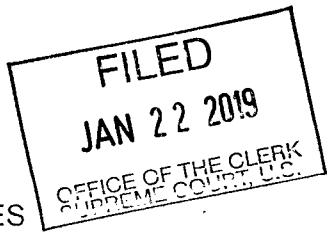


No. 18-7992

ORIGINAL

IN THE  
SUPREME COURT OF THE UNITED STATES



KESSELE LIVINGSTON PETITIONER  
(Your Name)

vs.

Lauri Esslinger, 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

Kessle Livingston #3328897  
(Your Name)

ASPC - Yuma - La La 2 P. O. Box 8909  
(Address)

San Luis, AZ 85349  
(City, State, Zip Code)

\_\_\_\_\_  
(Phone Number)

QUESTION(S) PRESENTED

Does a state or government agency or official have a duty to verify the age of a child who is in their custody and the child's mother and father whereabouts are unknown; And the child tells the agency or official that his parent has committed fraud concerning his age.

## 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:

Lauri ESSlinger  
Rebecca Ohlson  
Teresa Patterson  
Robin E. Ance  
Brenda Lemley-Spence  
Maria Villagrana  
Avrise Reeves  
Lisa Lucchesi

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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 A 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 is unpublished.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 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 is unpublished.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 is unpublished.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.

## JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was Sep 12, 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: Nov 19, 2018, 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 \_\_\_\_\_ (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**

U.S. CONST. amend XIV. .... 10, 13  
U.S. CONST. amend XIV. .... passim

## STATEMENT OF THE CASE

### 1. STATEMENT OF FACTS.

Kessele Livingston is a Liberian refugee who came to the United States in March 2007 with his aunt and cousins. Livingston was eleven years old, he was born May 5, 1996, but his Aunt lied and incorrectly recorded his birth date as January 2, 1994. As a result, the resident card issued by the United States listed Livingston as being born on January 1, 1994, which made him two years older than his actual age.

The Plaintiff's Aunt no longer wanting or able to care for the Plaintiff, put him in custody of CPS. His case workers were the Defendants: Rebecca Ohton, Teresa Patterson, and Lauri Coslinger. The Plaintiff told the Defendants several times he was two years younger than his recorded age. Nevertheless the Defendants did not do anything to check if the Plaintiff was in fact only 16 years old, when they aged him out of the system, and denied him all restorative services; and put him on the streets homeless with no survival skills.

## SUMMARY OF THE ARGUMENT

The Plaintiff's claim is that the Defendants violated his due-process rights because they did not adequately investigate his age, because he was Black, and that he was a Liberian national, and as a result of their actions he was put on the streets as a 16 year old illiterate child, whom also had a difficulty with English, because of the above he was put in a adult jail, where he was bullied, beat up, picked on, and was sexually assaulted by adult inmates.

Immigration and Customs Enforcement (ICE) did what the Defendants should have done. They listen to the Plaintiff who was clearly a child, and perform the tests that proved the Plaintiff was in fact a 16 year old child that should have never been on the streets. The Court of Appeals erred in their decision that the Plaintiff ~~was~~ a child could hide behind the mistakes of the Defendants who claim qualified immunity with respect to discretionary functions performed in their official capacities. The actions of the Defendants concerning the care of the Plaintiff when he was a child was not reasonable nor were their actions objectively reasonable.

## ARGUMENT

A child in The custody of a city, County, State, or federal agency has a Fourteenth Amendment right not to be placed in danger by official acting with deliberate indifference to a known and obvious danger.

IT IS Clearly established That when a child is put in The custody of CPS he or she can not just leave, nor can an official just Take a child out of The care of CPS, and put them in The street homeless.

In This case a child Told the people who are responsible That he was only 16 years old They ignore him, and put him on The street homeless.

When a child Tells an adult whom is responsible for his or her care That they are being Molested, being Treated unsafe in any way its that employed has a duty To investigate the DefendantS, would have The courts believe that if a child told them he or she was 19 years old and wanted to leave the System; They would do nothing and let the 19 year old just stay in The System its hard to imagine a child telling any government official their age was not right and that official just shakeS

his or her head and does nothing to discredit the information. Henry A. v. Willaken, 678 F.3d 991 clearly states "When a custodial relationship exists between the plaintiff and the state such that the state assumed some responsibility for the plaintiff's safety and well-being"

The plaintiff as a child in fact any child in the custody has a right to the basic needs that encompasses the child's expectation to be protected from harm. Surely putting a child on the street is not objectively reasonable, when all the defendants had to do was have the necessary tests run that were ran to late after the plaintiff had been put in an adult jail where he was put in extreme danger and raped.

Any reasonable official would know that not to check to see if a 16 year old was telling the truth about his age would be unreasonable. In this case it is clear that an 18 year old can be put on the street so why would one not check to see if a person was telling the truth about their age.

The plaintiff asserts that the reason he was put on the streets at 16 with no resources was because he was Black. Please see Tamia V. Dept of Soc. & Health Servs., 630 F.3d 833

REASONS FOR GRANTING THE PETITION

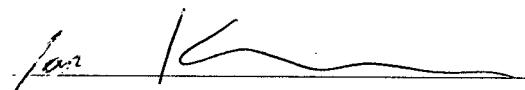
That once a child is put in the care of a city, county, state, Federal, or any government agency or official; the official or agency owes the child, as part of that person's protected liberty interest, reasonable safety and minimally adequate care and treatment appropriate to the age and circumstances of the child. See Lipscomb v. Simmons, 962 F.2d 1374, 1379 (9th Cir. 1992); JMM v. Hernandez, 151 F. Supp. 3d 1125, 1132 (D.Nev. 2015) (citing Lipscomb)

The Plaintiff in this case did not receive minimally adequate care when he was put on the streets at 16 years old in fact he was put on the streets with nothing. This case can be used to make sure nothing like this ever happens to a child again regardless of race, creed, or color in the care of our government. When you put a child on the street without care you have violated that child's right to due process when you don't check to see if he is a child after he tells you he is in fact 16 years old.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: January 22, 2019