

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

AUG 25 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

T.W.,

Plaintiff - Appellee,

v.

EMILY ECHTENKAMP,

Defendant - Appellant,

and

AMIRA GUADALUPE ANDRADE,
TONY BAKER, JOSEPH O'LEARY, DAN
BERGER,

Defendants.

No. 25-5777

D.C. No.

3:24-cv-01326-MO

MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael W. Mosman, District Judge, Presiding

Argued and Submitted August 4, 2026
Seattle, Washington

Before: HAWKINS, McKEOWN, and CHRISTEN, Circuit Judges.

This appeal arises from a claim filed pursuant to 42 U.S.C. § 1983 by T.W.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

for conduct that occurred while he was in the custody of the Oregon Youth Authority (OYA). T.W. alleges that Emily Echtenkamp, a mental health professional for the OYA, groomed him by offering contraband; solicited him for a sexual relationship; showed him nude photographs and videos of herself masturbating; and rubbed his leg in a sexual manner for her own sexual gratification, all in violation of T.W.’s Eighth Amendment rights. The complaint alleges that Echtenkamp was assigned as T.W.’s mental health professional after T.W. was sexually abused by an OYA group life coordinator. Echtenkamp moved to dismiss T.W.’s complaint on the grounds of qualified immunity. The district court denied her motion, and Echtenkamp timely appealed.

“We have jurisdiction under the collateral order doctrine to review a district court’s rejection of a qualified immunity defense at the motion to dismiss stage.” *Polanco v. Diaz*, 76 F.4th 918, 925 (9th Cir. 2023) (citation omitted). We review de novo the denial of a motion to dismiss based on qualified immunity, considering whether, “accept[ing] as true all well-pleaded allegations of material fact, and constru[ing] them in the light most favorable to the non-moving party,” the defendant is entitled to qualified immunity. *Hernandez v. City of San Jose*, 897 F.3d 1125, 1131–32 (9th Cir. 2018) (quoting *Padilla v. Yoo*, 678 F.3d 748, 757 (9th Cir. 2012)). A defendant is not entitled to qualified immunity if her conduct “(1) violated a constitutional right that (2) was clearly established at the time of the

violation.” *Polanco*, 76 F.4th at 925 (citation omitted). We conclude that, as alleged, Echtenkamp’s conduct violated T.W.’s clearly established Eighth Amendment right to be free from sexual assault and affirm the district court’s order denying Echtenkamp’s motion to dismiss.

1. Echtenkamp first argues that her conduct did not violate T.W.’s Eighth Amendment rights, even construing the facts in the light most favorable to T.W. In *Bearchild v. Cobban*, 947 F.3d 1130, 1144 (9th Cir. 2020), we held that a prisoner alleges “a viable Eighth Amendment claim” where his complaint states “that a prison staff member, acting under color of law and without legitimate penological justification, touched the prisoner in a sexual manner or otherwise engaged in sexual conduct for the staff member’s own sexual gratification, or for the purpose of humiliating, degrading, or demeaning the prisoner.” Echtenkamp contends that to decide whether T.W.’s allegations meet *Bearchild*’s definition of sexual assault, we must look at each alleged action in isolation and without reference to Echtenkamp’s position as a qualified mental health professional.

We disagree. In the conditions-of-confinement cases Echtenkamp relies on, we emphasized that “each condition of confinement does not exist in isolation.” *Wright v. Rushen*, 642 F.2d 1129, 1133 (9th Cir. 1981). Rather, “the court must consider the effect of each condition in the context of the prison environment, especially when the ill-effects of particular conditions are exacerbated by other

related conditions.” *Id.*; see also *Chappell v. Mandeville*, 706 F.3d 1052, 1061 (9th Cir. 2013) (noting that “conditions of confinement may establish an Eighth Amendment violation ‘in combination’ . . . when the conditions ‘have a mutually enforcing effect’” (quoting *Wilson v. Seiter*, 501 U.S. 294, 304 (1991))). Indeed, determining whether an officer’s conduct amounts to sexual assault under the Eighth Amendment requires examining the officer’s subjective intent, a necessarily contextual and fact-specific inquiry. *Bearchild*, 947 F.3d. at 1144 (proscribing conduct done “for the purpose of humiliating, degrading, or demeaning the prisoner” or “for the staff member’s own sexual gratification”); cf. *United States v. Kirst*, 54 F.4th 610, 623 (9th Cir. 2022) (“Direct proof of one’s specific wrongful intent is rarely available, and wrongful intent may be inferred from circumstantial evidence.” (citation modified)).

We also reject Echtenkamp’s contention that it was error for the district court to consider her role as a mental health professional because sexualized conduct by a mental health provider assigned to treat a prisoner who had already been sexually abused by a different staff member creates a distinct harm. See *Wood v. Beauclair*, 692 F.3d 1041, 1047 (9th Cir. 2012) (considering the coercive authority a guard wields over an inmate when evaluating whether a reasonable jury could find an Eighth Amendment violation); *Schwenk v. Hartford*, 204 F.3d 1187, 1196 (9th Cir. 2000) (“Whether a particular event or condition in fact constitutes

‘cruel and unusual punishment’ is gauged against ‘the evolving standards of decency that mark the progress of a maturing society.’” (quoting *Hudson v. McMillian*, 503 U.S. 1, 8 (1992))). Unlike a prison guard, whose physical contact with a prisoner can serve legitimate custodial functions, *Bearchild*, 947 F.3d at 1145, a mental health provider does not need to engage in physical contact with a prisoner, and Echtenkamp does not contend otherwise.

We conclude that taking T.W.’s allegations as true and drawing all reasonable inferences in his favor, Echtenkamp’s use of her position as a mental health provider to isolate T.W. for private sessions, her display of nude photographs and masturbation videos, her repeated requests for a sexual relationship with T.W., and her rubbing of T.W.’s leg state a plausible claim of sexual assault in violation of the Eighth Amendment.

2. Echtenkamp next argues that the clearly established weight of authority in the Ninth Circuit would not have put an individual in her position on notice that her alleged conduct violates the Eighth Amendment. A clearly established right is one that is “sufficiently clear that every reasonable official would have understood that what [s]he is doing violates that right.” *Zorn v. Linton*, 146 S. Ct. 926, 930 (2026) (per curiam) (quoting *Rivas-Villegas v. Cortesluna*, 595 U.S. 1, 5 (2021) (per curiam)).

At the time of Echtenkamp’s alleged misconduct, it was clearly established

that prisoners have a right to be free from sexual assault. *See Bearchild*, 947 F.3d at 1146 (“[W]e reaffirm here that sexual assault violates the Eighth Amendment regardless of the amount of force used.” (citing *Wood*, 692 F.3d at 1045)); *see also Schwenk*, 204 F.3d at 1197 (“In the simplest and most absolute of terms, the Eighth Amendment right of prisoners to be free from sexual abuse was unquestionably clearly established . . . and no reasonable prison guard could possibly have believed otherwise.”). Our decision in *Vazquez v. County of Kern*, 949 F.3d 1153 (9th Cir. 2020) further confirms that a reasonable official in Echtenkamp’s position would have been on notice that her alleged conduct was unlawful. In *Vazquez*, a juvenile corrections officer selected a female ward for isolated work duties, called her “babe,” commented on her appearance, relayed that he had a sexual dream about her, touched her face and shoulders, and watched her shower. *Id.* at 1162. This court held that such conduct violated the plaintiff’s constitutional rights under clearly established law. *Id.* at 1160–64. The physical contact, surrounding pattern of grooming, and sexualized attention in *Vazquez* are akin to the conduct alleged by T.W.

Echtenkamp does not attempt to distinguish *Vazquez* on its facts but instead contends that *Vazquez* is inapposite because it addressed the Fourteenth Amendment rather than the Eighth. We are unpersuaded. We have clearly held that custodial sexual assault categorically serves no legitimate governmental

purpose under either Amendment. *See id.* at 1163–64; *Bearchild*, 947 F.3d at 1144; *Wood*, 692 F.3d at 1050. Ultimately, “the premise of qualified immunity is that state officials should not be held liable for money damages *absent fair warning* that their actions were unconstitutional.” *Sandoval v. County of San Diego*, 985 F.3d 657, 674 (9th Cir. 2021) (emphasis added). “The focus is on the standards governing the defendant’s conduct, not legal arcana.” *Id.*; *see also Whitley v. Albers*, 475 U.S. 312, 327 (1986) (noting that it would be “surprising” if “conduct that shocks the conscience . . . and so violates the Fourteenth Amendment, were not also punishment inconsistent with contemporary standards of decency . . . in violation of the Eighth” (citation modified)).

Moreover, this case also constitutes a rare instance where “a general constitutional rule already identified in the decisional law . . . appl[ies] with obvious clarity to the specific conduct in question.” *Hope v. Pelzer*, 536 U.S. 730, 741 (2002); *see also Taylor v. Riojas*, 592 U.S. 7, 8–9 (2020) (per curiam); *see Schwenk*, 204 F.3d at 1197 (recognizing an Eighth Amendment right to be free from sexual assault); *Wood*, 692 F.3d at 1050–51 (same); *Bearchild*, 947 F.3d at 1144 (defining sexual assault). No reasonable mental health professional in Echtenkamp’s position could have been confused about whether her conduct violated T.W.’s right to be free from sexual assault. Nor is this a case where an official was required to make a “split-second judgment[.]” *Kingsley v.*

Hendrickson, 576 U.S. 389, 399 (2015). Taking T.W.’s allegations as true, Echtenkamp was a mental health provider who engaged in a deliberate and sustained course of conduct toward a particularly vulnerable patient. *See Kisela v. Hughes*, 584 U.S. 100, 104 (2018) (per curiam) (explaining that qualified immunity is not intended to protect “the plainly incompetent or those who knowingly violate the law” (quoting *White v. Pauly*, 580 U.S. 73, 79 (2017))).

We conclude that an individual in Echtenkamp’s position, a mental health professional at a juvenile corrections facility, would have had fair warning that the conduct alleged by T.W. was unlawful. *See Polanco*, 76 F.4th at 925 (“At the motion to dismiss stage, dismissal is not appropriate unless we can determine, based on the complaint itself, that qualified immunity applies.” (citation omitted)).

AFFIRMED.