AMERICAN CONSTITUTIONALISM

VOLUME II: RIGHTS AND LIBERTIES

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Supplementary Material

Chapter 12: The Contemporary Era – Criminal Justice/Punishments

**Taylor v. Riojas, \_\_\_ U.S. \_\_\_** (2020)

*Trent Taylor claimed that Texas correctional officers subjected him to grossly unsanitary prison conditions. He claimed he was confined for four days in a that that “was covered, nearly floor to ceiling, in massive amounts of feces: all over the floor, the ceiling, the window, the walls, and even “ ‘packed inside the water faucet.” He was then moved to “a second, frigidly cold cell, which was equipped with only a clogged drain in the floor to dispose of bodily wastes.” When Taylor urinated, he caused “the drain to overflow and raw sewage to spill across the floor. Because the cell lacked a bunk, and because Taylor was confined without clothing, he was left to sleep naked in sewage.” Taylor brought a § 1983 action against Robert Riojas, Sergeant of Corrections Officer, and other Texas prison officials claiming that he has been subject to unconstitutional punishment. The district court dismissed his complaint. The Court of Appeals for the Fifth Circuit on appeal agreed with Taylor that his prison conditions were unconstitutional, but ruled that the prison officials had qualified immunity because federal law at the time had not clearly established such prison conditions were cruel and unusual punishment. Taylor appealed to the Supreme Court of the United States.*

 *The Supreme Court by a 7-1 vote reversed the Fifth Circuit on the qualified immunity issue. The per curiam opinion bluntly declared that any reasonable prison official would have known that Taylor was being subjected to unconstitutional conditions of confinement. Is this, as the per curiam suggests, a constitutional no-brainer? Why does Justice Clarence Thomas dissent? Is Justice Samuel Alito nevertheless correct that the court should not take certiorari merely to correct a gross injustice, when doing so will have no legal significance beyond that gross injustice? Is he right that* Taylor v. Riojas *is of interest only to Taylor and Riojas?*

Per Curiam.

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. . . . “Qualified immunity shields an officer from suit when she makes a decision that, even if constitutionally deficient, reasonably misapprehends the law governing the circumstances she confronted.”  But no reasonable correctional officer could have concluded that, under the extreme circumstances of this case, it was constitutionally permissible to house Taylor in such deplorably unsanitary conditions for such an extended period of time. The Fifth Circuit identified no evidence that the conditions of Taylor's confinement were compelled by necessity or exigency. Nor does the summary-judgment record reveal any reason to suspect that the conditions of Taylor's confinement could not have been mitigated, either in degree or duration. And although an officer-by-officer analysis will be necessary on remand, the record suggests that at least some officers involved in Taylor's ordeal were deliberately indifferent to the conditions of his cells.

Confronted with the particularly egregious facts of this case, any reasonable officer should have realized that Taylor's conditions of confinement offended the Constitution.

Justice [BARRETT](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0505709001&originatingDoc=Ib02510421d1c11eb9c47daf1c707eb33&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=Ib02510421d1c11eb9c47daf1c707eb33) took no part in the consideration or decision of this case.

Justice [THOMAS](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0216654601&originatingDoc=Ib02510421d1c11eb9c47daf1c707eb33&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=Ib02510421d1c11eb9c47daf1c707eb33) dissents.

Justice [ALITO](https://1.next.westlaw.com/Link/Document/FullText?findType=h&pubNum=176284&cite=0153052401&originatingDoc=Ib02510421d1c11eb9c47daf1c707eb33&refType=RQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)&analyticGuid=Ib02510421d1c11eb9c47daf1c707eb33), concurring in the judgment.

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Viewing the evidence in the summary judgment record in the light most favorable to petitioner, the Court holds that a reasonable corrections officer would have known that it was unconstitutional to confine petitioner under the conditions alleged. That question, which turns entirely on an interpretation of the record in one particular case, is a quintessential example of the kind that we almost never review. As stated in our Rules, “[a] petition for a writ of certiorari is rarely granted when the asserted error consists of ... the misapplication of a properly stated rule of law,” this Court's Rule 10. That is precisely the situation here. The Court does not dispute that the Fifth Circuit applied all the correct legal standards, but the Court simply disagrees with the Fifth Circuit's application of those tests to the facts in a particular record. Every year, the courts of appeals decide hundreds if not thousands of cases in which it is debatable whether the evidence in a summary judgment record is just enough or not quite enough to carry the case to trial. If we began to review these decisions we would be swamped, and as a rule we do not do so.

. . . . The Court of Appeals held that the conditions alleged by petitioner, if proved, would violate the Eighth Amendment, and this put correctional officers in the Fifth Circuit on notice that such conditions are intolerable. Thus, even without our intervention, qualified immunity would not be available in any similar future case.

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While I would not grant review on the question the Court addresses, I agree that summary judgment should not have been awarded on the issue of qualified immunity. We must view the summary judgment record in the light most favorable to petitioner, and when petitioner's verified complaint is read in this way, a reasonable fact-finder could infer not just that the conditions in the cells in question were horrific but that respondents chose to place and keep him in those particular cells, made no effort to have the cells cleaned, and did not explore the possibility of assignment to cells with better conditions. A reasonable corrections officer would have known that this course of conduct was unconstitutional, and the cases on which respondents rely do not show otherwise.

Although this Court stated that holding a prisoner in a “filthy” cell for “a few days” “might be tolerable,” that equivocal and unspecific dictum does not justify what petitioner alleges. There are degrees of filth, ranging from conditions that are simply unpleasant to conditions that pose a grave health risk, and the concept of “a few days” is also imprecise. In addition, the statement does not address potentially important factors, such as the necessity of placing and keeping a prisoner in a particular cell and the possibility of cleaning the cell before he is housed there or during the course of that placement. A reasonable officer could not think that this statement or the Court of Appeals’ decision in [*Davis*](https://1.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=1998206925&pubNum=0000506&originatingDoc=Ib02510421d1c11eb9c47daf1c707eb33&refType=RP&originationContext=document&transitionType=DocumentItem&contextData=(sc.Search)) meant that it is constitutional to place a prisoner in the filthiest cells imaginable for up to six days despite the availability of other preferable cells or despite the ability to arrange for cleaning of the cells in question.