

IN THE  
SUPREME COURT OF THE UNITED STATES

June Term 2018

NO. 17-30494

PETITION FOR WRIT OF HABEAS CORPUS

MITCHELL STEVENS 078189  
(VS) (PETITIONER)

DARREL VANNOY ET AL.  
(RESPONDENTS)

PETITION FOR WRIT OF HABEAS CORPUS  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

MITCHELL STEVENS 078189  
C.C. - PRO SE  
GENERAL DELIVERY  
LOUISIANA STATE PRISON  
ANGOLA, LOUISIANA  
70712

LAST KNOWN ATTORNEY FOR THE DEFENDANTS  
MR. JONATHAN RAY VINNING  
LOUISIANA STATE DEPARTMENT  
OF PUBLIC SAFETY & CORR.  
504 MAEFLOWER STREET  
BUILDING 2  
BATON ROUGE, LOUISIANA  
70802 - 0000

Questions Presented

(1) Whether the Court of Appeals rendered a decision which conflicts with this court and decisions of its own court, when it ruled that a dismissal before rendering an answer from the defendants IS NOT A NON FRIVOUS ISSUE FOR APPEAL

(2) Whether the Court of Appeals departed from the acceptable and usual judicial proceeding by not following the proper standard of review for dismissal of a pro se forma paupers complaint AS FRIVOUS

(3) Whether the Court of Appeals sanctioned such departure by adopting and affirming the district court ruling before properly resolving all disputes facts and laws (especially the authority of the defendants) whom did they get their authorized

## PARTIES OF INTEREST

PETITIONER - MITCHELL STEVENS

RESPONDENTS DARREL VANNY WAR. JAMES LABLANC SEC. OF CORR. UNKNOWN DUPONT WAR. CHAD MANCINNI WAR. TROY PORET WAR. ORVILLE LAMARTINEER WAR. UNKNOWN CRUZ COL. UNKNOWN RE ROBINSON COL. CHAD ORBRA LT. COL. SHULTON SCALES MAJ WILLIAM ROSSO CAPT UNKNOWN PIGION LT. UNKNOWN BOUDROUX STAFF SERG. MEGAN SHIDLEY CLASS. OFFICER UNKNOWN FAIRCHILD CLASS. OFF. SHERWOOD PORET R.N. MELANIE BARTON RN ARMY ZAUBRACHOR RN. 211 I.F.C. NURSES WHO INJECTED ME SINCE 2002.

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## APPENDIX

DECISION OF THE AGENCY	<u>(A1-A2)</u>
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(CASES) TABLE OF Authority

- JONES vs BOCK 127 S.Ct. 910, 549, US 199 (US 2002)
  - Denton vs Hernandez 112 S.Ct 1728 504 US 28 (USCA1 1992)
  - Williams vs TRENH 671 F 2d 892 (CA 5) LA 1982
  - ALABAMA vs PUGH 98 Sct 3657 438 US 781 (US DA 1978)
  - RICAUD vs American metal co. 38 Sct 346 US 304 (US  
Tax 1918)
  - Scheuer vs Rhodes 94 S.Ct 1683 416 US 232 (US OHIO 1978)
  - FURNER vs SAFLEY 107 S.Ct 2254 482 US 781 (US MD 1987)
- |           |               |                   |
|-----------|---------------|-------------------|
| STATE LAW | AGENCY Policy | AGENCY Discipline |
| 15:831    | 09A 031-034   | Ry Rule 5         |
| 15:860    |               |                   |

Decision Below

The DECISION OF the UNITED STATES DISTRICT COURT middle DISTRICT OF LOUISIANA DOC # 3-14 CV-204 IS attached here IN AS APPENDIX B-1. AND the DECISION OF the UNITED STATES COURT OF APPEALS FIFTH Circuit # 17-30494 IS ATTACHED here to AS APPENDIX C-1. I Filed FOR a HEARING ENBANC ON 4-29-18, but this matter WAS dismissed with out a RULING.

Jurisdiction

The JUDGEMENT OF the UNITED STATES FIFTH Circuit COURT OF APPEALS WAS ENTERED 4-13-18 AND I Filed FOR a REHEARING ENBANC 4-29-18 I HAVE gotten NO RESPONSE ON that matter SO NOW I File this PETITION to be NOT time BARRED. Jurisdiction IS conferred by 28 USC 1254

Constitutional and Statutory Provisions Involved

This case involves violations of the First, Eighth and Fourteenth Amendments of the Constitution of the United States of the Freedom of Religion, Due Process of Law and Equal and usual clauses

Made applicable to the states by Section (1) one and (5) Five of Amendment (14) Fourteenth of the United States Constitution.

(Section 1) All persons born or naturalized in the United States and subject to jurisdiction thereof are citizens of the United States and of the state where in they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States. Nor shall any state deprive any person of life, liberty or property without due process of law nor deny any person under jurisdiction equal protection of laws.

(Section 5) The Congress shall have power to enforce by appropriate legislation the provisions of this article and enforce by title ~~42~~ section ~~1983~~ United States Code: Every person who under color of any state ordinance, regulation, custom, or usage of any state or the district of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action of law, suit in equity, or other proper proceeding for redress.

Constitutional Provisions First, Eighth and Fourteenth Amendments

Statutes 28 USC 1343 42 USC 1983 (Rule) Supreme Court Rule (37)

One and Five of the Fourteenth Amendment

## STATEMENT OF THE CASE

I will RECITE ONLY SO MUCH OF THE HISTORY OF THIS CASE ONLY THAT WHICH NECESSARY FOR THE DETERMINATION OF THE ISSUES BE FORTHIS COURT, IN 2013 I WAS APPROACHED BY L.P.N. MELANIE BARTON WHO INFORMED ME SHE WAS THERE TO ADMINISTER B TEST BY INJECTION, I INFORMED HER UNLESS THE LAW REQUIRE ME TO SUBMIT MY FAITH REQUIRE ME TO REFUSE, THAT STARTED A CHAIN REACTION OF ACTIVITIES TO FORCE ME TO SUBMIT TO THE SAID INJECTION, BECAUSE THE DEFENDANTS NAMED IN THIS COMPLAINT REFUSED TO NAME THEMSELVES OR THE SUBSTANCE THAT THEY USED AND THEY REFUSED TO IDENTIFY ANY LAW OR POLICY WHICH AUTHORIZED THEIR ACTIONS, I FILED A GRIEVANCE WITH THE AGENCY CLAIMING A VIOLATION OF MY RELIGIOUS FREEDOM RIGHTS AS FOR MY RELIEF REQUESTED, THAT I BE SHOWN IN WRITING THAT I COULD NOT REFUSE SUCH INJECTION AND THAT THAT WAS AUTHORIZED TO USE FORCE IF I DID, THAT REQUEST WAS DENIED, THEN I FILED SUIT IN THE UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF LOUISIANA AGAINST THE DEFENDANTS IN THIS COMPLAINT AS PERSONS, WHOM WHILE WORKING UNDER COLOR OF STATE LAW VIOLATED MY CONSTITUTIONAL RIGHTS I FILED THIS SUIT UNDER (42 USC 1983) AND (28 USC 1343) CLAIMING THAT ACCORDING TO STATE LAW 15:831 AND AGENCIES POLICIES (031) AND (099) THE DEFENDANTS HAVE A MANDATE TO PROVIDE BY MAKING AVAILABLE SUCH TREATMENT AND TESTING, AND B.R.S. (15:866) AND POLICY 034 MAKE IT CLEAR THAT THEY ARE NOT AUTHORIZED TO USE FORCE TO FULFILL THAT MANDATE AND IT IS EQUALLY CLEAR THAT ANY SANE INMATE CAN REFUSE SUCH TREATMENT AND TESTING, THE ONLY AUTHORITY THEY CLAIM THROUGH DISCIPLINARY APPEAL AND REPORT AND A.R.P. RESPONSE WAS THAT OF A DIRECT VERBAL ORDER Rule (5) I CLAIMED THAT DURING THAT PROCESS THEY VIOLATED SEVERAL OTHER RIGHTS THOSE THEY DENIED ALL CLAIMS SEE APPENDIX (A1-3) THEREFORE I ASKED FOR DECLARATORY JUDGEMENT INJECTION RELIEF AND MONETARY DAMAGES IN THIS OFFICIAL AND PHYSICAL CAPACITIES, THE DISTRICT COURT DISMISSED MY SUIT, WITH PREJUDICE AS FRIVOLOUS, FOR FAIL

WARE TO STATE A CLAIM IN WHICH RELIEF CAN BE GRANT-  
 ED CITING BECAUSE OF STATE MGMT MADE IN MY COMPLAINT  
 BY MS. BARBER AND MYSELF, VERIFIED THAT THE DEFEND-  
 ANTS WERE LEGALLY AUTHORIZED FOR THEIR ACTION, THEREFORE  
 IMMUNE FROM SUIT IN THEIR OFFICIAL CAPACITY AND FULL-  
 FILLING A COMPULSING RATIONAL INTEREST IN THEIR PLEDG-  
 VISIONAL CAPACITY, THEREFORE THE COURT ALSO DECLINE SUPPLA  
 MENTAL JURISDICTION, I THEREFORE APPEAL TO THE UNITED  
 STATES FIFTH CIRCUIT COURT OF APPEALS ARGUING THAT THE DIS-  
 TRICT COURT RULING WAS AN ERRONEOUS CONCLUSION BASED UP-  
 ON MISREPRESENTATION OF FACT AND BY DISMISSING THIS  
 MATTER BEFORE REVIEWING THE DEFENDANTS TO ANSWER THE CO-  
 URTS RULING WAS PREMATURE BECAUSE I COULD SUBMIT EVIDENCE  
 SEE APPENDIX (A) THAT WOULD DISPUTE THE COURT'S ERRONEOUS  
 CONCLUSION OF THE DEFENDANTS BEING LEGALLY AUTHORIZED FOR THE  
 ACTIONS. NEVER THE LOSS THE APPEALS COURT ADOPTED THE ERRO-  
 RIOUS CONCLUSION OF THE DISTRICT COURT AND AFFIRMED ITS  
 RULING. AND DISMISSED THIS MATTER WITH PREJUDICE AS FR-  
 IVIOUS ISSUING ME TWO STRIKES BARRING ME FROM FURTHER  
 FILING AN I P COMPLAINT IN FEDERAL COURTS I FILED A  
 PETITION FOR REHEARING ON APRIL 29 2018 BUT NEVER HEARD ANY  
 THING FROM THE COURT, I THEREFORE PETITION THIS COURT.

ARGUMENT IN SUPPORT OF GRANTING COHESION

THIS CASE IS IMPORTANT AS TO THE ISSUE IT RAISES AS  
 TO THE PROPER ALLOCATION OF FUNCTION OF THIS COURT AND THE  
 COURT OF APPEALS. THIS COURT HAS CONSISTENTLY RECOGNIZED THE  
 OBSERVANCE OF DIVISION, BETWEEN APPEALS COURT AND THIS  
 COURT AND ITS IMPORTANCE IN EVERY CASE TO MAINTAIN OR  
 SECURE UNIFORMITY WITH THIS COURT, SPECIFICALLY ON ISSUES  
 PREVIOUSLY RULED ON.

(ARGUMENT 1) CONFLICTS WITH RULING IN ITS OWN COURT

THE COURT RULED THAT A DISMISSAL BEFORE THE DEFENDANTS  
 ARE REQUIRED TO ANSWER IS NOT A NEXT FRIVOLOUS ISSUE FOR  
 APPEAL, THIS SAME COURT RULED IN ~~CONFIDENTIAL~~ THAT THE BLAUNT

AMENDMENT IMMUNITY IS AN AFFIRMATIVE DEFENSE, IT IS NOT SO-  
 VERIGH FOR STATE OFFICIALS, BUT QUALIFIED, NOT AUTOMATIC  
 BUT AVAILABLE TO THOSE WHO BOTH ASSERT IT AND PROVE THAT THEY  
 WERE ACTING WITHIN THE SCOPE OF THEIR DISCRETIONARY AUTHORITY.  
 APPENDIX (A-2) IS DOCUMENTAL PROOF WHICH IS AVAILABLE  
 RECORD OF THE DEFENDANT'S ANSWER, WHICH IS A DENIAL OF  
 THE CLAIMS. THEREFORE FOR THE COURT TO DISMISS ALL OF THIS MATTER  
 OR FOR ARGUING THE DEFENDANT'S ANSWER AND BY NOT  
 DEVELOPING A FACTUAL RECORD TO SUPPORT ITS FINDINGS, ACC-  
 ORDING TO PREVIOUS CIRCUIT RULINGS THIS RULING IS  
 PREMATURE THEREFORE A NON-FRIVOUS ISSUE FOR APPEAL  
 (ARGUMENT 2) THE COURT RULING CONFLICTS WITH SUPREMO  
 COURT RULING (IMMUNITY) IN ALABAMA VS BUCH 985 CH  
 57 438 US 78 (AS ALSO 1978) THE SUPREME COURT RULED THAT  
 STATE OFFICIALS ELUVANTH AMENDMENT IMMUNITY IS NOT AB-  
 SOLUTE BUT QUALIFIED THEREFORE IT DOES NOT AUTOMATICALLY  
 ERADICATE A CONSTITUTIONAL RIGHT VIOLATION THEREIMM-  
 UNITY MUST BE AFFIRMED AND SINCE LOUISIANA HAS ESTABLISH-  
 ED POLICIES AND LAWS, THEY MUST AT LEAST MAKE A CLEAR THEM-  
 SOLVES THAT THEY WORK IN COMPLIANCE WITH THOSE LAWS AND  
 POLICIES. THE COURT RULING IGNORES L.R. 15.831 AND 15.832  
 AND AGENCY POLICIES 09A031 AND 039 AS WELL AS THE DOCS-  
 MORITAL FACTUAL RECORD SET APPENDIX (A-3) AND INSTEAD  
 BASED IT RULING ON AN ERRONEOUS CONCLUSION. (B) THE SUPREME  
 COURT RULING IN SCHLESER VS RHODES Q15. CT. 1103, 1111, 1113  
 839 (AS ALSO 1979) WHEN A DISTRICT COURT ERRONEOUSLY BELIEVE  
 THAT CIVIL RIGHTS ACTION AGAINST STATE OFFICIALS ARE BARRED  
 BY THE ELEVENTH AMENDMENT AND DISMISS SUIT WITH OUT AF-  
 FORDING PLAINTIFF OPPORTUNITY TO SUBMIT EVIDENCE... SUCH DIS-  
 MISSED AS PREMATURE, BECAUSE ISSUE IS NOT WHETHER PLAINTIFF  
 WILL PREVAIL OR ULTIMATELY PREVAIL, BUT WHETHER PLAINTIFF  
 HAD OPPORTUNITY TO SUPPORT HIS CLAIMS AND DISPUTE FACTS  
 ASSUMED IN SUCH ERRONEOUS CONCLUSION THEREFORE  
 THE COURT'S RULING OF THE DEFENDANT IMMUNITY CONFLICTS  
 WITH THIS COURT



AS FAR AS THE COURT GRANTING THE DEFENDANTS AN COMPELLING INTEREST DEFENSE BEFORE REQUIRING AN ANSWER THAT RULING WAS PREMATURE AND CONFLICTS WITH SUPREME COURT RULING IN TURNER VS SAELEY 107 S. CT. 2259 482 45 781 (US MO 1987) THE SUPREME COURT RULED THAT WHEN STATE OFFICIALS ARE ACCUSED OF VIOLATING A CONSTITUTIONAL RIGHT THEY MUST SUBMIT AN ANSWER TO THE COURT AS TO WHY SUCH RIGHT WAS VIOLATED AND THE ANSWER THEY GIVE MUST BE REASONABLE AND LOGICAL TO FULFILLING A COMPELLING HOMOLOGICAL INTEREST AND THEY MUST ALSO DEMONSTRATE THAT IT WAS BY THE LEAST RESTRICTIVE MEANS. IN MY COMPLAINT THAT THE DEFENDANTS VIOLATED MY CONSTITUTIONAL RIGHTS BY FORCING ME TO SUBMIT TO INSPECTIONS, NEITHER THE DISTRICT COURT OR APPEALS COURT DISPUTED THOSE CLAIMS, THEY CLAIMED THE DEFENDANTS WAS LEGALLY AUTHORIZED FOR THEIR ACTION. I HAVE SUBMITTED WITH THIS PETITION IN APPENDIX (A1-3) THE ONLY ANSWER SUBMITTED BY DEFENDANTS TO ME OR THE COURTS CONCERNING THIS MATTER, AND THEY DENIED THEY COMMITTED THESE ACTS AT ALL THERE FORA THEIR ANSWER DISAPPEARED THE COURTS RULING. THERE FORA UNTIL THE DEFENDANTS EXPLAINED TO THE COURT WHY THEY DID WHAT THEY DID AND THEN DENIED IT THE COURT RULING CONFLICTS WITH SUPREME COURT RULINGS THEY MUST BE REQUIRED TO ANSWER.

DEPARTURE FROM THE ACCEPTABLE JUDICIAL PROCEEDING  
IN JONES VS BOCK 127 S. CT. 910, 549, US 199 (US 2007)  
 THE SUPREME COURT SAID THE FEDERAL COURT REMAINS COMMITTED TO GUARANTEEING THAT ALL PRISONERS COMPLAINTS ARE HANDLED ACCORDING TO LAW. AND TO PROTECT THE LEGAL SYSTEM FROM ABUSE OF PRISONERS, THE COURT IS REQUIRED TO SCREEN ALL PRISONERS COMPLAINTS AND DISMISS THOSE THAT ARE FRIVOLUS, MALICIOUS, FAILURE TO STATE A CLAIM IN WHICH RELIEF COULD BE GRANTED, OR SUING A DEFENDANT IN THEIR OFFICIAL CAPACITY FOR MONETARY DAMAGES IMMUNE FROM SUIT, AND BY DOING SO NO MATTER WHAT EVER THE TEMPTATION OF STATEMANSHIP OF POLICY MAKING MIGHT WISELY SUGGEST THE JUDGES JOB IS TO CONSTRUCT THE STATUTE NOT MAKE IT BETTER HE MUST NOT READ IN BY WAY OF CREATION BUT INSTEAD.

Abide by duty of RESTRAINT, humility of function is merely the interpreter of another's command. The appeal court has a standard to follow to properly review & dismissal of a pro se in forma pauper's complaint with prejudice as frivolous, that standard is outlined in Denton vs. Heskett 112 S. Ct. 1728 504 US 25 (US CA 1992) says that an appeals court reviewed & properly reviewed for abuse of discretion, and by doing so the appeals court must consider among other things did (A) the district court apply erroneous conclusion (B) and did the district court appropriately resolve all disputed issues of fact, because the district court could not confirm and the appeals court could not affirm its ruling with state law or agency policies and the appeals court could not confirm its ruling that a premature dismissal is not a non-frivolous issue for appeal with applicable case law, it fails to consider the court's ruling as being erroneous conclusions, and because I claim the defendants force me to submit to infection and they denied all claims see CONV. 1-3 AND the court collateral estoppel this matter without appropriately resolving all disputed issues of facts and by not giving me a fair chance to litigate this matter the court did not follow the proper standard of review for dismissing a pro se IFP complaint with prejudice as frivolous therefore the court departed from the acceptable and usual judicial proceeding AND the commitment to lawfully handle prisoners complaint (4) (ARGUMENT 4) The court sanctioned such departure of the calls for an exercise of this court supervisory powers

The district court by not considering the clear and definite expression of the legislative will as dictated in L.R.S. 15:831 and 15:860 and agency policies 090 and 030 ARE the defendants response threw the grievance see CONV. 1-3 that the court was aware of because to file suit I had to first exhaust all state remedies, but rather choose to base its ruling on unsupported conclusions, and for the appeals court to adopt such conclusion and affirm the lower court ruling based on such conclusions.

With out STATING FACTS, but merely ASSUMING that there was EVIDENCE to ESTABLISH FACTS AS ANSWER to IMPORTANT QUESTION SUCH SANCTION IS NOT PROPER. ~~RECAV~~ VS AMERICAN METAL CO 38 S. Ct. 246 US 304 ~~1910~~ BY LEB 708 ~~(1918)~~.

CONCLUSION

CERTIORARI should be GRANTED because of the Requirement of the Federal court to PROTECT the United States CONSTITUTION AND the FEDERAL courts COMMITMENT to FAIRLY HANDLING PRISONERS COMPLAINT LAWFULLY This petition is supported by FACTS, STATE LAW, AGENCY Policy, COURT RULES, UNITED STATES COURT RULINGS, MOST IMPORTANT OF ALL the FIRST, ~~19th~~, and FOURTEENTH Amendment OF the CONSTITUTION OF the UNITED STATES, the COURT RULING IS supported by IT'S OWN DISCRETION and UNREASONABLE application OF LAWS. THEREFORE IF the COURT RULING PREVAIL IT would be SENDING a MESSAGE to STATE OFFICIALS IT could CONTINUE to VIOLATE my and ~~thousands of other~~ PRISONERS RIGHTS at will because they never have to ANSWER to the FEDERAL courts and that would be a TERRIBLE MISCARRIAGE OF JUSTICE THEREFORE IN the INTEREST OF JUSTICE CERTIORARI should be GRANTED because JUSTICE REQUIRE IT.

CERTIFICATION OF SERVICE

I here by CERTIFY that this petition along with IFPMotion and appendix A, 2, 3, B, C, 1, and COURT RULINGS was mailed this 12 day of JUNE 2018 I also CERTIFY that a COPY OF this petition with appendix A, 2, 3, was mailed to the LAST KNOWN ATTORNEY list on the COVER OF the DEFENDANTS JUNE 12, 2018

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