

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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October 30, 2023

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 21-14275-U

Case Style: Betty Wade v. Georgia Correctional Health, LLC, et al

District Court Docket No: 4:18-cv-00192-AT

For the purpose of the upcoming en banc rehearing in the above referenced case, the court desires for counsel to focus their briefs on the following issue:

The parties should not concern themselves with the application of the “prior panel precedent” rule, which provides that “[w]hen there is no method for reconciling an intracircuit conflict of authority, ‘the earliest panel opinion resolving the issue in question binds this circuit *until the court resolves the issue en banc.*’” *Wade v. McDade*, 67 F.4th 1363, 1373 (11th Cir.), *vacated*, __ F.4th __, 2023 WL 6613842 (11th Cir. 2023) (citations and internal quotation marks omitted) (emphasis added). Because this case is now before the en banc Court, the parties should focus their briefs and arguments on the following question of law:

What is the standard for establishing liability on an Eighth Amendment deliberate-indifference claim?

The appellant’s en banc brief is due on or before November 29, 2023. The appellees’ en banc brief is due on or before December 29, 2023. The appellant’s en banc reply brief, if any, is due on or before January 12, 2024. **NO EXTENSIONS WILL BE GRANTED.**

Please see FRAP 28 and 32 and the corresponding circuit rules for information on the form of the briefs. Fifteen (15) paper copies of the en banc briefs shall be filed. Attorneys must file briefs electronically using the ECF system. Paper copies of the briefs should be mailed the next business day. Counsel is not required to submit the additional copies of the previous filed briefs.

The filing of an en banc amicus brief is governed by 11thCir.R.35-8.

Oral argument will be conducted the week of February 13, 2024, in Atlanta, Georgia. Each party will be allotted twenty (20) minutes per side for oral argument. Counsel will receive subsequent correspondence regarding the specific time of oral argument.

Clerk's Office Phone Numbers

General Information:	404-335-6100	Attorney Admissions:	404-335-6122
Case Administration:	404-335-6135	Capital Cases:	404-335-6200
CM/ECF Help Desk:	404-335-6125	Cases Set for Oral Argument:	404-335-6141