

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

September 14, 2021

Lyle W. Cayce  
Clerk

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No. 19-30019

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LARCE SPIKES,

*Plaintiff—Appellee,*

*versus*

CASEY McVEA, DOCTOR; LESLEY WHEAT, NURSE; PAULA  
STRINGER, NURSE; WENDY SEAL, NURSE; R. BOWMAN, NURSE,

*Defendants—Appellants.*

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 2:17-CV-8164

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Before HIGGINBOTHAM, SMITH, and DENNIS, *Circuit Judges.*

PER CURIAM:

Treating the petition for rehearing en banc as a petition for panel rehearing,<sup>1</sup> the petition for panel rehearing is GRANTED. In this suit under the Eighth Amendment against Dr. McVea and prison nurses working at his direction, the recent death of the doctor<sup>2</sup> makes it all the more important that

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<sup>1</sup> 5TH CIR. R. 35 I.O.P.

<sup>2</sup> The Suggestion of Death was filed with this Court on August 20, 2021, after the filing of the panel opinion.

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the inquiry of qualified immunity not rest on the collective action of the medical staff, but on the role of each participant.<sup>3</sup> Accordingly, we GRANT the petition for rehearing, VACATE the judgment below, and REMAND this case to the district court for further proceedings.

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<sup>3</sup> See *Taylor v. Riojas*, 141 S. Ct. 52, 54 (2020); *Dyer v. Houston*, 964 F.3d 374, 382 n.6 (5th Cir. 2020) (noting that, for qualified immunity, the Court must assess each officer's individual conduct).