

No. 21-11937

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

LYNN HAMLET,

Plaintiff-Appellant,

v.

OFFICER HOXIE, et al.,

Defendants-Appellees.

On Appeal from the United States District Court
For the Southern District of Florida
Case No. 2:18-CV-14167-DMM

BRIEF FOR *AMICUS CURIAE* THE AMERICAN DIABETES ASSOCIATION IN SUPPORT OF APPELLANT

Aaron J. Fischer
LAW OFFICE OF AARON J. FISCHER
2001 Addison Street, Suite 300
Berkeley, CA 94704

*Counsel for the
American Diabetes Association*

Mandi Goodman
KING & SPALDING LLP
1180 Peachtree Street NE
Atlanta, GA 30309

*Counsel for the
American Diabetes Association*

**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Appellate Procedure (FRAP) 26.1 and Eleventh Circuit Rules (ECR) 26.1-1, 26.1-2, and 26.1-3, counsel for *amicus curiae* hereby certify that, to the best of their knowledge, the following persons and entities have or may have an interest in the outcome of this case and were omitted from the Certificate of Interested Persons filed on November 15, 2021, pursuant to FRAP 26.1 and ECR 26.1-1(a)(3) and 26.1-2(b) by counsel for Appellant:

American Diabetes Association, *Amicus Curiae*.

The Internal Revenue Service has determined that the American Diabetes Association is organized and operated exclusively for charitable purposes pursuant to Section 501(c)(3) of the Internal Revenue Code and is exempt from income tax. The American Diabetes Association has no parent corporation, nor has it issued shares or securities. Additionally, no publicly traded company or corporation has an interest in the outcome of this case or appeal.

Dated: November 22, 2021

By: /s/ Mandi Goodman
Mandi Goodman
Counsel for Amicus Curiae

/s/ Aaron J. Fischer
Aaron J. Fischer
Counsel for Amicus Curiae

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INTEREST OF *AMICUS CURIAE*¹

The American Diabetes Association (“Association”) is a nationwide, nonprofit, voluntary health organization founded in 1940 and made up of persons with diabetes, clinicians, research scientists, and other concerned individuals. The Association’s mission is to prevent and cure diabetes and to improve the lives of all people affected by diabetes. The Association is the largest non-governmental organization that deals with the treatment and impact of diabetes.² The Association reviews and authors the most authoritative and widely followed clinical practice recommendations, guidelines, and standards for diabetes treatment and publishes the most influential professional journals concerning diabetes research and treatment.³ As a 501(c)(3)

¹ All parties consent to submission of this brief. *Amici* certify that no party’s counsel authored this brief in whole or in part and that no person other than *amici* or their counsel made a monetary contribution to its preparation or submission.

² The Association has over 500,000 members nationwide.

³ The Association publishes the “Standards of Medical Care in Diabetes,” referred to as the Standards of Care, which is intended to provide clinicians, patients, researchers, policy makers, and other interested parties with the components of diabetes care, general treatment goals, and tools to evaluate the quality of care. American Diabetes Association, Standards of Medical Care in Diabetes—2021, *Diabetes Care* 2021 Jan; 44 (Supp. 1), https://care.diabetesjournals.org/content/44/Supplement_1.

organization, the Association neither supports nor opposes any political party or candidate for political office.

Among the Association's principal concerns is the equitable treatment of people with diabetes, including in carceral settings. People with diabetes face extraordinary short- and long-term health risks in detention settings. Such confinement is often defined by poor access to medical care, unhealthy dietary options, enforced idleness and lack of opportunity to exercise, unsanitary and insalubrious conditions, limitations on access to diabetes care technologies and supplies, and rigid rules and schedules that are inconducive to individualized diabetes management regimens.

The Association has for years published a Position Statement on diabetes management issues in detention facilities like prisons and jails. Most recently updated in October 2021, the Association's Position Statement on Diabetes Management in Detention Facilities makes clear that incarcerated people with diabetes should receive care consistent with national standards. The Position Statement provides guidance on

navigating the unique circumstances of detention facilities to achieve modern standards of care.⁴

Diabetes has been on the rise among incarcerated people. The rate of diabetes in 2011–12 (899 per 10,000 prisoners) was almost twice the rate in 2004 (483 per 10,000).⁵ Furthermore, the incarcerated population continues to include a high number of people from racial groups who are disproportionately likely to have diabetes.⁶

Florida, the state from which this case arises, has the third highest number of people with diabetes, behind only California and Texas. It is among the six states with the highest rates of diabetes.⁷

⁴ American Diabetes Association, *Diabetes Management in Detention Facilities* (Update Oct. 2021), <https://diabetes.org/sites/default/files/2021-11/ADA-position-statement-diabetes-management-detention-settings-2021.pdf>.

⁵ Laura M. Maruschak, Marcus Berzofsky and Jennifer Unangst, *Medical Problems of State and Federal Prisoners and Jail Inmates, 2011–12*, U.S. Dept. of Justice, Bureau of Justice Statistics at 6 (Revised Oct. 2016), <https://bjs.ojp.gov/content/pub/pdf/mpsfpi1112.pdf>.

⁶ Centers for Disease Control and Prevention. *National Diabetes Statistics Report, 2020*. Atlanta, GA: Centers for Disease Control and Prevention, U.S. Dept of Health and Human Services; 2020, <https://www.cdc.gov/diabetes/data/statistics-report/index.html>.

⁷ Timothy M. Dall, et al., *The Economic Burden of Elevated Blood Glucose Levels in 2017: Diagnosed and Undiagnosed Diabetes, Gestational Diabetes Mellitus and Prediabetes*, 42 *Diabetes Care* 1661,

More than 2.1 million people, or 12.5% of Florida's adult population, have diagnosed diabetes. An additional estimated 546,000 people in Florida have diabetes but do not yet know it.⁸ Over the past 20 years, the prevalence of diagnosed diabetes among Florida adults more than doubled, with non-Hispanic Blacks representing the demographic group with the highest prevalence of diabetes in the state.⁹

The Association has filed numerous amicus briefs to share information about diabetes and how it impacts people in employment, education, detention, and other settings.

STATEMENT OF COMPLIANCE WITH RULE 29(a)

No party or party's counsel authored this brief in whole or in part; no party or party's counsel contributed money to fund the preparation or submission of this brief; and no other person except *amicus curiae*,

1666 (Sept. 2019),
<https://care.diabetesjournals.org/content/42/9/1661.full-text.pdf>.

⁸ American Diabetes Association, *The Burden of Diabetes in Florida*, (Oct. 2021), https://diabetes.org/sites/default/files/2021-11/ADV_2021_State_Fact_sheets_Florida_rev.pdf.

⁹ Florida Diabetes Advisory Council, *Florida Diabetes Report* (Jan. 10, 2019), at 6, http://www.floridahealth.gov/diseases-and-conditions/diabetes/Diabetes-Resources/_documents/2019-dac-report.pdf.

their members or their counsel contributed money intended to fund the preparation or submission of this brief.

Both parties have consented to the filing of this brief.

STATEMENT OF ISSUES PRESENTED

Regarding the Eighth Amendment claim in this matter, *amicus* submits that the Court should consider the following in deciding Appellant's first issue presented:¹⁰

1. Whether the Eighth Amendment requires actors in a carceral system to protect against the heightened risk of life-threatening infections, including for incarcerated people with diabetes, by ensuring sanitary conditions.
2. Whether the Eighth Amendment requires actors in a carceral system to ensure a timely and aggressive response to address and treat infections, particularly for incarcerated people with diabetes.
3. Whether exposure to human feces is sufficiently extreme and severe to constitute a constitutional violation, particularly for a person with diabetes and open wounds.

SUMMARY OF ARGUMENT

The Eighth Amendment of the United States Constitution, as interpreted by the courts, requires prisons to maintain a basic level of sanitation in detention centers. *Brooks v. Warden*, 800 F.3d 1295, 1304

¹⁰ Amicus takes no position on the other issues presented in this appeal - *i.e.*, the retaliation and Fourteenth Amendment claims.

(11th Cir. 2015). This constitutional mandate exists not only to promote human dignity, but also out of concern for the health and safety of incarcerated people. *DeSpain v. Uphoff*, 264 F.3d 965, 974 (10th Cir. 2001). This Court has recognized that exposing incarcerated people to unsanitary conditions places them at serious risk of harm. *Brooks*, 800 F.3d at 1305. The health and safety risks of unsanitary conditions are greatly elevated for people with chronic conditions, such as diabetes, high blood pressure, asthma, and hypertension.

Diabetes, for example, is a serious health condition that is becoming more prevalent in prisons and across society. Diabetes can lead to severe medical complications, and makes an individual much more susceptible to infection. As such, exposure to unsanitary conditions, such as human feces, is serious and life-threatening for people with diabetes. Indeed, even when a person with diabetes is exposed only briefly to human feces and an infection is not timely treated, the health implications can be severe or even fatal.

In this case, Lynn Edward Hamlet, a man with diabetes who had open wounds on his legs, was exposed to excrement in a prison shower. Despite his calls for help, Mr. Hamlet was forced to remain in the

excrement-filled shower for approximately 40 minutes. He was then prevented from adequately cleaning the feces off his legs; he had no choice but to use toilet water and his bare hands to try to clean himself. The record indicates that Mr. Hamlet developed endocarditis, a serious infection in the heart that is life-threatening and requires prompt medical treatment. Mr. Hamlet ultimately required heart valve surgery to save his life, and he still suffers from the effects today.

In concluding that Mr. Hamlet's exposure to human feces was not long or severe enough to support an Eighth Amendment claim, the district court drew a line that failed to consider the reality of Mr. Hamlet's diabetic condition and the serious risk of harm he faced. As such, this Court should consider the severe risks of infection faced by incarcerated individuals – and especially someone like Mr. Hamlet with diabetes and open wounds – in defining and vindicating the Eighth Amendment right to sanitary conditions in a carceral setting.

ARGUMENT

I. Incarcerated persons have a constitutional right to basic necessities, including sanitary conditions that are conducive to health.

Although “the Constitution does not mandate comfortable prisons,” it does not permit prisons to “deprive[] the plaintiff of a human need.” *Evans v. St. Lucie County Jail*, 448 F. App’x 971, 974 (11th Cir. 2011) (citation omitted). Indeed, “conditions that deprive inmates of the minimal civilized measure of life’s necessities are violative of the contemporary standard of decency that the Eighth Amendment demands.” *Bilal v. Geo Care, LLC*, 981 F.3d 903, 915 (11th Cir. 2020). Thus, in determining whether an Eighth Amendment violation has been committed, courts consider “the jail’s ability to provide such necessities as food, medical care, and sanitation.” *Hamm v. DeKalb Cty.*, 774 F.2d 1567, 1575 (11th Cir. 1985).

The law recognizes “a ‘well established’ Eighth Amendment right ‘not to be confined ... in conditions lacking basic sanitation.’” *Brooks*, 800 F.3d at 1303; *see also Bilal*, 981 F.3d at 915. To provide basic sanitation, a prison must maintain “clean places for eating, sleeping and working,” and in “such areas as food preparation, medical facilities,

lavatories and showers.” *Fambro v. Fulton Cty., Ga.*, 713 F. Supp. 1426, 1431 (N.D. Ga. 1989). And, “[w]hen sanitary conditions are in question, the court must concern itself with whether substandard sanitation endangers the health of the jail occupants.” *Id.* “Exposure to human waste,” for example, “like few other conditions of confinement, evokes both the health concerns emphasized in *Farmer [v. Brennan]*, 511 U.S. 825 (1994) and the more general standards of dignity embodied in the Eighth Amendment.” *DeSpain*, 264 F.3d at 974.

II. Carceral systems must ensure sanitary conditions sufficient to address the risk of life-threatening infections, particularly for incarcerated people with diabetes.

While basic sanitation is necessary and constitutionally required for all incarcerated people, it is of particular importance for those with chronic health conditions like diabetes. When a person with diabetes is exposed to unsanitary conditions like human feces, the health risks are high. Mr. Hamlet, for one, experienced its devastating effects firsthand.

Diabetes is on the rise, including in carceral settings. The rate of diabetes in the United States' incarcerated population has significantly increased in recent years, nearly doubling between 2004 and 2012.¹¹

It is well established in Eighth Amendment case law that diabetes is a “serious health condition.” See *Redmond v. Kosinski*, 999 F.3d 1116, 1118 (8th Cir. 2021); *Shipp v. Murphy*, 9 F.4th 694, 703 (8th Cir. 2021) (noting that incarcerated plaintiff’s “condition and diabetes were serious medical needs”); *Sparks v. Singh*, 690 F. App’x 598, 603–04 (10th Cir. 2017) (“The parties do not dispute that impaired glucose and diabetes are sufficiently serious medical conditions that satisfy the objective component.”); *Lolli v. Cty. of Orange*, 351 F.3d 410, 419 (9th Cir. 2003) (“Diabetes is a common yet serious illness.”); *Aull v. Osborne*, No. 4:07CV-00016, 2009 WL 111740, at *6 (W.D. Ky. Jan. 15, 2009) (“Diabetes unquestionably is a serious medical condition.”); *Best v. Huffman*, No. CV 17-00042-CG-N, 2018 WL 7585562, at *11 (S.D. Ala. Sept. 6, 2018), *report and recommendation adopted*, No. CV 17-0042-CG-N, 2019 WL 1173353 (S.D. Ala. Mar. 12, 2019).¹²

¹¹ Maruschak, at 6.

¹² Federal regulations implementing the Americans with Disabilities Act Amendments Act provide that diabetes is presumptively an “actual

Among diabetes' serious health complications are a heightened susceptibility to infection and a greater risk of adverse outcomes from infection.¹³ Mr. Hamlet's experience illustrates this reality.

Several aspects of immunity are altered in people with diabetes. As a result, "many specific infections are more common in diabetic patients, and some occur almost exclusively in them."¹⁴

disability" because it substantially limits endocrine function. 29 C.F.R. § 1630.2(j)(3)(iii).

¹³ The COVID-19 pandemic has further highlighted the vulnerability of people with diabetes in contracting infection and disease. Consistent with Centers for Disease Control and Prevention's guidance, courts have recognized that diabetes makes an individual more susceptible to infection. See *United States v. Robinson*, No. 1:16CR324-1, 2021 WL 5177701, at *1 (M.D.N.C. Nov. 8, 2021); *United States v. Canada*, No. CR 119-014, 2021 WL 2117890, at *1 (S.D. Ga. May 25, 2021); *Dixon v. Ivey*, No. 2:20-CV-248-WHA, 2020 WL 4757938, at *2 (M.D. Ala. June 26, 2020), *report and recommendation adopted*, No. 2:20-CV-248-WHA, 2020 WL 4757068 (M.D. Ala. Aug. 17, 2020).

¹⁴ See Nirmal Joshi, M.D., *et al.*, *Infections in Patients with Diabetes Mellitus*, *New England Journal of Med.* 1906 (Dec. 16, 1999), <https://www.nejm.org/doi/full/10.1056/NEJM199912163412507>. Foot infections are the most common soft-tissue infections for people with diabetes. *Id.* at 1909. See also American Diabetes Association, *Diabetes Complications: Skin Complications*, <https://www.diabetes.org/diabetes/complications/skin-complications> (last visited November 22, 2021) ("[D]iabetes can affect every part of the body, including the skin Some of these problems [including infections] are skin conditions anyone can have, but people with diabetes get more easily.").

When people with diabetes develop infections, they face greater risks of experiencing adverse health outcomes as compared to the general population. In 2020, the American Diabetes Association published an analysis finding that people with diabetes are four times more likely to be hospitalized from an infection than those without diabetes—a hospitalization rate of 69 percent compared to 16 percent.¹⁵ Depending on the infection, the risk of hospitalization for someone with diabetes can rise to fifteen times higher than those without diabetes.¹⁶

Specific to Mr. Hamlet’s infection and apparent development of endocarditis requiring his heart valve surgery, studies have shown that people with diabetes (1) are at greater risk for endocarditis (infection in

¹⁵ Harding et al., *Trends in Rates of Infections Requiring Hospitalization Among Adults With Versus Without Diabetes in the U.S., 2000-2015*, 43 *Diabetes Care* 108 (Jan. 2020), <https://doi.org/10.2337/dc19-0653>.

¹⁶ *Id.*; see also Joshi, at 1906 (discussing types of infections that occur with “increased severity and are associated with an increased risk of complications in patients with diabetes”); Baiju R. Shah & Janet E. Hux, *Quantifying the Risk of Infectious Diseases for People With Diabetes*, 26 *Diabetes Care* 510 n. 2 (Feb. 2003), <https://care.diabetesjournals.org/content/26/2/510> (“Diabetes confers an increased risk of developing and dying from an infectious disease.”).

the heart), and (2) had significantly poorer outcomes if they develop such an infection, as compared to people without diabetes.¹⁷

Courts also have recognized that diabetes can lead to severe health risks and medical complications, particularly in carceral settings. *White v. Maine Dep't of Corr.*, No. CIV. 08-174-B-K, 2009 WL 1584859, at *6 (D. Me. June 4, 2009) (discussing “vision loss, nerve damage, heart or kidney damage, or any of the other severe problems frequently associated with diabetes”); *Redmond*, 999 F.3d at 1118 (incarcerated plaintiff with diabetes and hepatitis developed infection from blister on toe); *Madrid v. Gomez*, 889 F. Supp. 1146, 1211 (N.D. Cal. 1995) (diabetes is a “disease[] that appear[s] frequently and foreseeably in the prison population” and poses significant health risks).

Accordingly, this Court should reaffirm this Eighth Amendment jurisprudence that carceral systems must take seriously the heightened risk of developing life-threatening infections from unsanitary conditions, particularly for incarcerated people with diabetes.

¹⁷ Rossella M Benvenga, *et al.*, *Infective endocarditis and diabetes mellitus: Results from a single-center study from 1994 to 2017* (Nov. 2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6860434/>.

III. Carceral systems must ensure a timely and aggressive response to address and treat infections, particularly for incarcerated people with diabetes.

Without timely and aggressive action when a person with diabetes is exposed to bacteria (as through human feces) that could lead to infection, the health implications can be severe and even deadly.

Federal courts have established that incarcerated people with diabetes require clinically adequate care, including to address potential infection. *Lolli v. Cty. of Orange*, 351 F.3d 410, 419 (9th Cir. 2003) (“Diabetes is a common yet serious illness that can produce harmful consequences if left untreated for even a relatively short period of time.”); *Milton v. Turner*, 445 F. App'x 159, 163 (11th Cir. 2011) (“Here, one could reasonably infer that an infected hallux, if left untreated, would pose a substantial risk of harm, especially in a diabetic.”); *Sims v. City of Atlanta, Georgia*, No. 1:17-CV-00519-RWS, 2018 WL 10396436, at *8 (N.D. Ga. Mar. 19, 2018) (discussing “the potential risks associated with a condition such as diabetes going untreated and unmonitored for an extended length of time”).

The record in Mr. Hamlet’s case suggests egregious and unacceptable delays in response to his exposure to human excrement,

particularly given the risks he faced because of his diabetes and open wounds. First, Mr. Hamlet was not permitted to promptly and properly clean himself after the incident. It was not until the infection worsened and he was rushed to the infirmary, two weeks after the exposure to human excrement, that he claims he was allowed to shower. The extended exposure to bacteria without adequate cleaning contradicts guidance for people with diabetes on proper foot care, especially for those (like Mr. Hamlet) with open wounds.¹⁸

Second, the record indicates a delayed medical response once Mr. Hamlet began experiencing symptoms of the infection leading to endocarditis. Such a delay is extremely dangerous to the health of a person with diabetes, as early diagnosis and treatment are essential to avoiding serious health outcomes.¹⁹

¹⁸ American Diabetes Association, *Diabetes Complications: Skin Complications*, <https://www.diabetes.org/diabetes/complications/skin-complications>. Care for feet and lower extremities is a foundational component of diabetes management, to avoid major complications like infection and amputation. American Diabetes Association, *Microvascular Complications and Foot Care: Standards of Medical Care in Diabetes: Diabetes Care*, Jan. 2021 (Supp. 1): S151–S167, <https://care.diabetesjournals.org/content/44/9/2186>.

¹⁹ Daniely Iadocico Sobreiro, *et al.*, *Early Diagnosis and Treatment in Infective Endocarditis: Challenges for a Better Prognosis*, Arq Bras

IV. Even short-term exposure to human feces is sufficiently extreme and severe to constitute a constitutional violation, particularly for a person with diabetes and open wounds.

In establishing that exposure to unsanitary conditions presents a substantial risk of serious harm, courts consider whether the exposure is “extreme” and “deprive[s] the prisoner ‘of the minimal civilized measure of life’s necessities.’” *Saunders v. Sheriff of Brevard Cty.*, 735 F. App’x 559, 564 (11th Cir. 2018) (citation omitted). This is an objective inquiry, and courts consider a variety of factors, such as both the duration and severity of exposure. Because there is no “bright-line durational requirement,” *Willey v. Kirkpatrick*, 801 F.3d 51, 68 (2d Cir. 2015), claims are analyzed on a case-by-case basis. *See Whitnack v. Douglas Cty.*, 16 F.3d 954, 958 (8th Cir. 1994) (“While the length of time a prisoner must endure an unsanitary cell is undoubtedly one factor in the constitutional calculus, the degree of filth endured is surely another.”); *see also DeSpain*, 264 F.3d at 974 (“[S]ubstantial deprivations of ... sanitation’ may meet the standard despite a shorter duration.”).

Cardiol. (Feb. 2019) 112(2):201-203,
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6371822/>.

Consideration of an incarcerated person's health condition must be part of the inquiry. In other words, to adequately analyze the "severity" of exposure to unsanitary or other dangerous conditions, courts must consider the health risks that the person faces from the exposure, including in the context of their individual health condition.

Exposure to extraordinarily dangerous conditions cannot be excused by purported brevity of such exposure. This is true with respect to exposure to peanuts for someone with a severe peanut allergy, or to poison gas, or, as in this case, to bacteria-filled excrement for someone with diabetes and open wounds. Such conditions are extremely dangerous, even for extremely short duration, and should not be tolerated by courts in enforcing the Eighth Amendment of the Constitution.

This Court's decision in *Brooks v. Warden* offers an important comparison. The plaintiff brought claims under the Eighth Amendment, alleging, *inter alia*, "that he was 'forced to lie in direct and extended contact with his own feces without any ability to clean himself.'" 800 F.3d at 1305. The alleged mistreatment lasted "for two days during his three-day hospital stay" following a violent attack. *Id.*

at 1303. Recognizing that “the health risks of prolonged exposure to human excrement are obvious,” this Court concluded that the plaintiff sufficiently alleged a substantial risk of serious harm. *Id.* at 1305.

In *Brooks*, however, the plaintiff did not have diabetes or any other health condition that would put him at heightened risk of infection from exposure to unsanitary conditions. This Court nonetheless found that a substantial risk of harm existed.

Here, Mr. Hamlet was presented with the same “obvious” health risks from human excrement exposure as the plaintiff was in *Brooks*. But Mr. Hamlet *also* had diabetes and open wounds that were exposed to human excrement in the shower’s standing water. Thus, even though Mr. Hamlet’s initial exposure may not have been as prolonged as in *Brooks*,²⁰ when considering the exposure coupled with his health

²⁰ *Amicus curiae* disputes that the duration of exposure in this case was insubstantial, as the district court seemed to conclude, without any apparent factual support or scientific/medical evidence. Order at 12 (finding exposure to “feces, and perhaps some urine, for at most 40 minutes was not extreme enough to satisfy the objective component of an Eighth Amendment claim”). This finding is particularly problematic given Mr. Hamlet’s inability to clean the feces from his body, and his being forced to attempt to clean his wounds with toilet water in his cell—an approach that presumably exposed Mr. Hamlet still further to danger of infection, this time from his own excrement.

risks and susceptibility to infection, the Court should conclude that a substantial risk of harm existed. *Bilal*, 981 F.3d at 915. Indeed, this is the kind of case where “the length of time required before a constitutional violation is made out decreases” because of the severity and “level of filthiness endured.” *Whitnack*, 16 F.3d at 958; *DeSpain*, 264 F.3d at 974 (“[S]ubstantial deprivations of ... sanitation’ may meet the standard despite a shorter duration.”).

Because this constitutional inquiry requires courts to consider the particular facts of each case, the fact that a person’s health condition makes an exposure to unsanitary conditions more severe cannot be ignored. Mr. Hamlet’s exposure to human feces was extremely severe and dangerous because of his diabetes and open wounds, a fact borne out by the serious medical complications that followed. “One does not have to have a degree in sanitation engineering to understand” that those conditions may be “conducive to the development and transmission of bacteria both because of conditions ... and the lack of the ability to provide for adequate personal hygiene.” *Fambro*, 713 F. Supp. at 1431.

CONCLUSION

For the reasons set forth above, *amicus curiae* respectfully submit that the Court should reverse the decision of the district court and ensure that Eighth Amendment protections sufficiently protect the rights and well-being of incarcerated people with diabetes.

Respectfully submitted,

s/ Aaron J. Fischer

Aaron J. Fischer
Law Office of Aaron J. Fischer
2001 Addison Street, Suite 300
Berkeley CA 94704
Phone: (510) 806-7366
Email: ajf@aaronfischerlaw.com

*Counsel for the American
Diabetes Association*

s/ Mandi Goodman

Mandi Goodman
King & Spalding LLP
1180 Peachtree Street NE
Atlanta, GA 30309
Phone: (404) 572-2849
Email: mgoodman@kslaw.com

*Counsel for the American
Diabetes Association*

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), I hereby certify that this motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A).

1. In compliance with Federal Rules of Appellate Procedure 32(a)(5) and 32(a)(6), the brief has been prepared in proportionally spaced typeface using Microsoft Word in 14-point Century Schoolbook font.
2. Excluding the exempted portions of the brief, as provided in Federal Rule of Appellate Procedure 32(f), the brief contains 3496 words.

Dated: November 22, 2021

By: s/ Mandi Goodman
Mandi Goodman
Counsel for Amicus Curiae

CERTIFICATE OF SERVICE

I hereby certify that on the twenty-second of November 2021, I electronically filed the foregoing with the Clerk of Court for the United States Court of Appeals for the Eleventh Circuit by using the appellate CM/ECF system, which will serve all counsel of record.

Dated: November 22, 2021

By: s/ Mandi Goodman
Mandi Goodman
Counsel for Amicus Curiae

APPENDIX A

Select Publications of the American Diabetes Association

- (1) *Diabetes* (monthly journal publishing original research about the physiology and pathophysiology of diabetes mellitus);
- (2) *Diabetes Care* (monthly journal for health care practitioners publishing research on topics including: cardiovascular and metabolic risk, pathophysiology/complications, emerging treatments and technologies, and epidemiology/health services);
- (3) *Clinical Diabetes* (quarterly journal for clinicians involved in the care of people with diabetes publishing information about advances in care and a discussion forum for diabetes-related problems in medical practice, case studies, research digests, and patient education materials);
- (4) *BMJ Open Diabetes Research & Care* (open access journal committed to publishing high-quality basic and clinical research articles regarding type 1 and type 2 diabetes and associated complications);
- (5) *Diabetes Spectrum* (quarterly journal for health care professionals focused on strategies to individualize treatment and optimize patient outcomes);
- (6) American Diabetes Association Position Statement: *Diabetes Management in Detention Facilities* (October 2021)