



An Inmate Allegedly 'Leaking Blood All Over' Was Denied Medical Treatment for Hours. The Prison Guard Gets Qualified Immunity

The legal doctrine continues to render juries irrelevant.

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A prison guard who opted not to ensure prompt medical care for an inmate with a broken hand and a partially severed tendon is entitled to qualified immunity and thus cannot be sued over the incident, a federal court ruled last week.

The doctrine of qualified immunity requires that, in order to hold certain government actors accountable in civil court, plaintiffs must furnish a prior court ruling where the exact misbehavior they're alleging has already been explicitly ruled unconstitutional. If they're not able to do so, state officials—from cops to prison guards to college administrators—are sometimes able to violate your constitutional rights without any recourse.

It's a standard that requires a devotion to myopic detail. Here, there were a few factors distinguishing the allegations from prior court decisions, including the location of the injury and the amount of blood shed.

In October 2014, Charles Wade, then an inmate at United States Penitentiary in Atlanta, Georgia, injured his hand and was escorted on a 10-minute walk from the kitchen to a holding cell by Captain Gordon Lewis. Wade says that over the course of that walk, he was "leaking blood all over" and left "a path of blood," but that his requests to go to the infirmary were ignored. He would stay in the holding cell for several hours before receiving any attention from a prison nurse. His injuries eventually worsened: Though he put in a request for help after his hand began to swell, staff did not tend to him until a day later when he flagged an officer and told a nurse his pain was registering as a ten out of ten. He ultimately required hospital treatment outside the prison.

In awarding Lewis qualified immunity, the 11th Circuit made a few distinctions from previous case law. "In [a prior ruling], the plaintiff suffered an injury to his head," wrote Judge Elizabeth

L. Branch, "whereas here, Wade suffered an injury to his hand." She also noted that "the quantity of blood is different," because the defendant in a previous case had "blood soaked [on] his clothing [and] pooled on the floor." Also different is the location of the plaintiff: Wade was in a holding cell, sitting three feet from the infirmary, whereas the plaintiff in the preexisting precedent was in a hospital.

"On the one hand, this seems to be a pretty garden-variety application of qualified immunity," says Clark Neily, vice president for legal studies at the Cato Institute. "On the other hand, it underscores one of the most pernicious aspects of the qualified immunity defense, which is to take cases where reasonable people may plausibly disagree about the culpability of the government defendant and ensure that those disagreements are resolved not by ordinary citizens sitting as a jury—the way the Constitution, the Founders, and centuries of Anglo-American common law provide—but instead by a bunch of government employees who are disproportionately drawn from the ranks of prosecutors and other courtroom advocates for government."

But whether or not Lewis violated Wade's rights is still a matter of debate, and it will unfortunately remain that way, as the 11th Circuit chose not to make a ruling on it for subsequent defendants. We're told that victims of government abuse need to find the perfect court decision to hold the state accountable, yet the federal courts often decline to set those very precedents.

It's "entirely possible" that damages *weren't* appropriate, adds Neily. The story isn't exactly sympathetic: Wade says he sustained the injuries from cutting open a can of vegetables; others contend it was because he had punched another inmate in the face moments prior. But should such a determination be up to a jury? "The Founders were committed to the proposition that disputes between citizens and government—whether civil or criminal—should generally be resolved by ordinary citizens, not government mandarins," says Neily. "Qualified immunity represents a repudiation of that ancient wisdom and a blatant act of judicial policy making."

There are several instances of rogue prison guards receiving qualified immunity. There was the group of correctional officers who received the protection after locking a naked inmate in two cells over the span of several days: one with "massive amounts" of human feces covering the walls, and the other with sewage bubbling up from a clogged floor drain. In another case, a guard pepper-sprayed a prisoner, admittedly for no reason at all.

The Supreme Court, which legislated qualified immunity into existence, has been hesitant to fundamentally reconsider the doctrine as a whole. But in two highly unusual moves, it overturned both of the above cases within the last several months, allowing the victims to plead their cases where the Founders intended: in front of a jury.