

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

JASON LEE HARRIS — PETITIONER
(Your Name)

vs.

KAREN A. MULLINS, 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

Jason Lee Harris
(Your Name)
A.S.P.C. Eymen-meadows Unit
P.O. BOX 3300
(Address)

Florence, Arizona 85132-3300
(City, State, Zip Code)

e-mail J-live07@yahoo.com
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QUESTION(S) PRESENTED

1. Did the U.S. DISTRICT COURT FOR THE DISTRICT OF ARIZONA, AND THE U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT err when they ruled that the three strikes provision under 28 U.S.C. § 1915(g) barred the granting of the in Forma Pauperis regarding Petitioner's civil rights complaint alleging he was blatantly denied the service of process of summons upon Defendants.
2. Due to the alleged of the complaint of denied service of process of summons upon Defendants, did the U.S. Dist. Court, and U.S. Court of Appeals in barring the in Forma Pauperis under 28 U.S.C. § 1915(g) correctly apply the three strikes provision's "breathing space" principle.
3. Regarding what's alleged in the civil complaint primarily the governmental power(s) used to bar service of process upon Defendants, was the Petitioner's First Amendment right of free speech denied him by the U.S. Dist. Court, and U.S. Court of Appeal's barring of the in Forma Pauperis under 28 U.S.C. § 1915(g).
4. Is the civil complaint filed by the Petitioner alleging that he has been denied service of process of summons in an attempt to by the Respondents to frustrate, and succeeding in doing so, the Petitioner's civil rights claims satisfactory to the imminent danger of serious physical harm standard.
5. Was the Petitioner's First Amendment right to access the courts violated by the U.S. Dist. Court for the District of Arizona, and the U.S. Court of Appeals for the Ninth Circuit's decision(s).

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:

2. Honorable Randall H. Warner
3. Honorable Robert H. Oberbillig
4. Honorable David B. Gass

See attached pg. "1-A" 

2.)

(5.) Honorable Joshua Rogers

(6.) Honorable James Blomo

(7.) Honorable Presiding Judge over the Maricopa County Superior Court

(8.) Superior Court of the State of Arizona in and for the County of Maricopa

(9.) Maricopa County Sheriff's Department

(10.) Arizona Department of Corrections

(11.) Charles L. Ryan, Director of the Arizona Dept. of Corrections

(12.) Arizona State Prison Complex-Eyman, Special Management Unit - One

(13.) Keith Smith

(14.) Jose Torres

(15.) Sgt. Ashlyn

(16.) United States Department of Justice

(17.) United States Court of Appeals for the Ninth Circuit

(18.) State of Arizona

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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

- ☐ 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 A 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.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was September 18, 2018.

☒ 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).

☐ For cases from **state courts**:

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

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

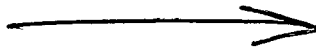
☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The imminent danger of serious physical injury;
The United States Court of Appeals for the Ninth Circuit, and the United States ~~Court~~ District Court for the District of Arizona barring the Petitioners Civil Rights action filed under in forma pauperis under the three strikes provision^{*1}; This courts applied "breathing space" principle² by the United States Court of Appeals for the Ninth Circuit, and the United States District Court for the District of Arizona;
The Petitioners right to access the courts under the First Amendment;
Freedom of Speech as it pertains to the issues raised in the originally filed civil rights Complaint filed under^{*2};
The purpose of notifying the Parties/Defendant(s)^{*3};
And, right of the Petitioner to service of process upon the Parties/Defendants^{*4} in general; regarding

continue pg. "1-1"



*1. 28 U.S.C. § 1915(g).

*2. 42 U.S.C. § 1983, and 5 U.S.C. § 702 as amended.

*3. Rule 4 of the FEDERAL RULES OF CIVIL PROCEDURE as under Federal Rule

The Court[s] purpose of "personal Jurisdiction" over the Defendant when the Petitioner has merit to his civil complaint and the facts point toward a civil claim.

*4. Rule 4 of the ARIZONA RULES OF CIVIL PROCEDURE, and Rule 7(a) of the FEDERAL RULES OF CIVIL PROCEDURE

STATEMENT OF THE CASE

The Petitioner Filed an civil complaint in the U.S. District Court for the District of Arizona raising that him being denied service of process by the Defendants violated the U.S. Constitution and that the claims alleged satisfied the imminent danger of serious physical harm allowing him to set aside the three strikes provision against him under 28 U.S.C. § 1915(g) (see, e.g., Appendix - A, pg. 1 of 4).

The U.S. District Court dismissed the action without prejudice under the three strikes provision 28 U.S.C. § 1915(g) deciding that imminent danger of serious physical harm was not present in the action (see, e.g., Appendix - A, pg 2-3 of 4).

The Petitioner Appealed to the United States ~~Court of Appeals~~ ~~Court of Appeals~~ ~~Court of Appeals~~ ~~Court of Appeals~~ Court of Appeals for the Ninth Circuit of which an informal brief was Filed and Stayed by the Court of Appeals later to be dismissed under the three strikes provision under 28 U.S.C. § 1915(g) (see, e.g., Appendix - B) reaffirming the U.S. District Courts decision.

It appears that the lower courts (Federal) to them, that it shall not matter if the prisoner(s) Constitutional rights are being violated by State

See Attached pg. "4-A"



of Arizona officials, government municipalities, Judges (the Defendant(s) as alleged in the civil complaint) and in general when the prisoner(s) move for civil action under 42 U.S.C. § 1983 or 5 U.S.C. § 702 the three strikes shall no matter what bar in other words justifiable relief as filed under in Forma pauperis.

Is the decision(s) of the lower court(s) (Federal) effecting the everyday civil Judicial proceedings of prisoners filing in Forma Pauperis overlooking the merit based civil actions, and furthering the unconstitutional conduct complained, abusing the three strikes provision under 28 U.S.C. § 1915(g) violate the Petitioners Freedom of Speech and right to have access to the courts under the First Amendment to the U.S. Constitution.

Does the three strikes provision as interpreted by ~~the~~ the lower court(s) (Federal) defeat the civil complaint filed by an prisoner under in Forma pauperis, which indeed states claims that or of the nature illegal such as the barring of service of process of summons, and when those to be served are state officials, Judges whom are the perpetrators. Does such such an complaint satisfy the imminent danger under 28 U.S.C. § 1915(g).

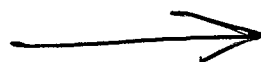
REASONS FOR GRANTING THE PETITION

The United States District Court For the District of Arizona, and the court of the United States Court of Appeals For the Ninth Circuit erroneously decided that the three strikes provision applied in to his civil case alleging claims of under the Arizona Rules of Civil Procedures Rule 4 and under the provision of Rule 4.1 he was illegally denied process of summons by the Maricopa County Sheriff's Department It(s) deputed.

the service of process upon government municipalities, and officer(s) of the State of Arizona under the Arizona Rules of Civil Procedure is effected upon commencement of the complaint under Rule 4. Which allows for "personal Jurisdiction" over the defendant. that means delivering the summons and complaint to each defendant according to the Arizona Rules of Civil Procedure outlined in Rules 4 and 4.1. Until proper service is made on a defendant, the court does not have "personal Jurisdiction" over the defendant, the defendant is not required to respond to the complaint, See, Rule 7(a) of the Federal Rules of Civil Procedure. the court cannot, therefore, take any action against the defendant. Friedman v. Estate of Presser, 929 F.2d 1151, 1156 (6th Cir. 1991).

At lest the service of process shall be procured to call into question [any] alleged unconstitutional violation raised by a

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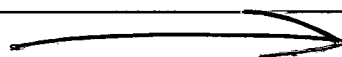
prisoner as part of the prisoners secured right to access the courts "is part of the right of petition protected by the First Amendment. *Cal. Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508, 513, 92 S.Ct. 609 (1972).

The imminent danger, as I read the law here in this case, is in the Sheriff's Office and Judges of the Superior Court of the State of Arizona-Maricopa County and all other Defendants responsible for service of process not procured upon the respective Defendants denying me to exercise "personal Jurisdiction" and to hold the Defendants civilly liable for their unconstitutional acts violates my First Amendment right to Freedom of speech. My right to access the courts, as such, a right it is "generally subject to the same constitutional analysis" as is the right to Free speech. *Wayte v. U.S.*, 470 U.S. 598, 610 n.11, 105 S.Ct. 1524 (1985).

The lower Federal courts in this present case were erroneous in not recognizing the First Amendment in this context as stated above. Failed to even consider such precedent when cited by the petitioner in the original court of origin (U.S. Dist. Court) and on appeal (U.S. Court of Appeals - 9th Cir.).

The imminent danger I believe is created by refusing service of process not only because it's illegal, and an attempt at eluding civil prosecution(s), but in the context of the "unknown" meaning if service of process of summons is not procured

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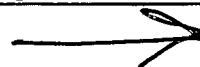


- as in accordance with the Arizona Rules of Civil Procedure Rules 4 and 4.1 - the court shall never know the by an answer or response the meaning of the Defendant(s) action(s) by exercised "personal jurisdiction not required to take action against the Defendant as if informing the Defendant, that 'its OK to violate the constitutional rights of the prisoners as we shall look the other way'.

For instance at least one of the civil action(s) entitled Jason Lee Harris v. Sgt. Ashlyn, civil case no. CV-2016-008132 raised claims of assault on Petitioner by inmates provoked by maladministrative act(s), at least one of the Judges under Jason Lee Harris v. Arizona Dept. of Corrections at Arizona State Prison Complex, Special Management One, civil case no. CV2016-091343 the Hon. Robert H. Oberbillerig had ordered the Maricopa County Sheriff's Office to serve the summons and complaint upon an James O'Neil, Warden of the Arizona State Prison Complex - Eymore or a designated officer of which the Sheriff's Office refused to do so.

Indeed this [act] shall place the Petitioner in imminent danger of serious physical harm, and in the general sense, satisfying the three strikes provision under 28 U.S.C. § 1915(g) allowing the Petitioner his First Amendment right to litigate in the Federal Courts in an civil rights complaint under 42 U.S.C. § 1983 moving for

Continue on pg "5-C"



discovery and ultimately Jury trial. Indeed, the Supreme Court simply stated that advocacy in litigation is speech, the Petitioner as well as all prisoners have this Free speech respectively. *Legal Serv. Corp. v. Velazquez*, 531 U.S. 533, 542-43, 121 S. Ct. 1043 (2001) (holding legal representation is speech. Because the three strikes provision addresses the conduct of litigation in court and not the ~~convict~~ internal operations of prisons, it is governed by the same First Amendment standards as other "Free world" Free speech claims.); see also, *N.A.A.C.P. v. Button*, 371 U.S. 415, 438, 83 S. Ct. 328 (1963) ("Precision of regulation must be the touchstone in an area so closely touching our most precious Freedoms").

the lower Federal courts in this present case were also erroneous in not taking into consideration this court's First Amendment requirement of "breathing space" regarding what was alleged in the complaint. In this court's decision in *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 272, 84 S. Ct. 710 (1964) it required a "breathing space", and a margin for error for inadvertently false speech, or true speech will be deterred. The Supreme Court has also said that sanctions may not be imposed against persons who bring litigation unless the litigation is both objectively and subjectively without basis. *Profil Real Estate Investors, Inc. v. Columbia Pictures Indus. Inc.*, 508 U.S. 49, 60-61, 113 S. Ct. 1920 (1993) (applying rule in labor context).

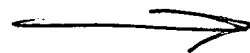


Imminent danger of serious physical harm is a simple ~~enough~~ enough inquired process into the facts of the case at hand. See, Jensen v. Knowles, 2008 WL 744726, *2 (E.D. Cal., Mar. 18, 2008) (holding complaint of Failure to provide diabetic diet met the standard, noting need "to avoid overly detailed inquiries into what dangers are serious enough").

In context a prisoner at any level purposefully denied service of process puts him in imminent danger liberally construed. See, Smith v. Ozmint, 2008 WL 1883200, *4 (D.S.C., Apr. 23, 2008) (imminent danger standard met by allegations of use of hazardous ~~chemicals~~ ~~and unsanitary conditions~~ Chinese products, 24-hour illumination in cells, exposure to deranged behavior and unsanitary conditions from mentally ill prisoners in the segregation unit, deprivation of sunlight, and exposure to mold).

Perhaps being subject to any hinderance in a civil rights complaint especially when the prisoner seeks service of process upon government officials, municipalities, judges even is of the worse imminent danger instigating an atmosphere of unchecked unconstitutional conduct amongst the institution. Gibbs v. Cross, 1160 F.3d 962, 964 (3d Cir. 1998) (holding allegation that plaintiff was subjected to "dust, lint and shower odor" via cell vent, resulting in severe headaches, change in voice, mucus full of dust and lint, and watery eyes sufficiently alleged imminent danger of serious injury).

Here the complaint raised an issue of a prisoner (Plaintiff) seeking relief in an state of Arizona judicial system raising such



claims as assault by inmates provoked by officials of the Arizona Dept. of Corrections, Retaliation against him, refused service of process upon the perpetrators, etc. by the Defendants. Perhaps this places to Plaintiff-Petitioner is imminent danger of serious physical harm in an general sense of the term. See, Jackson v. Jackson, 2009 WL 1587830, *1 (11th Cir. 2009) (Plaintiff "claims that he has a hernia that causes him to suffer from severe pain in his testicles and abdomen, blood in his urine, nausea, and weight loss. Jackson contends that without surgery, which the defendant prison officials will not approve, he will continue to suffer from those injuries and may even face tissue death, gangrene, and internal bleeding. Based on these allegations, which we must construe liberally, accept as true, and view as a whole, ... we conclude that Jackson has sufficiently demonstrated that he was in imminent danger of serious physical injury when he filed suit").

Petitioner does not see a ~~obvious~~ civil complaint filed in the U.S. Dist. Court which was Frivolous, malicious or Failed to state a claim as cited by the court under, Andrews v. King, 398 F.3d 1113, 1121 (9th Cir. 2005).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jason Lee Harris

Date: October 13, 2018