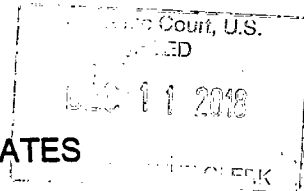


18-7509 ORIGINAL

No. USCA9#17-17496

IN THE
SUPREME COURT OF THE UNITED STATES



ANTONIO LEE MIXON JR. — PETITIONER
(Your Name)

VS.

STATE OF NEVADA; et al; — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ANTONIO LEE MIXON JR.
(Your Name)

POST OFFICE BOX 650
(Address)

INDIAN SPRINGS, NEVADA 89070
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- 1.) Is the opening of prisoner's outgoing prisoner non-legal mail out of the presence of prisoner by prison officials arbitrary censorship of mail concluding that prison officials (correctional officers etc.) read prisoner mail since it was opened out of prisoner's presence then returned back to prisoner opened with no notice as to why it was not sent and returned opened days later?
- 2.) Does A prisoner have a Constitutional right of the U.S. Constitution for leave to amend civil rights complaint that is dismissed for failure to state a claim in the event the complaint was dismissed for failure to state a claim?
- 3.) Do prison officials waive their right to inspect and/or check prisoner's outgoing mail for contraband without any suspicion once its sealed?
- 4.) Do prisoner have the rights of Article one Section Eight of the United States of America's Constitution?
- 5.) Do prisoner have the rights of ~~Title~~ Title 17 of The UNITED STATES Code Service and Title 35 of The UNITED STATES Code Service?
- 6.) DID The Petitioner in this case Fail to state a claim that couldn't be amended for redress.
- 7.) CAN the Petitioner sue for his discoveries and inventions?
- 8.) Since the contents of the mail ~~are~~ are trade secrets sent home to be copyrighted first then patented the opening of petitioner's mail out of his presence then returned days later open constitutes prison official read trade secret and so ^{and} prison official copyright in fringed? arbitrary censored mail coupled with now these trade secrets are on the market now?

LIST OF PARTIES

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

[X] 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. Multiple UNKNOWN (Correctional officers) Prison officials of High Desert State Prison during 2013-2018.
2. NEVADA DEPARTMENT OF CORRECTIONS.
3. WARDEN D. W. NEVEN OF High DESERT STATE Prison at the time of the commencing of suit.

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APPENDIX B	UNITED STATES Court of Appeals District Court District of NEVADA Screening order Dismissing the civil rights Complaint.
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TABLE OF AUTHORITIES CITED

	PAGE NUMBER
1.) CASES Wolff v. McDonnell, 418 U.S. 539, 576-77, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974). Silva v. Vittacio, 658 F.3d 1090, 1101 (9th Cir. 2011).	pg 3
2.) (9th Cir. 2011). Silva v. Vittacio, 658 F.3d 1090, 1101 (9th Cir. 2011)	pg 3
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8.) Peterson v. Arpaio, NO. CV04-2276-PHX-Smm-LOR, 2006 U.S. Dist. (9th Cir. 2006), Lexis 86585, 2006 WL 3736060, at *4 (D. Ariz. Nov. 21, 2006).	pg 3
9.) Wolff, 418 U.S. at 577	(pg. 3) pg 3
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STATUTES AND RULES 11.) 58 ALR 3d 1305, 12.) 511 F.3d at 1332-35 (9th Cir. 2006)	(pg. 3) pg 3
1. Article One Section Eight of the U.S. Const.	
2. Title 17 of the United States Code Service	
3. Title 35 of the United States Code Service	
4. United States Court of Appeals for the Ninth Circuit Circuit	
Circuit Rule 27-11(1), 27-11(3), 27-11(4).	
5. First Amendment Right to Mail And to be Free From prison officials reading outgoing mail.	

OTHER

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 A to the petition and is

☐ reported at N/A; 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 N/A; 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 petition and is

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

The opinion of the N/A court appears at Appendix ____ to petition and is

☐ reported at N/A; 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
MARCH 22, 2016.

☐ 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: SEP. 19, 2016, and a copy of the order denying rehearing appears at Appendix d.

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

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

☐ For cases from state courts:

The date on which the highest state court decided my case was
N/A. A copy of that decision appears at Appendix N/A.

☐ A timely petition for rehearing was thereafter denied on the following date:
N/A, and a copy of the order denying rehearing appears at Appendix N/A.

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Inspecting letters and reading them are two different things see *Wolff v. McDonnell*, 418 U.S. 539, 576-77, 94 S.Ct. 2963, 41 L.Ed. 2d 935 (1974).
2. In reviewing an order dismissing a case for failure to state a claim the Ninth Circuit Court takes as true all factual allegations in the complaint and draw all reasonable inferences in the Plaintiff's favor. See *Silva v. D. Vittaro*, 658 F.3d 1090, 1101 (9th Cir. 2011).
3. Ninth Circuit Court of Appeals review de novo a district Court's dismissal of a complaint under 28 U.S.C. 1915A for failure to state claim see *Ross-Rosnick v. Hayes*, 213 F.3d 443, 447 (9th Cir. 2000).
4. Incoming and outgoing prisoner non-legal mail see *Procunier v. Martinez*, 416 U.S. 396, 94 S.Ct. 1800, 40 L.Ed. 2d 224 (1974).
5. Action remanded to the district court for further proceedings on mail censorship claim see *Dummett v. Hollins*, 1998 U.S. App. Lexis 18721, 3205.
6. 11th Circuit Court recognizing inmates' constitutional right not to have his mail read. See and hold that inmate stated a claim that prison official read a letter. See *Lemon v. Duggan*, 931 F.2d 1465, 1468 (11th Cir. 1991).
7. Prisoners have a constitutional right to have their mail delivered to them uncensored and unread see *Peterson v. Apple*, No. 06-04-2276 -PhX-Smm-2003, 2006 U.S. Dist. Lexis 86585, 2006 WL 3736060 at *4 (D. Ariz. Nov. 21, 2006).
8. The inmates' presence insures that prison officials will not read mail see *Wolff*, 418 U.S. at 577.
9. The policy that incoming confidential legal mail should be ~~read~~ opened in inmates presence ... serves the prophylactic purpose of ^{assuring} ~~assuring~~ them that Confidential Attorney mail has not been improperly read in the guise of searching for contraband see *Gardner v. Howard*, 109 F.3d 427, 431 (8th Cir. 1997).
10. Relationship with state laws trade secret does not preempt protection by state trade secret law afforded to holder of trade secrets against unauthorized use and/or ^{disclosure} ~~disclosure~~ of secret by one who has breached confidential relationship see 58 ALR 3d 1305.
11. 1st U.S.C.A. right to be free from arbitrary censorship of mail.
12. Copyrights see title 17 USC
13. Patents see title 35 USC
14. Article one section eight discoveries and inventions. And how the congress so protects.
15. Petitioner granted leave to amend complaint to state a claim after court dismissed for failure to state ~~a~~ a claim see 762 F.3d 903.
16. The Court found that a pattern and practice of opening but not reading, ^{mail} legal mail outside of inmates' presence impinges First and Fourteenth Amendment right. See 511 F.3d at 1372-75.

STATEMENT OF THE CASE

Around like May 2014, enclosed trade secret in an envelope marked "Legal patent" addressed to my mother's home to start the patent application. In late 2014 I called home and asked if it arrived to them I had to send another marked "Don't open" which I did. Late 2015 early 2016 I put the rest of the function together which was Audio/Video playback of Live concerts of diskjockeys and famous recording artists Application format for handheld devices. I put that in my bag for mailing marked "Don't open" on the envelope. The correctional officer took the outgoing mail. Three or so days later my envelope was returned back to me.

Opened with the postage crossed out it was apparent it was read by prison officials and I was given no notice from prison officials as to why it was sent back opened and not mailed. Their was no indications on the envelope indicating it ever left the prison such as a return to sender type of stamp. So I then asked for grievances from C/O's I was ignored it was weeks almost months until I received a response. Correctional officers then ignored my legal documents up at my door and threw the pieces on the floor. It's been years I have yet to receive any response from prison officials about the issues.

grieved. So I filed a 1963 Civil Rights complaint and mentioned the issues to the United States District Court District of Nevada the court dismissed the complaint stating the prison officials just reviewed the mail. I said they already reviewed my mail. I then filed a motion for reconsideration and let the court know now I'm aware that the trade secrets in the envelope I mailed have which were made it are on the market for purchase the court denied the motion. I then appealed to the Ninth Circuit Court of appeals in the U.S. they dismissed the appeal because the United States District Court District of Nevada ordered I failed to state a claim and that a mandamus would be futile. So I then filed Motion for reconsideration and they dismissed that so this will follow. Trade secrets etc. were read by prison officials. Even if the prison officials claim they didn't read prisoners outgoing mail from opening front of the envelopes of prisoners' mailings is tantamount to right. The Ninth Circuit treated my motion for reconsideration as motion for rehearing treated as motion for reconsideration and reconsideration on a bank.

REASONS FOR GRANTING THE PETITION

Petitioner believes Petitioner stated a claim of arbitrary censorship of mail. Petitioner believes Petitioner have a constitutional right for leave to amend complaint once its dismissed for failure to state a claim. Since the prison officials opened petitioner's outgoing mail out of the petitioner's presence the prison officials read petitioner's mail and took the trade secrets especially now that those secrets are on the market. Defendants are the pipeline and are responsible for my trade secret being disclosed and am entitled to relief. The Ninth Circuit or Court of appeals of the U.S. had ~~jurisdiction~~ jurisdiction to grant Petitioner leave to amend to state a claim given the record. For all the reasons in this petition this Petition should be granted. There's a lot of conflicting decision between the circuit courts of appeals in the U.S. on the issue of ~~censorship of inmate prisoners' mail~~ by prison officials censorship of prisoner's mail, reviewing, checking it for contraband etc. And this Court should help the courts out to help their experience and common sense on the issue of prisoner's mail and the handling of it by prison officials when it comes to censorship, reviewing, checking mail of prisoner's there's too many conflicting decisions and the courts are not in harmony. Making them inexperienced and a lack of common sense to not know the difference between reading and ransacking of just looking or inspecting prisoner's mail conducted by prison officials. The orders of the courts should be reversed and remand that petitioner be granted leave to amend complaint to state a claim or proceed with the claim already stated in United States district court District of Nevada. The lower courts didn't recognize the arbitrary censorship of mail stated claim stated. The court of appeals didn't recognize the jurisdiction to grant appeal.

Reasons for granting Pothan continued

There needs to be a controlling precedent (5)

that governs censorship, reviewing, inspecting, or reading, etc., of prisoners incoming and outgoing mail that is conducted by prison officials that all courts and prisons and prisoners can be in harmony with so the prison's policies and the prisoner is 1st and then amendment and any other amendment of prisoners such as with respect to conflict with one another and these some precedents requested would serve to help the courts with experience and common sense when dealing with the issues with prisoners' mail legal or non-legal, incoming or outgoing in general, and another precedent of such for prisoner's legal mail that is processed through the prison's regular mailing system and legal mailing system.

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I declare (that to the best of my belief and knowledge)
~~that~~ Under penalty of perjury ^{that all of my own declarations in} ~~that the foregoing contents of this~~ Petition
for writ of certiorari is true and correct pursuant to 28 U.S.C. 1746.
EXECUTED AT High Desert STATE Prison on the 9th day of December,
2018.

A. Lee Milton Jr.
Petitioner's Signature

CONCLUSION

Relief sought reverse and remand to lower courts
or any court (that has Jurisdiction) with instructions
to let petition amend Complaint and state a claim or
proceed with the claim already stated or what court deems just.
The petition for a writ of certiorari should be granted.

Respectfully submitted,

ANTONIO LEE MILTON

Date: 12/09/2018