

III.

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Phillip DEWAYNE Stewart - PETITIONER
(Your Name)

vs.

Ronald John Stukey - RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of APPEALS, For the 8th Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

Phillip DEWAYNE Stewart

RLW (Your Name)

7206 W. 7th

(Address)

Pine Bluff, Ar. 71603

(City, State, Zip Code)

(Phone Number)

IV.

QUESTION(S) PRESENTED

IF Doctor Ronald John Stukely had addressed my Doctor Call visit on 1-25-17, which the purpose for the visit was. For the reordering of my updated, Doctor Prescribed Nortriptyline Pain Medication. Which Expiration Date was 1-31-17, then it would not have expired, and cause me to miss getting the Nortriptyline Medication, for (7) whole days.

V.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

APPELLEE

Ronald John Stucky

P.O. Box 8707

Pine Bluff, Ar. 71611-8707

APPELLANT

Phillip DEWAYNE Stewart

Randall L. Williams Unit

7206 W. 7th

Pine Bluff, Ar. 71603

V I.

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Appendix A. I Need the Supreme Court of the United States to review, the ruling of the United States Court of APPEALS, For the 8th Circuit Judges, who dismissed my claim, For Failure to Prosecute March 28, 2018, and denied my APPEAL, or Petition For Rehearing on 5-8-18, For I wasn't Granted Leave in Forma Pauperis. Although, I am indigent, and my Due Process was clearly violated By Doctor, Ronald John Stukey.

Appendix B. I Need the Supreme Court of the United States to review, the ruling of the United States District Court, who dismissed my claim on 8-16-17, unless I Pay the Full claim amount up Front, when, I am Indigent, and can't Afford to Pay. And my Due Process. Was Clearly Violated by Dr. Ronald John Stukey.

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IX.

IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix B to the petition and is unpublished.

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

X.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 3-28-18.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 5-8-18, and a copy of the order denying rehearing appears at Appendix B.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____ A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____ A _____.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

XI.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves Amendment XIV to the United States Constitution, which provides:

Section 1. All Persons born or Naturalized in the United States, and and Subject to the Jurisdiction there of 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 to any person within its' Jurisdiction the equal Protection of the Laws.

SECTION 5. The Congress shall have Power to enforce, by appropriate legislation, the Provisions of this Article.

The Amendment is enforced by Title 42, Section 1983, United States Code: Every PERSON who, under color of any statute, ordinance, regulation, custom, or usage, of any State, or Territory 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 the constitution and Laws. Shall be liable to the Party injured in an action at Law, suit in equity. or other Proper Proceeding For Redress, except that in any action brought. Against a Judicial OFFicer, For an act or omission taken in such OFFicers Judicial capacity, inductive relief shall not be Granted unless a declaration decree was violated, or declaratory relief was unavailable. For the Purpose of this SECTION, any act of Congress applicable exclusively to the District of Columbia. Shall be considered to be a Statute of the District of Columbia.

XII

STATEMENT OF THE CASE

I File this claim on 6-15-17, it was Documented, and Filed by the court on 6-19-17.

For, this is concerning the violation of my Due Process, by Doctor Ronald John Stukey who is Medical ~~And~~ Provider at Varner Unit, ADC;

But, he is employed by Correct Care Solutions.

For he Failed to meet my medical need on 1-25-17.

For I had a Doctor call visit on 1-25-17.

And, it was to Get my Doctor Prescribed, Nor triptyline Pain medication reordered. But, he didn't reorder it, as he said, and I went (7) days without it.

Statement of the Case Continuation
Page (4)

XII-1

For I am appealing the United States Court of Appeals,

For the 8th Circuit ruling to dismiss my claim For Failure to

Prosecute on 3-28-18 date cause I can't pay the cost of

this claim in Full, and up Front.

Cause, I am indigent and can't afford to pay, that is why

I should be Granted leave in Forma Pauperis.

Skinner V. Govorchin, 463 F.3d 518, 523-24 (6th Cir. 2006).

And, I ~~am~~ should be Granted leave in Forma Pauperis cause

I am in imminent danger and it is not measured at time of incident.

Page (4)

XII-2

BANOS V. O'GUIN, 144 F.3d 883, 884-85 (5th Cir. 1998)

And this is an imminent danger claim, cause not only am I suing

the defendant/apellee, Ronald John Stuke. But, I am

suing his official capacity, which is the company he work

for, Correct Care Solutions. And they are still the business

that ADC uses, and have not stop using. For, I have to be

in ADC. For approximatedly (4) more years. And, I will have

to be treat by an Correct Care Solutions worker. For I

have Permanent injuries. I have a bullet in my left thigh.

PAGE (4)
X I I - 3

That causes it to cramp. I have a missing ~~and~~ right

Kidney, From a gunshot, I have back Pains From being shot in

the back. I have back Pains, after hurting my back in a

car wreck, I have back Pains, after being hit in the head

while in APC, and I Fell on the Floor, and hurt my back.

I have bad head Aches, From having my head busted by an APC.

INmate on 6-11-12, I had to have stitches, then I had

my head busted while in APC. by an APC. INmate, where I

had to have my head bandage up, I suffered a concussion.

PAGE (4)

XII-4

As a result of the concussion, that happened on 8-24-14.

I have memory loss, Double vision, blurred vision, shortness of

breath, body numbness, chest pains, Feel Faint. For, I will

need medical help For, as long as I am in ADC, and Correct

Care Solutions, is the company, they will continually be

using. Which is why this is an imminent danger claim.

Medberry V. Butler, 185 F.3d 1189, 1193 (11th Cir. 1999).

For my medical condition, and the fact that my medical need

~~condition~~ was not met, by Licensed Doctor Ronald J. Stuke.

PAGE(4)

XI I-5

Who is still working For, Correct Care Solutions, and him

and his company is still being used by ADC. ;

Medberry V. Butler, 185 F.3d 1189, 1193 (11th Cir. 1999).

Banos V. O'Guin, 144 F.3d 883, 884-85 (5th Cir. 1998).

For, I should be Granted leave in Forma Pauperis, cause,

Doctor, Ronald John Stuke was acting in the color of

State Law, when depriving me of Doctor Prescribed

Nortriptyline Pain medication For (7) days.

Parratt v. Taylor, 451 U.S. 527, 535-36 (1981).

PAGE (4)

XII-6

Fitzgerald v. Barnstable Sch. Comm., 555 U.S. 246 (2009).

Johnson v. Phillips, 664 F.3d 232, 239-40 (8th Cir. 2011).

For, I should be granted leave in Forma Pauperis cause, the

claim is not Frivolous, For it was Found with Merits by

Health Service Administrator, Jason Kelley at Varner

Unit, a Correct Care Solutions Employee also.

NEITZKE v. Williams, 490 U.S. 319, 325 (1989).

NEWLIN v. Helman, 123 F.3d 429-433 (7th Cir. 1997).

Doctor Ronald J. Stucky, acted in color of State Law.

PAGE(4)
XII-7

When disobeying a ~~Doctor~~ Doctor call order on 1-25-17, when

Doctor, Stuke was aware of the sick call since 1-18-17.

Which is when Nurse Gray scheduled, the Doctor call visit.

But, Doctor Ronald John Stuke didn't reorder, the

updated Nor triptyline that Expired on 1-31-17.

For, he let it expire, and it took a 2-2-17 Grievance

to get me scheduled to see him, by the time I saw him

on 2-8-17, I had missed getting the Nor triptyline on

2-1-17, 2-2-17, 2-3-17, 2-4-17, 2-5-17, 2-6-17, 2-7-17;

PAGE(4)

XII-8

And that was (7) days I missed getting my Doctor

Prescribed Nortriptyline, but, he was suppose to reorder it

15 days earlier on 1/25/17, For, he, Doctor Stucky knew

about, the Doctor call appointment on 1-18-17. Which is

22 days, before 2-8-17, when, he Finally reordered it, on a

second scheduled appointment. For, the First scheduled

Doctor call appointment came From the 1-16-17 sick

call I put in which I say sick call nurse Gray on

1-18-17, who scheduled me to see Doctor Ronald J. Stucky.

PAGE (4)

XII-9

Who I saw on 1-25-17, but, he didn't reorder my

Nortriptyline like he was suppose to do on 1-25-17, then

I wouldn't have missed any Nortriptyline Pain

Medication, that was Doctor ordered. For, just like

Doctor Ronald John Stukey reordered my Doctor Prescribed

Nortriptyline Pain Medication on 2-8-17, he could have

reordered it just as easy on 1-25-17. He acted in

color of State Law, When Not Following a Doctor Call

Scheduled order. Which was done on 1-25-17.

PAGE (4)

XII-10

Walker V. Norris, 917 F.2d 1449, 1455-56 (6th Cir. 1990).

Carlson V. Green, 446 U.S. 14, 18-19 (1980).

391 F.3d 250 (D.C. Cir. 2004).

For not having my Doctor Prescribed Nortriptyline, For

(7) days, I had to make (7) trips to Pill call, just to

Find out, it hadn't been reordered, by Doctor Stuke.

For, the walk up (9) steps one way to get to the day

room. Then I had to go Past (6) barracks to get to

Pill call window. For going there my legs were cramping

PAGE(4)

XII-11

My head was hurting, neck was cramping, back was hurting.

I felt faint, my body went numb, I had shortness of

breath, double vision, For, without the Nortriptyline,

I had to walk in pain, talk in pain, sit down in pain,

shower in pain, sleep in pain, eat in pain, and had to do

this in pain for a whole week, which is (7) days. The

pain had me emotionally upset. And mentally disturbed

Doctor Ronald John Stuke was deliberately indifference

to my serious medical need.

PAGE(4)

XII-12

His actions were cruel and unusual Punishment, an 8th

Amendment violation. That shocks the Imagination.

Court agree that a medical need is serious when it has been

Diagnosed as mandating treatment by a Doctor.

Johnson v. Busbee, 953 F.2d 349, 351 (8th Cir. 1991).

Deliberate Indifference to a serious medical need is

Cruel AND UNUSUAL Punishment.

Estelle v. Gamble, 429 U.S. at 104

For having to fill out the 1-16-17 sick call.

Page(4)

XII-13

Had my Fingers cramping. Felling out the 2-2-17

Grievance had my Fingers cramping, For this is additional

writing, that is on top of me having to write my Family, or write

the courts about my claims. Doctor depriving me of, Doctor Prescribed

Medication, and a Licensed, Doctor Ronald John Stuke. Did that.

It also ~~and~~ violate the 5th and 14th Amendment, which state

No United States citizen shall be deprived of Life, Liberty

or Property without due process of law.

And it is deliberate INDIFFERENCE. And cruel and UNUSUAL Punishment.

PAGE (4)

XII-14

For Doctor Ronald John Stuker action were done knowingly, and on

Purpose. For, I had to be in pain for ~~8 days~~ (7) days, because of

Doctor Ronald John Stuker disobeying a Doctor call schedule order

that was set on 1-18-17, which is (8) days Earlier than the

1-25-17, Doctor call appointment I had with Doctor Ronald John

Stuker in Person, which he didn't reorder the Doctor Prescribed

Nortriptyline. For he could have as easily reordered the

Nortriptyline Pain medication at my scheduled 1-25-17, Doctor call

as he did on 2-8-17, Doctor call visit, that it took a Grievance For

PAGE (4)
XII-15

For, this claim I Filed on 6-19-17, which is what the United States District court clerk Filed it on 6-19-17, For I sent it in to the District Court on 6-15-17. For, I was at the Doctor call visit with Doctor Ronald John Stukey, on 1-25-17. That is (7) days, ~~was~~ before my Doctor Prescribed Nortriptyline Pain medication was suppose to EXPIRE on 1-31-17. Had Doctor Ronald John Stukey obeyed the 1-25-17 Doctor call scheduled order. Which was scheduled, as Early as 1-18-17, then my Doctor Prescribed Nortriptyline would not have EXPIRED.

PAGE (4)
XII-16

And I would not have went any day, without my Doctor

Prescribed, Nortriptyline Pain Medication.

For, I went to P'll call on 2-1-17, thinking that my Doctor

Prescribed Nortriptyline Pain Medications, had been reordered on,

and at 1-25-17 Doctor call. And I Found out it had not been.

I WAS in disbelief, head started hurting, I was upset. My body went

Numb, I Felt Faint, Water come out my eyes.

For, I Put a Grievance in on 2-2-17, For, I was called to

Medical about the Grievance on 2-6-17, there at that time.

PAGE (4)

X I I - 17

I was then on ~~2-6-17~~ 2-6-17, Scheduled to see Doctor

Stukey again, who I saw on 2-8-17, and he then reordered

the Doctor Prescribed Nortriptyline. For, I had to make (4)

trips to the infirmary, before I finally got my Doctor

Prescribed Nortriptyline pain medicine reordered.

For, I had to first put in a sick call, then I had to go ^{to} sick ~~call~~

call, after being called by nurse Gray on 1-18-17, then I had to

go to Doctor call on 1-25-17, since my Doctor Prescribed

Nortriptyline Pain Medication wasn't reordered on 1-25-17.

PAGE(4)

XII-18

Then I put in a Grievance on 2-2-17, when I found out on

2-1-17, that Doctor Ronald John Stukey hadn't reordered my

Doctor Prescribed, Nor triPtyline Pain medication at the

1-25-17 sick call. Then, I had to go back to the infirmary on

2-6-17 to the 2-2-17 Grievance response, which at the

2-6-17 Grievance response, that was concerning the

2-2-17, Grievance I put in, at that time, I was

scheduled to see Doctor Ronald John Stukey, which I saw him

at Doctor call ~~40~~ on 2-8-17, and he reordered it.

Page(4)
XII-19

For Doctor Ronald John Stukey reordered, my Doctor Prescribed

Nortriptyline Pain Medication on 2-8-17, when he was

suppose to reorder it on 1-25-17 Doctor call.

For, it didn't Expire until, 1-31-17, had he reordered it on

1-25-17, it would not have Expired, and I would not have had

to ~~go without~~ Go without it For 7 days.

For I Put in a Grievance on 2-2-17, For, it was Found

on 2-6-17 with Merit, by Nurse Powell, who saw my

Nortriptyline, hadn't been reordered at the, 1-25-17 Doctor call.

Page(4)
XII-20

Cause if it had been, Nurse Powell, who responded to my 2-2-17

Grievance, would not have had to schedule me to see Doctor

Ronald John Stukey again ~~and~~, For Nurse Powell scheduled the

Doctor call visit ~~and~~, For me with Doctor Ronald John

Stukey on the 2-6-17, and I saw him on 2-8-17.

For ~~and~~ as I continued with my Grievance Exhaustion

Process, For on 3-7-17, Health Service Administrator,

Jason Kelley also found ~~and~~ 3-7-17, the 2-2-17

Grievance with merit.

PAGE (4)
XII-21

And as I continued, I also had on 5-2-17, the Chief

Deputy Medical Director, Rory Griffin to agree with the

Health Service Director at the Varner Unit, Jason Kelley.

Which mean he, also found my 2-2-17 Grievance with

Merit. For it took 3 months for the 2-2-17 Grievance

Process to be Exhausted. For, I started doing research

on this, after the Grievance Process was Exhausted on

5-2-17, For I had to go to the Library, Law Library, For

one day a week to the Law Library.

PAGE (4)

XII-22

For, being in Prison, as an Inmate, I am Limited to

the Amount of Law Library time, I can have. I can

not go and come as I Please. And, being at the Varner

Maximum Security Unit up until ~~6-5-17~~ 6-5-17, it is

always something happening, where inmates may be locked

down, and there is no Library or any movement.

Then after being at Varner since 10-31-14, all of a

sudden, I'm told that I am being transferred, it was

on 6-5-17, now I had to learn a new Prison system.

PAGE (4)

XII-23

So, it took Learning the Prison system at Barbara

Ester Unit, before I Filed this claim on 6-15-17, ~~at~~

For I sent the claim in on 6-15-17, the United

States District Court Filed it on 6-19-17.

For, it took me less time to send this claim information

in, than it took For the Grievance Process to be

Exhausted, For an ADC. INMATE MUST Exhaust

a Grievance Process, while incarcerated, before they

can File a 1983 claim, or Lawsuit.

Page(4)

XII-24

This is why imminent danger is not measured at the time of incident.

Banos v. O'Guin, 144 F.3d 883, 884-85 (5th Cir. 1998).

For in a civil claim case, or a Criminal Case.

Very Few has ended in as short period of time as

4 months, meaning from the writing of my 2-2-17

Grievance, until the 6-15-17, send to the United

States District Court to start my claim on 6-19-17.

For researching takes time.

PAGE (4)
XII-25

For, researching has a lot of reading and writing in it.

For my eyes got tired, burned, watery, double vision, head

start hurting from much concentration. My fingers

start cramping from much writing, hand cramp, arm,

neck cramp, back hurt sitting, reading and writing,

Legs cramp, get memory loss, behind or bottom hurt,

from much sitting, feet cramp, body go numb, feel faint

shortness of breath, chest pains, stomach get upset, dry

mouth, and have to go to the restroom, during researching.

PAGE (4)

XII-26

First Court Generally AGREE that a Medical need is serious, IF it.

Has been Diagnosed as Mandating treatment, by a Physician.

Johnson V. Busbee, 953 F.2d 349, 351 (8th Cir. 1991).

DEliberate INdiFFerence to a serious Medical need is cruel and

UNUSUAL Punishment. Estelle V. Gamble, 429 U.S. 97, 104 (1976).

DElays in treating PainFul Medical conditions, that are not liFe threatening

Boretti V. Wiscomb, 930 F.2d 1150, 1154-55 (6th Cir. 1991).

To deliberately or intentionally withhold necessary medical treatment

Constitute cruel and unusual Punishment. Estelle V. Gamble, U.S. SUP. CT. 1976;

XIII.

REASONS FOR GRANTING THE PETITION

A. CONFLICTS WITH DECISION OF OTHER COURTS.

That states a Prisoner, who cannot pay the initial fee, must be allowed to proceed with his case, and not merely be granted more time to pay.

SKINNER V. GOVORCHIN, 463 F.3d 518, 523-24 (6th Cir. 2006).

NEWLIN V. HELMAN, 123 F.3d 429, 433 (7th Cir. 1997)

For, I am in imminent danger, cause the same company, or corporation, that Doctor Ronald John Stuke is employed by, Correct Care Solutions. Is still a medical provider for the ARKANSAS DEPARTMENT OF CORRECTION. And, I am suing, Dr. Ronald John Stuke, also his official capacity. Which is correct care solutions. And, I'll always have to be waited on for medical need, by a medical provider sent from correct care solutions, MEDberry V. Butler, 185 F.3d 1189, 1193 (11th Cir. 1999).

Polanco V. Hopkins, 510 F.3d 152, 156 (2d Cir. 2007).

Bond V. Aguinaldo, 228 F. Supp. 2d 918, 919 (N.D. Ill. 2002).

McAlphin V. Toney, 375 F.3d 753, 755 (8th Cir. 2004).

And, correct care solutions still have Ronald John Stuke working for them. And, he could be sent to care for me in the future, when I have 3 years left in ADC., so I still have to depend on Dr. Ronald John Stuke to get my medical needs met.

And my petition should be granted, cause Dr. Ronald John Stuke, operated and acted under color of state law, when depriving me of due process.

Carlson V. Green, 446 U.S. 14, 18-19 (1980).

West V. Atkins, 487 U.S. 42, 48 (1988).

Johnson V. Phillips, 664 F.3d 232, 239-40 (8th Cir. 2011)

Correct Care Solutions are liable as well, as their employee, Dr. Ronald John Stuke. Howlett V. Rose, 496 U.S. 356, 376 (1990).

Papasan V. Allain, 478 U.S. 265, 278 (1986).

Lapides V. Bd of Regents, 535 U.S. 613, 619-20 (2002).

Monell V. Dep't of Soc. Servs., 436 U.S. 658, 690, 98 S.Ct. 2018, 2035-36, 56 L.Ed.2d 611, 635 (1978).

B. IMPortance OF the Question Presented

This case Presents a Fundamental Question OF the interpretation OF this Courts Decision in *Leatherman v. Tarrant County Narcotics Intelligence, and Coordination Unit*, 507 U.S. 163, 166-67, 113 S.Ct. 1160 (1993).

The Fact that neither deFendant understood, that their action was illegal did not establie Qualified IMMUNITY.

State Regulations could defeat superintendents' claim to Qualified immunity, by indicating that, he was responsible For reviewing Disciplinary Proceedings. By this, I am saying, the same is true in the case OF Dr. Ronald John Stuke, who had an order appointment to see me at Doctor call, For to Reorder my Doctor Prescribed, Nor triptyline Pain Medication. But, he didn't address it as Promised. AND I missed (7) days OF getting my Doctor Prescribed Nor triptyline, before, Dr. Ronald John Stuke Reordered it, and it took a second Doctor visit, a second Doctor EXamination, by him. *Roska v. Petersen*, 328 F.3d 1230, 1251 (10th Cir. 2003).

The over arching inquiring is. whether, inspite OF the EXistence OF the Statue a reasonable Doctor should have KNOWN, that his conduct was UNlawFUL.

Anderson v. Creighton, 483 U.S. 635, 640, 107 S.Ct. 3034 (1987).

Hope v. Pelzer, 536 U.S. 730, 739-40, 122 S.Ct. 2508 (2002).

DeFendant who disobeyed a sick call order to address, my medical concern, which was to get my updated Doctor Prescribed

Nor triptyline Pain Medication reordered, before it EXpired in (6) days. But, allowed it to EXpire For 8 days, before reordering it.

AND making me Miss getting, the Nor triptyline ~~reordered~~ For (7) days. He is Doctor Ronald John Stuke, and he is not IMMUNED From being sued. *NauGLE v. Witney*, 755 F.Supp. 1504, 1518 (D. Utah 1990).

DeFendants, who acted in violation OF Prison Policies were not IMMUNED. *Wood v. White*, 689 F.Supp. 874, 877 (W.D.Wis. 1988).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully Submitted,
Phillip Dewayne Stewart 151956
Phillip DEWAYNE Stewart

Date: 7-24-18