his next assignment. [ECF No. 46-4 at 39:14–16].

> come on now. Open the door. I said hold on. I'm getting ready to open up the door. So about that time I went over there, and I opened up the door. And when he was holding a guy—Simmons was holding Simmons like in a chair position. I was like what are y'all doing? And he was like look, and he turned and he had been stabbed on the side.

[ECF No. 46-7 at 7:7–8:1; see also ECF No. 46-2 at 10 ("inmate . . . was yelling open door over and over. I thought they were playing so I said what. [Inmate] yelled open door—[Simmons] was in his arms he looked confused. He had blood all over right hip pants and back—I opened to yell for medical over the radio . . . ."); *id.* at 42 ("I thought they were playing until he turned a little and I seen the blood all over his right side. I immediately called medical help . . ."); ECF No. 41-7 (Youngquist testifying that "[t]he entire interaction lasted less than two minutes")].

Parks was on the yard driving a golf cart at the time that Youngquist radioed for medical. [ECF No. 40-2 at 5:11–15]. Parks allowed an inmate to put Simmons on his golf cart, drove Simmons to the yard gate, and then carried Simmons with the help of another inmate to medical. *Id.* at 5:23–6:12. In his deposition, Parks testified as follows:

> As I'm driving across the yard, the first responders was coming, but when they seen I had Simmons on the golf cart and we was going back, they stopped and went to the

> plaza gate. When we got to the plaza gate, me and Inmate Frail [sic] carried Deshaun Simmons into medical where medical took over.

Id. at 6:14–19.

Simmons was later transported to Medical College of Georgia, where he was pronounced dead from a stab wound to the back. [ECF No. 46-2 at 35].

Prior to the incident in question, Bush was not informed that Simmons had a problem with other inmates or that he felt he was in danger. [ECF No. 46-4 at 26:11–13, 66:13–17, *see also* ECF No. 46-5 at 15:17–19 (Mapp testifying she did not "know anything about [Simmons] having any altercations, disagreements. It was never brought to I or Bush['s] attention.")]. Bush had seen Dominick before and had always found him to be respectful and never angry. *Id.* at 46:14–47:6. Robinson testified he was not aware of the prior incidents involving Simmons or had knowledge that another gang may have been after Simmons. [ECF No. 46-6 at 36:8–22].

II. Discussion

A. Standard on Motion for Summary Judgment

The court shall grant summary judgment "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(a). The movant bears the initial burden of demonstrating

that summary judgment is appropriate; if the movant carries its burden, then the burden shifts to the non-movant to set forth specific facts showing that there is a genuine issue for trial. See Celotex Corp. v. Catrett, 477 U.S. 317, 322–23 (1986). If a movant asserts that a fact cannot be disputed, it must support that assertion either by "citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials;" or "showing . . . that an adverse party cannot produce admissible evidence to support the fact." Fed. R. Civ. P. 56(c)(1).

In considering a motion for summary judgment, the evidence of the non-moving party is to be believed and all justifiable inferences must be drawn in favor of the non-moving party. *See Anderson v. Liberty Lobby, Inc.,* 477 U.S. 242, 255 (1986). However, "[o]nly disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted." *Id.* at 248.

B. Analysis

As a preliminary matter, the court addresses Plaintiff's argument that Byrd's declaration, identifying Dominick was a ward keeper assistant and Ransom was a barber at the relevant time, should be disregarded in that he was not disclosed as a potential

witness and no affidavit, declaration, or other statement by Byrd was produced to Plaintiff during discovery. [ECF No. 46 at 6]. Bush disagrees, arguing that Byrd is not a witness, but instead a records custodian, and no discovery violation has occurred. [ECF No. 50 at 1]. Bush further argues as follows:

> Regardless, Byrd merely declared what was publicly available. The SCDC Incarcerated Inmate Search engine revealed the same information that Inmates Dominick and Ransom were an assistant wardkeeper and barber on November 3, 2020. The SCDC inmate search reports were attached to Defendant Mapp's motion for summary judgement. And Plaintiff made no objection. Additionally, Plaintiff sued Defendant Bush in his individual capacity. The work histories of Inmates Dominick and Ransom were not his records. They were equally available to both parties.

Id. at 1–2 (footnote and citations omitted).

The challenged information is publicly available and can be judicially noticed. See https://public.doc.state.sc.us/scdc-public/ (SCDC inmate search, last visited June 26, 2024). A court may take judicial notice of factual information located in postings on government websites. *See Philips v. Pitt Cnty. Mem'l Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009) (court may "properly take judicial notice of matters of public record"). Accordingly, the court takes judicial notice of the relevant information and declines

Plaintiff's invitation to disregard the information.[12]

A. Plaintiff's Failure to Protect Claims

The Eighth Amendment imposes a duty on prison officials "to protect prisoners from violence at the hands of other prisoners." *Farmer v. Brennan*, 511 U.S. 825, 833 (1994) (internal quotation marks omitted). "Gratuitously allowing the beating . . . of one prisoner by another serves no legitimate penological objective, any more than it squares with evolving standards of decency." *Odom v. South Carolina Dept. of Corrections,* 349 F.3d 765, 770 (2003) (quoting *Farmer*, 511 U.S. 833).

However, not "every injury suffered by one prisoner at the hands of another . . . translates into constitutional liability for prison officials responsible for the victim's safety." *Farmer*, 511 U.S. at 834. To establish a claim under the Eighth Amendment, a prisoner must satisfy two elements. "First, the deprivation alleged must be, objectively, 'sufficiently serious.'" *Id.* (citing *Wilson v. Seiter*, 501 U.S. 294, 298 (1991)). Second, a prisoner must present evidence that the prison officials had a "'sufficiently culpable state of mind.'" *Farmer*, 511 U.S. at 834 (citing *Wilson*, 501 U.S. at 297). That is, that the defendant acted with deliberate indifference.

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[12] The undersigned additionally notes that one of the witnesses, Mapp, testified repeatedly that information concerning who was and was not a barber could be found in the SCDC database. [*See, e.g.,* ECF No. 46-5 at 28:7–29:15, *see also* ECF No. 40-2 at 12:11–23 (Parks testifying the same)].

To be deliberately indifferent, a prison official must "know of and disregard an objectively serious . . . risk of harm." *Rish v. Johnson*, 131 F.3d 1092, 1096 (4th Cir. 1997). "[T]he official must be both aware of facts from which the inference could be drawn that a possibility of harm exists, and he must also draw the inference." *Farmer*, 511 U.S. at 837. A showing of mere negligence does not qualify as deliberate indifference. *Davidson v. Cannon*, 474 U.S. 344, 347 (1986); *Grayson v. Peed*, 195 F.3d 692, 695 (4th Cir. 1999).

Additionally, under the qualified immunity defense, "government officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982). Qualified immunity ensures that "[o]fficials are not liable for bad guesses in gray areas; they are liable for transgressing bright lines." *Maciariello v. Sumner*, 973 F.2d 295, 298 (4th Cir. 1992). Whether an officer is entitled to qualified immunity is a question of law for the court and, when there are no relevant disputed material facts, a court should rule on the qualified immunity issue at the summary judgment stage. *Willingham v. Crooke*, 412 F.3d 553, 558 (4th Cir. 2005) ("Ordinarily, the question of qualified immunity should be decided at the summary judgment stage.").

To resolve a qualified immunity defense, the court must (1) determine whether the facts alleged, taken in the light most favorable to the plaintiff, show that the

defendants' conduct violated a constitutional right, and (2) determine whether the right was clearly established at the time of the alleged misconduct. *Pearson v. Callahan,* 555 U.S. 223, 232 (2009). Courts may address the two prongs of the qualified immunity analysis in whichever order is appropriate in light of the circumstances of the particular case at hand. *Id.*

Plaintiff argus that Bush failed to properly verify Dominick's and Ransom's status as barbers before letting them out of their cells, resulting in Simmons' death. [*See, e.g.,* ECF No. 46 at 11]. Plaintiff also appears to argue that Bush failed to properly supervise the inmates when Simmons was attacked, implying that during that time, if properly supervised, Bush may have been able to see Dominick holding the weapon used to stab Simmons. *Id.* at 11–13.

However, Plaintiff fails to produce any evidence that Bush knew that Simmons was endangered by his actions when he released Dominick and Ransom, and this lack of evidence is fatal to Plaintiff's claim. Violations of practice, procedure, or policy do not demonstrate deliberate indifference. *See King v. Riley,* 76 F.4th 259, 267 (4th Cir. 2023). Plaintiff's burden is illustrated in *Danser v. Stansberry*, when a guard abandoned his post during recreation in violation of policy, and the plaintiff was assaulted by a violent gang member because he was a sex offender. 772 F.3d 340, 347 (4th Cir. 2014). The court held there was no evidence the defendant guard knew the plaintiff was a sex offender. Additionally, the mere fact that the plaintiff and his attacker each had separation orders from other inmates did not demonstrate the guard

should have appreciated the risk posed by putting them in the same recreation cage. *Id.* at 348. The dereliction of duty by the guard abandoning his post was nothing more than negligence in the absence of evidence the guard knew of an excessive risk to the plaintiff's safety. *Id.*

Here, Plaintiff has failed to submit any evidence that Bush knew Simmons had been attacked at different institutions or, more importantly, that Dominick or Ransom would attack Plaintiff. For the same reasons, the court rejects Plaintiff's argument that Mapp violated Simmons' constitutional rights when she stated she did not remember Dominick or Ransom being a barber, but then failed to "voice her concerns to Bush before Bush allowed the inmates out of their cells," and, like Bush, failed to supervise the inmates. [See ECF No. 48 at 9].

Plaintiff has failed to present any evidence that either Bush or Mapp had any specific knowledge that Simmons was in danger of being attacked by any other inmates—on the date in question or before. As stated by this court, "[t]he fact that maximum security prisons are dangerous places where incidents of violence sometimes occur does not mean that an individual inmate can assert or show the requisite knowledge of a substantial risk with the required culpable state of mind by a prison administrator just because they may themselves end up being in an altercation." *James v. Cartledge,* C/A No. 9:15-0625-TLW-BM, 2016 WL 1448557, at *6 (D.S.C. Mar. 2, 2016), report and recommendation adopted, C/A No. 9:15-00625-TLW, 2016 WL 1427381 (D.S.C.

Apr. 12, 2016), aff'd, 669 F. App'x 674 (4th Cir. 2016).[13]

Here, Plaintiff has failed to carry the heavy burden showing that Bush or Mapp buried their heads in the sand or otherwise ignored an obvious risk to Plaintiff. Because there is no constitutional violation—much less a clear constitutional violation—Bush and Mapp are entitled to qualified immunity.

Accordingly, the undersigned recommends the district judge grant Bush and Mapp's respective motions for summary judgment as to these claims.

B. Plaintiff's Medical Deliberate Indifference Claims

To establish an Eighth Amendment violation, Plaintiff must show Defendants exhibited "deliberate indifference" to his "serious medical needs." *Farmer*, 511 U.S. at 835; *Wilson*, 501 U.S. at 297. A claim of deliberate medical indifference requires more than a showing of mere negligence, *Estelle v. Gamble*, 429 U.S. 97, 105–106 (1976), and "more than ordinary lack

[13] Plaintiff argues that, at the least, "Dominick spent over six minutes out of his cell visibly holding an eight-inch weapon while Bush was on duty" and that this "is compelling evidence that Bush failed to adequately supervise inmates, including Dominick." [ECF No. 46 at 12]. The court would agree if there was any evidence that Bush or any other defendant were subjectively aware that Dominick had a weapon and deliberately ignored that threat. See King, 76 F.4th at 264 ("The subjective prong requires the inmate to show that the prison official knew about this substantial risk and recognized that their response to that risk was inadequate.").

of due care for the prisoner's interests or safety." *Whitley v. Albers,* 475 U.S. 312, 319 (1986). The Fourth Circuit has noted treatment "must be so grossly incompetent, inadequate or excessive as to shock the conscience or to be intolerable to fundamental fairness." *Miltier v. Beorn*, 896 F.2d 848, 851 (4th Cir. 1990) (citation omitted).

Plaintiff appears to argue that because Youngquist delayed in responding to inmates who were carrying Simmons after the attack by two minutes, and because "Parks drove the golf cart over to Simmons, stopped the cart, allowed Simmons and Calvin Frayer, to climb into the golf cart, drive the golf cart to medical, and physically carried Simmons from the golf cart to medical," both Youngquist and Parks violated Simmons constitutional rights. [*See* ECF No. 47 at 9, ECF No. 48 at 10]. The court disagrees.

There is no indication, even taking the evidence in the light most favorable to Plaintiff, that Youngquist's or Parks' actions were grossly incompetent. Instead, the evidence shows that both Youngquist and Parks acted to assist Simmons immediately upon their realization of his serious medical need. "[O]nce prison officials are aware of a serious medical need, they only need to 'respond[ ] reasonably to the risk.'" *Hixson v. Moran*, 1 F.4th 297, 302 (4th Cir. 2021) (quoting *Farmer*, 511 U.S. at 844); *see also Koon v. North Carolina*, 50 F.4th 398, 407 (4th Cir. 2022) (holding "good-faith efforts to remedy a plaintiff's problems will prevent finding deliberate

indifference, absent extraordinary circumstances").[14]

Accordingly, the undersigned recommends the district judge grant Youngquist's and Parks' motions for summary judgment as to this claim. To the extent that Plaintiff asserts this claim against Bush or Mapp, the undersigned recommends dismissal of those claims as well.

C. Supervisory Liability

Plaintiff argues that Robertson, as Bush's supervisor, knew Bush was not a dependable employee, and failed to "restrict Bush's work activities," requesting the court deny Robertson's motion for summary judgment on this basis. [ECF No. 48 at 11].

Any claim Plaintiff asserts against Robertson in his supervisory capacity fails. First, because the court has found no underlying constitutional violation as to Bush, any derivative claim asserted against Robertson would also fail. *See, e.g., Doe v. Rosa*, 664 F. App'x 301, 304 (4th Cir. 2016).

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[14] Additionally, Plaintiff has produced no evidence that any delay to treatment Simmons may have experienced "resulted in substantial harm." *Lowe v. Johnson,* No. 21-7443, 2023 WL 7179461, at *3 (4th Cir. Nov. 1, 2023) (citation omitted)); *see also Sharpe v. S.C. Dep't of Corr.*, 621 F. App'x 732, 734 (4th Cir. 2015) ("A delay in treatment may constitute deliberate indifference if the delay exacerbated the injury or unnecessarily prolonged an inmate's pain.") (citation omitted)).

Additionally, liability of supervisory officials "is premised on 'a recognition that supervisory indifference or tacit authorization of subordinates' misconduct may be a causative factor in the constitutional injuries they inflict on those committed to their care.'" *Baynard v. Malone,* 268 F.3d 228, 235 (4th Cir. 2001) (quoting *Slakan v. Porter*, 737 F.2d 368, 372 (4th Cir. 1984)). To establish supervisory liability, a plaintiff must show:

> (1) that the supervisor had actual or constructive knowledge that his subordinate was engaged in conduct that posed a pervasive and unreasonable risk of constitutional injury to citizens like the plaintiff; (2) that the supervisor's response to that knowledge was so inadequate as to show deliberate indifference to or tacit authorization of the alleged offensive practices [ ]; and (3) that there was an affirmative causal link between the supervisor's inaction and the particular constitutional injury suffered by the plaintiff.

Id. (quoting *Shaw v. Stroud*, 13 F.3d 791, 799 (4th Cir. 1994)).

Here, Plaintiff has failed to offer any evidence in support of his assertion that Robertson should be held liable as Bush's supervisor. Instead, evidence cited by Plaintiff only confirms that Robertson knew Bush had attendance issues, evidence unrelated to this case. [*See, e.g.,* ECF No. 46-6 at 49:19–21]. As correctly

stated by Robertson:

> Plaintiff has submitted no specific or documented evidence of any other instances of Defendant Bush negligently releasing inmate workers from their cells, much less any documented evidence that Defendant Robertson knew of previous events where Defendant Bush allegedly unlocked cell doors of inmates without confirming they were allowed to be let out of their cell. Furthermore, the issue of letting inmates out of their cell without first confirming whether they were allowed out is not an issue that rises to the level of a constitutional depravation.

[ECF No. 52 at 3–4].

Accordingly, the undersigned recommends the district judge grant Robertson's motion for summary judgment.

III. Conclusion and Recommendation

For the foregoing reasons, the undersigned recommends the district judge grant the motions for summary judgment filed by Parks, Mapp, Robertson, Youngquist, and Bush. [ECF Nos. 40, 41, 43].[15]

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[15] In his complaint, Plaintiff asserts claims for violation of Simmons' "1st, 4th, 5th, 8th, 14th, and other Amendments" as well as rights arising under the South Carolina Constitution. [ECF No. 1-3 ¶¶ 45, 52]. However, Plaintiff argues in briefing only

IT IS SO RECOMMENDED.

July 1, 2024
Columbia, South Carolina

/s/
Shiva V. Hodges
United States Magistrate Judge

The parties are directed to note the important information in the attached "Notice of Right to File Objections to Report and Recommendation."

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that Simmons' Eighth Amendment rights have been violated. [See ECF Nos. 46, 47, 48]. To the extent that Plaintiff asserts any additional claims, the undersigned recommends those claims be dismissed.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. "[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.,* 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 76 6 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

APPENDIX E

FILED: August 4, 2026

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1449
(1:23-cv-04955-JDA)

RANDLE JACKSON, individually and as the Personal Representative of the Estate of Dashaun Simmons

Plaintiff - Appellant

v.

GERALD BUSH; DONTAI PARKS; CHERYL YOUNGQUIST; MICHELLE MAPP; THOMAS ROBERTSON

Defendants - Appellees

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 40 on the petition for rehearing en banc.

Entered at the direction of the panel: Chief Judge Diaz, Judge Gregory, and Judge Benjamin.

For the Court

/s/ Nwamaka Anowi, Clerk