

Supreme Court, U.S.

FILED

APR 17 2018

OFFICE OF THE CLERK

No. 18-7381

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

251 NE, Washington, DC, 20543

Anthony C. Hernandez — PETITIONER
(Your Name)

vs.

David Paughman et al; — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

California Supreme Court 350 McAllister St, San Francisco, CA, 94102-4747
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

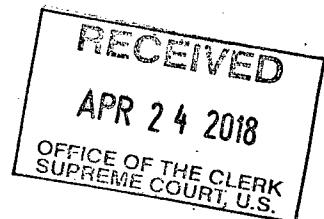
PETITION FOR WRIT OF CERTIORARI

Anthony C. Hernandez
(Your Name)

California State Prison - Sacramento A 4 105 panel 2600 date
(Address)

Represa CA 95671
(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

- Questions of procedure due process violations in prison disciplinary hearing, of not allowing friendly witness to attend, perjury, factual disputes.
- Questions of disputes of legal discipline impositions, presenting a deprivation of liberty interest, with forfeiture of good conduct credits, preventing early release.
- Questions of fair and impartial hearing violations in disciplinary hearing due to prison official misconduct, by staff assistant, and disciplinary hearing officer, and conflict of interests of a mental health IIS clinician, with relation issues with petitioner executing inappropriately an assessment. Questioning integrity and ethics issues, influencing harsh discipline.

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:

1. Joe Lizzaraga is the warden of mole creek state prison and was the legal custodian of Petitioner where the alleged occurred.
2. Dr Faris is a second watch 115 mental health assessment clinician employed mole creek State PRISON not mental health dept.
3. N. Lamb is a second watch officer in Ad-Seg C-12 unit e MCSP and served as the ~~the~~ staff assistant in Petitioner's 115 hearing
4. B. Holmes is the chief disciplinary officer mole creek state prison.
5. Gilliam is a second watch officer stationed in Ad-Seg C-12 unit e MCSP and served Author of R.V.R "Behavior which could lead to violence"
6. Roberts is a second watch officer stationed in Ad-Seg C-12 unit e MCSP that participated in miss conduct leading up to R.V.R
7. Winkfield is a second watch officer stationed in Ad-Seg C-12 unit that participated in miss conduct leading up to R.V.R
8. Beckham is a second watch Admin set stationed in Ad-Seg that classified R.V.R "Behavior which could lead to violence". e MCSP
9. Charan is an admin(lt) that participated in obstructing Petitioner's appeal on miss conduct to assist in coverup of officer miss conduct @ MCSP.
10. Shrode is a second watch officer stationed in Ad-Seg unit C-12 @ mole creek State prison.
11. C. White is an administrative appeals coordinator @ MCSP.
12. David Boughman California State Prison - Sacramento ~~the~~ warden.
13. Dr "H" is a supervisor psychologist in A.S.U. employed e MCSP.

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APPENDIX C Decision of State Supreme Court Denying Review

APPENDIX D Health Care Appeal conflict of interest in supplemental documentation.

APPENDIX E Disciplinary Appeal "Due Process" in evidentiary documentation.

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

Wolff v. McDonnell (1974) 416 U.S. 534, 566
Edwards v. Bal. Soc. (1997) 520 U.S. 641, [117 S. Ct. 1581; 137 L. Ed. 2d 906]

PAGE NUMBER

STATUTES AND RULES

Penal Code Section 2932 subdivision (d) (3)
California Code of Regulations Title 15 3315(e)
California Code of Regulations Title 15 3320(d) 3320(e)

OTHER

- 8th Amendment "fair and impartial hearings under state and federal constitutions
- 5th Amendment "due process" under state and federal constitutions
- 14th Amendment "equal protection of all laws" under state and federal constitutions

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 _____ 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 United States district 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.

[] For cases from **state courts**:

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

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

JURISDICTION

[] 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. § 1254(1).

~~X~~ [] For cases from **state courts**:

The date on which the highest state court decided my case was 2-14-18. A copy of that decision appears at Appendix C.

[] A timely petition for rehearing was thereafter denied 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- I. PETITIONER WAS DENIED HIS 6TH AMENDMENT "FAIR AND IMPARTIAL" HEARINGS CLAUSE WHEN MENTAL REFUSED TO CONDUCT A REASSESSMENT OF HIS MENTAL HEALTH ASSESSMENT BY A FAIR AND IMPARTIAL CLINICIAN NOT HARPORING DISPUTES AND DOCUMENTATION OF RELATION TEEVEE.
- II. PETITIONER "DUE PROCESS" WAS VIOLATED FOR THE FAILURE TO ORDER A RE-HS MENTAL HEALTH ASSESSMENT.
- III. PETITIONER WAS DENIED HIS DUE PROCESS RIGHTS UNDER WOLFF V. MC DONELL (1974) 418, U.S. 534, 546 PENAL CODE SECTIONS 2932 SUBDIVISION (a)(6) AND CALIFORNIA CODE OF REGULATIONS TITLE 15 SECTION 3315 (e) TO HAVE PSYCH TECH "DUM LCA" PRESENT AS A WITNESS AT HIS DISCIPLINARY HEARING.
- IV. CUSTODY OFFICIALS EXHIBITING MISCONDUCT DURING DISCIPLINARY HEARING VIOLATED PETITIONER'S "FAIR AND IMPARTIAL HEARINGS" CLAUSE UNDER STATE AND FEDERAL CONSTITUTIONS.
- V. PRISON OFFICIALS REFUSING TO POSTPONE DISCIPLINARY HEARING AT THE REQUEST OF PETITIONER TO OBTAIN EVIDENTIARY DOCUMENTATION TO PRESENT IN HIS FAVOR @ HEARING VIOLATED PETITIONER'S 6TH AMENDMENT "FAIR AND IMPARTIAL HEARINGS" CLAUSES UNDER STATE AND FEDERAL CONSTITUTIONS AND CALIFORNIA CODE OF REGULATIONS TITLE 15 § 3320 (a) and 3320(i)

STATEMENT OF THE CASE

- ① Dr Farris and Petitioner were separated in 2016 off of each others case loads due to relation issues by A.S.U. mental health supervisor "Her"
- ② Dr Farris conducted a 115 mental health assessment on 1-3-17 for R.V.R. 00000001777824 knowing there existed a conflict of interest (See Appendix K).
- ③ Dr Farris refused to conclude the interview and request to have some other clinician conduct assessment and when Petitioner raised concern, Dr Farris excluded all Petitioner's dialogue out of 115 mental health assessment (See Appendix K D Pg 8, Section 2 of Mental health risk assessment)
- ④ Dr Farris delivered a clinical rationale without insight or assessment, inadequately, to influence health placement (See Appendix K D Pg 9 section II #2 of mental health assessment)
- ⑤ On 1-16-17 the MSP Petitioner filed a health care Administrative Appeal STAFF COMPLAINT addressing conflict of interest in clinician conducting 115 mental health assessment, with requested relief of reassessment with a departmental clinician whose position is fair and impartial, and to be forwarded M.H.RVR Assessment instructions 7.12 for litigant purposes (See Appendix D Pg 8)-1-2).
- ⑥ on 2-17-17 the MSP interviewer "Dr Sacks" and "David Smiley" C.E.O. Reviewing authority of appeal did deny Petitioner's relief requested in P-Section of Appeal (See Appendix D Pg 4)
- ⑦ on 4-3-17 "J Lewis" Deputy Director for Policy and Risk management services for California Correctional Health Care Services did deny Petitioner's requested in P-Section of Appeal (See Appendix D Pg 6)
- ⑧ on 1-19-17 disciplinary hearing officer (Lt) Altshuler refused to Accept Petitioner's (6A22) a written request for Poste Placement because was waiting for evidentiary documentation from the Appeals coordinator of an appeal assignment notice that was for an Appeal filed for misconduct on unnecessary and excessive force on the authored officer that produced R.V.R. 00000001777824 (See Appendix X E Pg 9)
- ⑨ on 1-19-17 the MSP C-12 Ad Sec unit "N.Lamb" The designated Staff Assistant for Petitioner, misconducted himself during Petitioner's disciplinary hearing and kept telling Petitioner to "Shut up" when required to respond to (Lt) Altshuler questions (See Appendix X E Pg 2 of Appeal)
- ⑩. Disciplinary hearing officer (Lt) Altshuler did misconduct himself during disciplinary hearing by using profanity and raising his voice telling Petitioner "Shut the F up" 3 times when responding to "N.Lamb" to "Shut up". See ~~the~~ Appendix E Pg 2 on administrative Appeal
- ⑪. on 1-19-17 when Petitioner was asking for a fair and impartial hearing disciplinary hearing officer (Lt) Altshuler replied "I dont give a "F" what you want" (See Appendix X E Pg 2 of administrative appeal).
- ⑫. on 1-19-17 Petitioner informing both Prison officials he would report the misconduct, Staff Assistant "N.Lamb" extracted Petitioner out of his chair physically indicating the conclusion of 115 hearing, undermining Petitioner's desire to fully participate through out hearing (See Appendix E Pg 2 on administrative appeal)

STATEMENT OF THE CAE

- (13) Disciplinary hearing officer on 1-14-17 at MCSP did refuse to allow petitioner to have friendly witnesses present at hearing (See Appendix E Pg 13)
- (14) on 1-19-17 disciplinary hearing officer (Lt) Altshuler did provide statements and documentation that no witnesses were allowed because petitioner refused to participate in hearing (See Appendix E Pg 14)

REASONS FOR GRANTING THE PETITION

Petitioner wasnt afforded due process to obtain evidentiary documentation in his defense, wasnt allowed to present evidence in his favor, and evidence became available after the hearing, witnesses werent permitted to provide favorable testimony of petitioners calling, and reasons for denial went to serve a penological interest of safety and security issues, and petitioners hearing should have commenced in absentia, with disciplinary hearing officer interviewing witnesses out way, Petitioner wasnt afforded an opportunity to be heard to present a defense, because of unforeseen misconduct from prison officials and with all these violations, discipline was imposed, and petitioners suffered of forfeiture of good conduct credits, depriving petitioner of a "liberty interest", release from custody making it unfair, and for these reasons Petitioner should be entitled for redress.

Petitioner is without remedy save by a "Writ of certiorari"

WHEREFORE Petitioner prays the court to:

- ① Issue a writ of certiorari
- ② declare the right of the parties
- ③ appoint counsel, award reasonable attorney fees
- ④ reverse the guilty finding of the disciplinary charge
- ⑤ restore the 30 days of lost good conduct credits
- ⑥ expunge all references to the disciplinary charge from petitioners central file
- ⑦ order C.D.C.R to create and implement Department Policy that allow recordings of all 115 mental health assessments and disciplinary hearings and a archive for storage of recordings to enhance the "Due Process" and prevent allegations of misconduct and secure appellate rights.
- ⑧ order a due process for inmates to obtain access to their recordings or disciplinary proceedings to use to litigate cases.
- ⑨ Grant any other and further relief the court deems proper.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anthony Hernandez", is written over a horizontal line.

Date: 4-16-18