

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

WILLIAM STAPLES - PETITIONER

VS

CLAUDE MAYE-RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO

TO THE UNITE STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

WILLIAM STAPLES
P. O. BOX 340
FCI - WIL
WILLIAMSBURG SC 29590

QUESTION(S) PRESENTED

- 1) WAS Staples Due Process complied with by the prison Officials?
- 2) Was there a complete return to the Writ of Habeas Corpus from the prison officials?
- 3) Was there a fraudulent Sworn declaration submitted by the prison officials?

No. _____

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION	

INDEX TO APPENDICES

APPENDIX A ORDER AND JUDGMENT OF THE COURT OF APPEALS FOR THE
TENTH CIRCUIT

APPENDIX B MOTION FOR RECONSIDERATION DENIED IN THE COURT OF
APPEALS OF THE TENTH CIRCUIT

APPENDIX C MEMORANDUM AND ORDER OF THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF KANSAS

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
-------	-------------

Wolff vs McDonnell 418 US 539, 564 - 66 (1974) 6, 7, 10, and 22

Staples vs Chester,
370 F App'x 925-926 (10th Cir. 2010)(Unpublished) 8,

Woodroad vs Ligo,
548 US 81, 90 (2006) 9

Hill vs Superintendent,
472 US 445, 455 (1985) 12

Gritten vs Castillo,
11-16-2015 (2015 US Lexis 154445) 14

Waldberger vs GFS Corp.,
US ___, 169 L Ed 2d 2862 15

United States vs Murray,
527 F 2d 401 (5th Cir. 1976) 15

STATUTES AND RULES

Title 18 USC § 1001 21

CONTINUATION OF STATUTES AND RULES

PAGE NUMBER

Title 28 USC § 1746 21

Federal Rule of Civil Procedure Rule 60(b)(2)(3)(6)19

Federal Bureau of Prison Program Statement 5270.09
and CFR § 541 7

UNITED STATES CONSTITUTION

Fifth Amendment

Eighth Amendment

Fourteenth Amendment

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THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

William Staples, Pro Se
Reg. #07725 - 089
FCI - WIL
P.O. Box 340
Williamsburg, SC 29590

IN THE
SUPREME COURT OF THE UNITED STATES OF AMERICA

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 - A to the petition and is:

is Unpublished.

The opinion of the Tenth Circuit Court of Appeals denial to a Motion for Reconsideration appears at Appendix B to the petition and is:

is unpublished.

The opinion of the United States District Court appears at Appendix C to the petition and is: is unpublished.

JURISDICTION

For cases from federal courts:

The date on which the United States Court of Appeals decided my case was September 9, 2017.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: July 9th, 2018, and a copy of the order denying rehearing appears at Appendix B.

The date on which the United States District Court For The District of Kansas decided my case was January 15th, 2015.

No petition for reconsideration was filed and the District Court's opinion appears at Appendix C.

The jurisdiction of this Court is invoked under 28 USC § 1254(1).

STATEMENT OF THE CASE

At all times pertaining to this case Petitioner was a inmate incarcerated by the Department of Justice and held in custody by the Federal Bureau of Prisons.

On April 5, 2014, Petitioner was awaken and told to go to the Lt.'s office and from there Petitioner was placed in the (SHU) "Special Housing Unit. (See Exhibit - 1) After 22 days the alleged investigation was completed a incident report #2576551 was issued alleging assault a violation of code - 227. (See exhibit - 2) This incident report was delivered to Petitioner on (4/28/14) at 9:23am. See exhibit - 2) Less than 24 hours later the UDC held a hearing on Petitioner on April 29, 2014 (See exhibit(s) 3 - 5) Upon the UDC completing its investigation, initially the incident report was expunged.

Three days later on May 1, 2014, incident report #2576551 was reissued claiming that Petitioner assaulted the inmate on April 4, 2014. (See exhibit - 6) Again less than 24 hours later on May 1, 2014, another UDC hearing was held on Petitioner and the incident report #2576551 was issued claiming the same charges and specific allegations of assault in violation of code 227. The UDC then referred the incident report to the DHO. (See exhibit - 7). Petitioner then on May 27, 2014, appeared in front of the DHO and plead not guilty and gave a written statement. The DHO went on to find Petitioner guilty of assaulting an inmate Brown on ...Saturday

April 5, 2014.(See exhibit - 8). The DHO went on to sanction Staples 14 days disallowed Good Conduct Time and 180 days lost of phone privileges. Staples then appealed a timely appeal to the Regional Director. (See exhibit - 9). The Regional Director then on or about "10-2-2014) denied the appeal. (See exhibit - 10) Then on or about "Oct 31, 2014" Staples filed a timely appeal to the Central Office of the BOP. (See exhibit - 11) With the time extension the Central Office had 60 days from Oct. 31 2014 to answer the appeal which gave them a due date of Dec. 30, 2014. The National Inmate Appeals Administrator for the BOP did not answer that final step of the appeal until "5/10/2016." (See exhibit - 12)

However, soon after the Administrator National Inmate Appeals did not answer the final appeal Staples filed his Writ of Habeas Corpus on four of his DHO disciplinary hearings, alleging that the BOP violated his Due Process, Due Process Proceedings, and Substantial Created Liberty Interest. The District Court For Kansas ordered the government to make a complete and entire record return to the writ. The District Court after hearing arguments on brief denied the writ and ordered it dismissed. (See Attachment - C) Staples, then made a timely appeal to the Tenth Circuit Court of Appeals. After hearing the case on argument on briefs, the case again was dismissed for failure to exhaust administrative remedies. (See Attachment - A) Staples then filed a Motion For Reconsideration. The Tenth Circuit then considered it as a Motion for rehearing, and then denied the motion.

REASONS FOR GRANTING THE PETITION

The District Court and the Tenth Circuit Court of Appeals has erred in denying Petitioner's petition for a writ of Habeas Corpus which is a clear error in the "finding of facts" and Petitioner request of this court to review de novo all other issues, including whether the petition has met the relevant "burden of proof and all issues of discretion." that the Federal Bureau of Prison Officials has violated Staples' 5th, 8th, 14th, and the created liberty interest contained in the (FOP's) Program Statement 5270.09 CFR § 541.

I) THE COURTS ERRED WHEN NOT FINDING THAT PRISON OFFICIALS DID NOT VIOLATE STAPLES DUE PROCESS OF LAW UNDER WOLFF VS MC DONNELL.. 418 US 539, 564 - 66 (1974)

Under this US Supreme Court's decision engraved in stone, that the minimum of seven requirements of procedural due process are standard and they are seven of them. Here Staples concerns is with three (3) of these requirements were violated and not met by the (FOP). Each also has been created as a liberty interest by the (FOP) within the PS 5270.09. (See exhibit - 5)

- a) Staples has a right to a notice of the charges and specific facts against him at least 24 hours prior to a "Disciplinary Hearing" of any type.

In exhibit - 5 of the (FBOP) it states that Staples has a right to have a written copy of the charge(s) against him given to him at least 24 hours prior to appearing before the disciplinary hearing. On the incident report #2576551 was issued to Staples on "4/28/2014" at 9:23am and then approximately 8:30am on April 29th, 2014, the (UDC) "Unit Disciplinary Committee" met and held a (UDC hearing) on Staples. This was done far sooner than the minimum requirement of the 24 hours in order to satisfy due process of law and due process procedures under Wolff. However, fortunately for Staples he was able to prevail, overcome, and have the incident report initially expunged. However, Staples was kept in lockup and on May 1st, 2014, at 13:34pm Staples was issued yet another incident report alleging the same charges and facts with the exception of changing the date as to the time of the alleged incident. But again Staples did not have this incident report within his possession 24 hours before another (UDC Hearing) was held on him. (See exhibit - 6 for the second incident report) and as shown in exhibit - 7 is the (UDC Hearing) where Staples plead not guilty and the committee to refer for further hearing of the charges to the DHO on the same day of May 1st, 2014, only minutes after the serving of the incident report to Staples. This is a clear due process of law, due process procedure violation and of Wolff and the created liberty interest in the 25 5270.09 and of the United States Constitution of the 8th, and 14th Amendment.

b) Staples has the right to be advised of the DHO's

decision, the "facts supporting at decision,
and the DHO's decision in writing ...

Here in all four incident reports the prison officials did initially make it confusing and very hard for Staples to obtain a copy of the DHO's written decision, supporting facts and disposition. In the first two incident reports mentioned back in 2007 that the Appellate Court For The Tenth Circuit which upheld the dismissal in Staples vs Chester, 370 F App'x 925 926 (10th Cir 2010)(unpublished) it took the prison officials more than nine months for them to deliver those copies in which they only had at that time 10 working days to present Staples with a copy. Here in the instance case at bar of incident report #2513440 it took prison off 1s more than six months to deliver the DHO's written decision and report and with incident report 57551 took prison officials over 60 days to deliver the DHO's decision and report to Staples. This is not complying with Wolff's decision nor the US Supreme Court's decision and is a violation of the created liberty interest.

Program Statement 5270 09 § 541 and the United States Constitution of the 14th Amendment. So when this take place and as suggested by the appellate court herein ... Staples had limited time in which to file an appeal .. The District Court concluded that Staples . . had "failed to pursue available remedies." (See attachments - A & C) The District Court and the Appellate Court even went on to conclude that:

"Addressing the DHO's failure to provide Staples in a timely written report of its findings, the District Court acknowledged that his failure greatly complicated the administrative app-

eals process," but concluded that it didn't violate Wolff's due process requirements but Staples eventually received the report. Id.

But there the district court and the appellate court erred again, because the initial point that started Wolff was the fact that a created liberty interest existed for Wolff to call witnesses which the prison regulations and policy called for when the inmate so desired to and when the prison officials denied to call those witnesses. This US Supreme Court then and there made a landmark decision that there existed a created liberty interest in which was protected by due process of law and that the prison officials violated. Herein this case at bar, back in 2007 Staples had a created liberty interest to have his first two incident report's written DHO decision and written report delivered to Staples within 10 workings days and not nine months, the last two incident reports written DHO decision and report, Staples has a created liberty interest to have the DHO's written decision and report delivered to him within 15 working days and not 6 months later or two months later. So the district court and the appellate court erred when it held a decision that the prison officials didn't violate Wolff's due process requirements. In *Nguyen*, this US Supreme Court recognized the time frames were critical and crucial and intrigue in the scheme of the operation of the appeal process. Also in that same decision in *Nguyen* that court also recognize that a person must attempt to exhaust all available administrative remedies. (but that will be discussed in section (c) of this violation of due process). But nonetheless when the prison officials did not deliver the DHO's written decision and report within the 10 working days or 15 working days that is when a violation occurred and became

problematic for Staples or any inmate to proceed with an appeal, thus denying the inmates in all actuality of have one of the requirements in Wolff is a copy of the DHO's written decision and report.

c) The third violation of Wolff and the US Supreme Court decision is That Staples has a:

... right to appeal the decision of the DHO by means of the administrative remedy procedure to the Regional Director within 20 calendar days of notice of the DHO's decision and disposition

Herein this case at bar and if you would check the facts in Staples vs Chester, supra, you will see that in all four incident reports that not one of the written report and disposition was delivered within the time frame of 10 working days for incident reports #1661747 and #1664517 and then within 15 working days on incident report #2576551. Thus denying Staples Wolff's decision on allowing Staples the right to an appeal. These two courts blatantly erred when stating that Staples did not exhaust all available administrative remedies, while at the same time recognizing that the prison officials has made the exhaustion of the administrative remedy as problematic, hindering, interfering, and stopping Staples and others from exhausting the administrative remedies. Thus, violating due process, due process procedures and violating Wolff, along with the 14th Amendment and when taking good time days away and increasing the incarceration, it also violates

a) The Prison Officials Did Not Have a Tangent of "Some Evidence" To Support a Finding Of Guilt.

In each incident report, the DHO merely recited what was written in the complaint (incident report). In incident report #2576551 the DHO tried to again merely recite the incident report, which the reporting staff was the investigating staff that mentioned all type of alleged evidence that never existed and was not supported. In fact (See exhibit - 8) which is the DHO's written decision and disposition of the ""facts supporting that decision" in box V. "Labeled Evidence Relied On To Support Findings (Phyiscal evidence, observations, written documents, etc.) Evidence Considered by the DHO during the hearing But as the records shows on the return to the writ, that none of the alleged documents/evidence accompanied the return that was considered at the DHO Hearing. In fact in the (exhibit - 8) the DHO determined as evidence:

"... it has been determined that on Saturday, April 5, 2014, at approximately 9⁰⁰ A.M. ... resulted in inmate Staples ... in striking inmate Brown, Terrence, Reg. No. 40883 - 424."

Now go back to (Exhibit - 2) dated April 27, 2014, was expunged, but the District Court and the Appelliate Court in Attachments - A & C that "... the BOP corrected the date the incident occurred, from April 5, 2014, to April 4, 2014. Then why did the DHO find Staples guilty of committing this assault on April 5, 2014, Saturday morning. So if given that the BOP could correct the date the incident took occurred after Staples had his initial UDC Hearing, from April 5, 2014 to April 4, 2014, then why did the DHO find Staples guilty of assaulting this inmate on April 5, 2014?

By the DHO finding Staples guilty of assaulting this inmate on April 5, 2014, when the incident report was accepted as being corrected that the assault took place on April 4, 2014, Friday morning, this eliminated that the DHO did not have some evidence. Because which day and date did Staples assaulted this inmate? There isn't any medical records, pictures or anything to support a finding of guilt so mentioned in the incident report and even if anyone of a reasonable jurist wants to go along with the written incident report, which day and date did this assault occurred? Therefore, under Superintendent vs Hill, 472 US 445, 455 (1985) the prison officials herein this case did not have some evidence to find Staples guilty of assault on incident report #2576551. This also is a violation of Wolff, 8th, and the 14th Amend. of the United States Constitution, laws, and Treaties. Thus, the district court and the appellate court erred when over looking this crucial point.

Additional created liberty interest violation(s) and violations of the United States Constitution of the 5th, 8th, and 14th Amend. of the United States Constitution(s), law(s), and Treaties.

d). Staples has a created liberty interest and a Constitutional right to be free from being placed twice in jeopardy for the same charge.

Here Staples has a created liberty interest within the Program Statement 5270.09, CFR § 541, and the United States Constitution of the 5th Amend. to be free from being placed twice in jeopardy for the same charges.

In the first incident report in (Exhibit - 2) Staples was written this incident report on April 27th, 2014, and delivered to

Staples on April 28th, 2014. On April 29th, 2014, a staff member by the name of Bachman, met with Staples to hold an initial UDC Hearing in which said Unit Disciplinary Committee could make one of four choice on the incident report #2576551. Either guilty, not guilty, refer the incident report to the DHO, or postpone for criminal prosecution. Mr. Bachman after investigating the incident report as the UDC can do of the evidence Staples presented, the UDC then expunged the incident report. Three days later the incident report was written again as the Respondent, district court, and appellate court acknowledged claiming that it was "amended" to correct a minor error. However, as (exhibit(s) 3 - 5) shows that once you are seen by the UDC, that staff member takes all of the inmates vitals preparing for "if" the UDC will refer it to the DHO. But here the UDC expunged the incident report on April 29th, 2014.

Then on Mat 1st, 2014, another incident report was written claiming yet, another day and date that Staples assaulted inmate Brown. Thus, placing Staples twice in jeopardy for punishment which the DHO did do, by extending his incarceration by 14 days longer. This then violated several Program Statements of 5270.09 CFR § 541, and 5th, 8th, and 14th Amend. of the United States Constitution(s), Laws, and Treaties.

The Program Statement 5270.09 and the CFR § 541 tells staff that when writing these incident reports, they are to be "Specific" and that they are to write these incident report within 24 hours of discovering that they have been violated, then after writing the incident report, it must be delivered to the charged inmate within 24 hours after writing it. Here in this case at bar, the PS 5270.09

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CFR § 541 mno where in there that the UDC can be used as a tool to discover if the writer has made a mistake that it gives them caused to then dismiss that incident report and then go back to rewrite an incident report or amend or supplement the incident report. Because if that is so, you now add more wrinkles to the due process. Now the twenty-four hours is violated as in here, it took the writer another 72 hours to go back and write another/amend the initial incident report and deliver it to Staples, which then undermined due process and due process procedure and challenges the integrity of the purpose of the 5th amend.

"... nor shall any person be subjected for the same offense twice put in jeopardy of life, limb, or property ..."

The action taken by the respondent in which Petitioner herein was exonerated and found not guilty of the alleged charge initially and when staff went back three days later after the UDC's findings and expunged the April 27th, 2014, incident report and wrote Staples for the second time for allegedly violating the code - 224.

The appellate court for the Tenth Circuit decided in another case Gritten, when that inmate presented the claim of double jeopardy because the prison officials wrote him two different incident reports arising from the same incident, that Tenth Circuit denied that Petitioner's claim of double jeopardy by stating:

"That it is hard for double jeopardy to occur in a Quasi - administrative Hearings, however Gritten, never was charge twice of the same code violation."

Staples has been claiming double jeopardy all along and has shown where he was charged twice with the same cod violation after

the UDC expunged the initial incident report.

The concept of the double jeopardy in all walks of life, be it in any type of setting where an individual will lose life, limb, liberty, or property, that due process of law and due process procedures will evoke:

"Indeed, the double jeopardy clause has been described as 'a statute of repose' because it embodies the idea that at some point a defendant should be able to put past events behind him. *Cts Corp. vs Waldburger*, US 169 L Ed 2d 2862; and *United States vs Murray*, 527 F 2d 401 (5th Cir. 1976)."

One of the Constitutional rights that follows Staples behind prison walls, is the right to be free from being punished twice for the same incident and charges. Staples still enjoys the 5th Amendment of the US Constitution.

Thus, Petitioner request of this US Supreme Court to grant this writ and remand with directions to expunge this incident report and all references to it.

II. DID THE DISTRICT COURT ERR WHEN INFORMED
THAT THERE WAS NOT A COMPLETE RETURN TO THE
WRIT OF HABEAS CORPUS

Here the district court erred in not compelling the prison officials to make a complete and entire return to the claims within the writ and when Petitioner informed the court that the entire records and documents were not returned to the writ.

Such document(s) as the records and documents used during the first UDC Hearing, (See Petitioner's exhibit - 1 thru 5 and exhibits - 9 thru 12). One of the purpose of individuals exhausting all available administrative remedies is so that the courts can see just how the agency decided to review the records, and allow the individual to build a claim if one is needed, as well as allow the agency to correct their errs. Here the BOP has never provided these records or documents when making a superficial return. Here specifically when Staples claimed there was a first UDC Hearing, which caused the BOP to make a correction and then amend the incident report, and then when Staples, claimed that he did exhaust his administrative remedy under the Administrative Remedy ID No. 786785-R1, which are Staples exhibit(s) 9 thru 12) The appellate court in (Attachment - A) stated:

"Staples claims that he did appeal to the Central Office, and that he "received notice of receipt informing him that [the Central Office] had received the appeal of [this issue] and [the Central Office] will review the appeal by the due date of December 30th, 2014."

However, the appellate court went on to state:

"But he failed to attach that notice when he filed his petition. Thus, the record contains no evidence of Staples submitting an appeal to the Central Office, and no evidence of the Central Office's response. For that reason, we conclude that Staples has failed to establish that he exhausted his administrative remedies." (See Attachment - A, Pg. 8, ¶ 2)

The appellate court erred as well as the district court erred when concluding that Staples did not exhaust the administrative remedies, when Staples did show that he did exhaust the remedies, and that the prison officials had not made a entire and complete return to the writ, these two courts ignored Staples claim on this issue and went on to allow the BOP's superficial return to the writ to stand and placed staples at the burden of proof that he did exhaust the Administrative Remedies and when Staples showed he did exhaust the remedies and/or attempted, the court's ignored that and went on to dismiss the writ and appeal.

As can be seen from the exhibits herein that Staples has supplied that the return to the writ by the BOP to the court's order contains none of these documents pertaining to the writ and alleged in the writ of habeas corpus.

The appellate court also erred when it stated, "that Staples writ did not contain the evidence in the writ, however, instead of ordering the BOP to make a proper and correct return or ordering a discovery/evidentiary hearing when the district stated, "it was confused."

Thus, in the best interest of just and in all fairness to

Petitioner to grant this writ after reviewing the District Court's decision, the Appellate Court's decision and the exhibits supporting Staples claims in this issue and remanding this writ back to the District Court with direction for the Respondent to make a proper and complete and entire record return to the writ or in the alternative to order that the incident report be expunged and any references thereto.

III. THE DISTRICT COURT AND THE APPELLATE COURT
ERRED WHEN PETITIONER CLEARLY SHOWED THAT THE SWORN
PRISON OFFICIAL'S DECLARATION WAS A FRAUD.

Herein this claim, the two courts accepted the fraudulent document of the prison officials that Staples did not exhaust his Administrative Remedy, while at the same time recognizing that it is confusing when Staples submitted documents contrary to the prison official's declaration and how problematic the prison officials make it for Staples/inmates to exhaust the remedies. Here Staples will show through exhibits - 9 thru 14 that he did in fact exhausted his Administrative Remedies on appeal of this incident report #2576551 and if this court were to review all four incident reports, this court will see a pattern of how the prison officials (BOP) has perfected the ability to: 1) thwart; 2) hinder; 3) interfere; and/or 4) stop Staples/inmates from exhausting their Administrative Remedies.

According to the Fed. R. of Civil. P. rule 60(b) (2) (3) and/or (6) the lower courts had the authority and discretion to overturn a clearly wrongful decision mainly based on fraud. According to Rule 60(b)(2) Newly discovered evidence that with reasonable diligence could not have been discovered in time to move for a new decision. Here the appellate court stated that Staples did not show proof that the Central Office for the BOP had received his final notice of appeal and that the (BOP) had received his appeal and had until Dec 30th, 2014 as a due date in order to answer the appeal. So once again Petitioner herein request of this court on this claim that

Staples did not exhaust his Administrative Remedies and that the prison official's declaration is a fraud and that the lower courts erred in stating that Staples did not exhaust his administrative remedies and that Wolff's due process requirements were met with Staples treatments.

Staples shows that in all four of these incident reports that the BOP never did/do comply with the time frames in which the DHO's written decision and disposition was never observed and that when Staples attempted to exhaust his Administrative Remedies without the DHO's written decision and disposition and Region will surely and they did reject it, and then on appeal of that rejection to Central Office, that also, was rejected, affirming Regions rejection that Staples must wait. As shown in the decision of Staples vs Chester.

So Staples took another route that the prison officials did not expect. Staples in (exhibit - 13) filed a BP - 9 with the Warden under ID #786785 - F1 and it was rejected stating that Staples needed the DHO's written decision and disposition. When that memo in hand Staples then forced the unit - team to produce the DHO's written decision and disposition. Staples then appealed that rejection to Region with a copy of the unsigned DHO's written decision and disposition. (See exhibit - 13, which is a copy of the Administrative Remedy Generalized Retrieval Sanitized FORMATID # 786785 - R1. Staples then after the Region's denial appealed to Central Office (See exhibit - 14) In this exhibit - 14, which is also a copy of the Administrative Remedy Generalized Retrieval Sanitized Format) This exhibit shows that Central Office under ID #785786 - A1 was received on Oct 31, 2014. As usual an extension is approved by some unknown person, for some unknown reason for this

appeal to be answered by due date Dec 30th, 2014, but this did not take place.

So we start at (exhibit - 9) which is the notice of receipt from North Central Regional Office of the appeal and that a due date of Oct 7th, 2014 for an answer. On Oct 2nd 2014, Regional Director denied the appeal. (See exhibit - 10) Then on Oct 31st, 2014, Central Office received Staples appeal and 60 days from that date Central Office had until Dec 30th, 2014 in which to answer that appeal. (See exhibit - 11) Soon after that due date passed, Staples then filed this writ of Habeas Corpus. (Please note that the district court on May 5th, 2015, denied the writ of Staples, which filed on January 15th, 2016). Staples after the Central Office did not answer his appeal by Dec 30th, 2014, had the right to move to the next step and that is, take this matter to district court. Then while this case was in the appellate court, some 17 months later, Central Office on or about May 10th, 2016, finally answered the appeal with a denial. Staples then filed a "Motion For Reconsideration" providing his burden of proof, of how he indeed did exhaust his Administrative Remedies, and how Wolff was also violated. The appellate court then construed my motion as a Rehearing en banc and went on to deny it. Here again Staples has met a strong showing of the prison officials declaration is a fraud under Title 28 USC § 1746 and under Title 18 USC and as such: 1) Staples writ should be granted, because he has stated a claim upon which relief can be granted; and 2) that the prison official should be sanctioned for filing a bogus ands fraudulent declaration.

The final subsection of rule 60(b) is § (6) that a court can change the decision for any other reason for the best interest of justice. The lower court's acknowledged the fact that the prison officials denied Staples witnesses to appear and give credible testimony and evidence in his behalf. Whether Staples raised it or not, the courts on their own according to rule 60(b)(6) could/should have still decided in Staples favor on its own. Because this very issue goes against and contrary to Wolff, and it also goes counter-productive due process and due process procedures.

This alone warranted in the best interest of justice for the court to decide in favor of Staples and order the expungement of incident report #2576551.

CONCLUSION

WHEREFORE, this US Supreme Court has the discretion to grant Staples leave to proceed in forma pauperis, grant the writ of certiorari, remand with direction, or order the one incident report expunged and that Staples had exhausted all of his Administrative Remedies if not, but had for the one incident report #2576551

For these reasons raised this petition for a writ of certiorari should be granted.

dated this 20th day of September, 2018.

Respectfully submitted,


William Staples