

MAY 23 2019

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Original:

Mr. Michael FRIES. / K-15230;
Kern Valley State Prison, Box 5103,
Delano, Calif., 93216. Pro se.

In The
Supreme Court of the United States

Mr. Michael Fries,
Petitioner,
v.

Mr. Xavier Becerra,
Attorney General of Calif., et al.,
Respondent.

Petition For Rehearing:
Case No. 18-8149.

Orange County Superior
Court Case No. 95HF0333.

To the Honorable Justice of this Court, to
whom I gratefully attempt to file the herein,
by right, concurrent with: U.S.C. Art. III, § 2;
The 1st, 4th, 5th, 6th, 8th, and 14th Amendments
to the Constitution of the United States; And,
28 U.S.C. § 1915; § 636, inter alia.

I provide, this court's Order of denial as
received May 6, 2019; Appendix "A". In that, the
denial of Certiorari/Habeas Corpus. I've proceeded
In Forma Pauperis having funds exhausted
intervening attorneys.

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Table of Authorities:

* U.S. Constitutional Amend./Statutes/Rules: Pages:

U.S.C. Art. III, § 2.	1.
U.S.C. Art. IV, § 1.	8.
U.S.C. Art. VI,	7.
USCA. First,	1, 5, 6, 7, 11.
USCA. Fourth,	1, 5, 6, 7.
USCA. Fifth,	1, 5, 7.
USCA. Sixth,	1, 5, 7, 8.
USCA. Eighth,	1, 4, 5, 7, 12.
USCA. Fourteenth,	1, 5, 7, 11.
28 USC § 636,	1, 7.
28 USC § 1915,	1.
Rule 27.3,	3.
Rule 29,	13.
Rule 44,	9, 13, 14.
CLR. Title 15, §§ 3135-36,	6.

* Case Law:

Armstrong v. Schwarzenegger, Case No. C94-2307 (12/8/06),	12.
Brower v. City of Inup, 489 U.S. 593 (1989),	6.
Gate v. Cook, 376 F.3d 323 (5th Cir. 2004),	12.
Jones v. Brown, 461 F.3d 353 (3rd Cir. 2006),	11.
Lewis v. Casey, 518 U.S. 343 (1996),	11.
Nordstrom v. Ryan, 762 F.3d 903 (9th Cir. 2014),	12.
Prison Legal News v. Schwarzenegger, C94-2307, CW,	5.
Procunier v. Martinez, 416 U.S. 396 (1974),	6.
Witherow v. Paff, 52 F.3d 264 (9th Cir. 1995),	11.

* Statement of the Case:

For all the courts and laws of the land, no adversarial process has ever taken place in this case...Fact. Indeed, a complete and entire denial of effective assistance of counsel, access to Law Libraries, purchase of Legal Books and Legal Periodicals, i.e. the Constitutional rights afforded any citizen of this nation; A task the courts are incapable of undoing after 25 years of litigation on my part; And at the expense of men, women, and children's lives. I now submit, as is my duty, to the grante herein, and again, in good faith. Sometimes, nature is ugly. But it still needs to be protected, and you can help! So prays this Petitioner.

On January 25, 2018, this case was filed, and placed on the docket February 27, 2019, as No. 18-8149. And thus denied; Appx. "A".

On August 19, 2018, I sent this court a second Petition For Writ of Certiorari. The Court has by right, the means to combine the Petitions under Rule 27.3, from what I understand as a layman.

Intrinsic to this petition is the policy of denial of access to law libraries, etc., which is pervasively [long-standing], and well documented by myself, heretofore. See, my USDC-CAFR, "Response To The Court's Order Filed Sept. 26, 2017," Case No. 1:17-mc-00064-SAB, as filed on Oct. 17, 2017; And thus, denied, Oct. 30, 2017, et seq.

See also, USDC-CLA (Central District of California) Case No. 97-8699-TJH-RNB, in which the last remaining Defendant (After appointment of counsel), was given Qualified Immunity - unlawfully, and after the requisite five minutes, when a juror in my Civil Suit "Complaint", stood and screamed: "My God, they've been torturing him!" This on the second day of trial in regards to Orange County Jail, deprivations and indeed torture, thereof. (In that, page 72, of my Federal Habeas Corpus, filed: Sept. 12, 2016, Case No. 8:16-cv-01687-R-DFM; Eventually, removed from Los Angeles, to Santa Ana, Orange County).

In a current appeal from the USDC-CAFR (Nao, Case No. 1:18-cv-00652-LJO-SKO, after a year in getting the case filed) (See above, Case No. 1:17-mc-00064-SAB), to the U.S. Court of Appeal for the Ninth Circuit, Case No. 19-15624, filed April 3, 2019, I also sent (inter alia), a Motion (Supplemental) or Injunctive Relief, on April 25, 2019, providing thereby, Appendix A, a Chro-

ontology of my attempts (over a year) in purchasing a "Jailhouse Lawyer's Manual, 2017 Edition", and Appendix B, an April 22, 2019, letter to Columbia Human Rights Law Review re (JLM); Showing tampering, stopping of legal Mail/Confidential Mail/Mail; i.e. longstanding, inter alia.

See also, Motion To Setaside, sent to the Ninth Circuit on May 19, 2019, re above and below, herein.

Additionally, long before "Lewis", infra., in which I have had (no meaningful to none), i.e. access to law libraries, I am now left to use law, i.e. two cases plucked and gleaned from the USDC-CATR, Order of Dec. 4, 2018; and requested from Elite Paralegal Services, an outside agency, some four months prior on Jan. 14, 2019, and only received on April 24, 2019; A continuing violation of the "Prison Legal News v. Swazenecker, Settlement Agreement in 2006". (See above, Motion To Setaside).

Concurrent with my Civil Rights Complaint (USDC-CATR, Case No. 1:18-cv-60652-LJO-SKO), and prior motions, the intentional interference, retaliation, and obstruction of access to the courts / Freedom of association, etc., does violate the USC. 1, 4, 5, 6, 8, 14, Amendments;

Showing further, blatant disregard for established regulations, at will, too, [re non-delivery/non-notification] of "disallowed" mail, i.e. (See, KVSP Institutional (602) Appeals): Log# KVSP-O-19-00582; And, Log# KVSP-O-19-01063.), re non-delivery, non-notification of Legal Mail. See also, California Code of Regulations, Title 15, §§ 3135-36, etc. Moreover, the right to be notified is a due process right recognized by: *Prochner v. Martinez*, 416 U.S. 396 (1974).

In that I've no accountability or succor from any court in a campaign of harassment to stop me from obtaining legal materials, file, and purchased publications; i.e. access to the courts and effective assistance of counsel, ever. Certainly from any reasonable persons point of view. (See, U.S. First Amend.).

In *Brower v. Cty of Inyo*, 489 U.S. 593, 596, (1989), this court held a seizure occurs even when an unintended (person) or (thing) is the object of the detention or taking, but the detention or taking itself must be willful, since seizure does not imply an "unknowing act," under the history of the Fourth Amendment, which was addressed to "misuse of power." And consistent with my assertions of facts; In that,

violations of the USC. 1, 4, 5, 6, 8, 14; Amendments; i.e. the Fourteenth Amendment is applicable to the States by the Fifth Amendment.

And while my unlawful conviction has been upheld, it has only been done so by [violations] of Constitutional law.* For how could the court's Judge without the facts before them in lieu of Defendant, Petitioner, and now Plaintiff, being gagged and Doc-tapped to a chair in the trial court (See, Cortorari of Jan. 25, 2018, pages: 18-20, etc.), and within the totality of circumstances, of (inter alia.) ineffective assistance of counsel (USC. 6th Amend.), fair proceedings (USC 14th Amend.), and denial of law library access and legal materials/purchased publications (USC 1st Amend.); This in regards to the "Fruit of a Poisonous Tree" Doctrine, i.e. violations of the Fourth Amendment.

Further, I do not complain but state facts, seeking redress of constitutional violations of law by law enforcement, i.e. violations of the Sixth Amendment. (See, Cortorari of Jan. 25, 2018, pages: 12-15.).

To quote from a borrowed book, (Ironically, from the fella who attacked me on Oct. 30, 2018, and in which I now find myself without a shadow, etc., since that date; See, USDC-CATR, Nov. 28, 2018, Motion, filed Dec. 3, 2018.), "There are situations in which

* Judges in every State shall be bound thereby.

a person cannot be deemed bound, for all purposes, by the judgment or proceedings of a court. For example, in order to determine the applicability of the full faith and credit clause of the Constitution, it may be shown that the court that rendered the judgment did not have jurisdiction. See, *Thompson v. Whitman*, 85 U.S. (18 Wall.) 457 (1874). Likewise, it has been held that if a person, by habeas corpus, collaterally attacks a judgment of conviction, alleging the denial of assistance of counsel,* it may be shown by proof outside the record that such assistance had not been waived (See, *Certiorari* of Jan. 25, 2018, page: 14.), inter alia. It has been pointed out that in these situations, it would be clearly erroneous to confine the inquiry to the proceedings and judgment of the trial court. The petitioned court has the power to inquire into the jurisdiction of the inferior court, either with respect to the subject matter or the person, even if the inquiry involves an examination of facts that are outside the record. *(See, *Certiorari* of Jan. 25, 2018, pages: 22-25.).

No doubt, these courts will give you the brush off as easy as they've done me, however, in the interest of justice, exceptional circumstances do exist, since I

have colorable claims, yet lack the means to investigate, prepare, nor present those claims; Indeed, long gone through "misuse of power," (See above, page 6.); And in the face of institutionally initiated violence, and deaths (See, USDC-CATR, Nov. 28, 2018, Motion, filed Dec. 3, 2018), and my refusal to react, other than through petitions, etc., no doubt inadequate pleadings, and tactics at best. Pervasively, I have shown over my lifetime, the willingness to place my life before the harm of others.

Intervening circumstances of a substantial and controlling effect, above and below (See, Rule 44.2), compel me also to relate the following: On January 10, 2019, Davis, Police Officer (Yolo County, California), Ms. Natalie Corona, was gunned down while she was making a traffic stop, by a Mr. Kevin Limbaugh (3p), 48 years old, who pulled up beside the 22 year old Officer, and shot her in the neck, Killing her. A "note" left on the gunman's computer ("Apparently leaked by her colleagues"), in his home, implicated that "police used ultra-sonic waves on him for years." (See, Appendix "A", of my Certiorari of Jan. 25, 2018, before this Court);

As well as my Federal Habeas Corpus, filed, Sept. 12, 2016, and California Supreme Court filed, July 24, 2015, Case No. S228057.

In April of 1975, days before my arrest, I was subject to such "ultra-sonic waves", in a [single] instance, amongst many other (machinations) by "individual" law enforcement officers, and have spent near three decades trying to save the lives of men, women, and children, with no acknowledgment, investigation, inquiry, or even (a) response from the many courts and attorneys I have tried to bring these issues before. (See, Certiorari of Jan. 25, 2018, page 12: 10-23; And, wherein, my second defense attorney stated again and again: "No one will believe you," and "No one will care."). The first, took off like a jackrabbit. I am, wholeheartedly grieved by it (all), and no doubt the loss, our honest and talented Officer. (inter alia.). I've been hoping someone would care, but apparently, they don't. And yet, I attempt to file the herein, still.

In that the Courts are under the impression that this citizen is capable of maneuvering through the morass of laws in delineating my claims that the

Courts would then find suitable to its taste, without access to those laws, etc., other than that provided by the court, [after] the fact; And wholly inapplicable. I can read and write pretty good; I just cannot talk most times.

Moreover, to deprive a citizen's due process and equal protection of the law, let alone not to be informed, and inform himself of those laws* in order to present viable, legal, and edictal claims within the narrow precepts of the law, is also to be "stymied". See, *Hewes v. Casey*, 518 U.S. 343 (1996), wherein, an actual injury requirement applies to prisoners' access to courts. See also, *Texas v. Brown*, 461 F.3d 353, 359 (3rd Cir. 2006), "We reject the argument... that the Supreme Court's decision in *Hewes*... require[s] that the plaintiffs prove some injury-in-fact beyond the infringement of constitutionally protected speech," i.e. See above page: 7:7-19, re being gagged and Pext-taped. See, too, *Witherow v. Paff*, 52 F.3d 264, 265 (9th Cir. 1995), "We have also recognized the First Amendment rights of prisoners to send and receive mail."

* It does not matter how proficient in reading and writing I am, if I don't have the "magic words."

In the Eighth Amendment context, this Court has found that more than negligence is required to raise a claim for [cruel and unusual] punishment, of which I have shown throughout. Moreover, the interference, obstruction, and retaliation [is] intentional and unnecessary and wanton infliction of pain. See, *Cate v. Cook*, 376 F.3d 323, 332 (5th Cir. 2004), "mental health needs are no less serious than physical needs." See also, *Armstrong v. Szwarcnegger*, etc.

Habeas Corpus is civil in nature. See also, *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th Cir. 2014), "Pro se complaints" are construed liberally and may only be dismissed if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief... We must accept all allegations of material fact as true and construe them in the light most favorable." In that the burden has been entirely shifted upon the Defendant, Petitioner, and Plaintiff. I have suffered "actual injury," in accordance with "habeas," etc.

Conclusion: Petitioner humbly Demands Grant of Habeas Corpus, and any and all relief as directed by this Court.

Date: May 22, 2019. Signature: *Michael J. Galt*.

* Declaration/Proof of Service By Mail:

I, Mr. Michael Fries, /K-15230, declare the above and below to be true to the best of my knowledge and under the penalty of perjury; That I am over 18 years of age and a party in this action. I am imprisoned at Kern Valley State Prison, P.O. Box 5103, Delano, California, 93216. On this day I've sent a: Petition For Rehearing; The Writin, in which I am unable to serve the Respondent, due to lack of access to the law library and its services; And while I have served the Respondent concurrent with Rule 29.5(c), I request service, i.e., Mr. X. Bacerra, Attorney General of California, 1300 "I" St., Suite #125, Sacramento, Calif., 94244. I have also attached herein, a Certificate of Pro Se Party (x2), in conjunction with Rule 44. I have enclosed herein the above in a sealed envelope, with first class postage prepaid, in the above institutions' mail delivery system, addressed:

* Attn: Office of the Clerk, Supreme Court of the United States, Washington, D.C., 20543-0001; legal/Confidential Mail.

Date: May 22, 2019. Signature: *Michael Fries*

* Certificate of Pro se Party:

I, Mr. Michael Fries, declare the above and below to be true to the best of my knowledge; That the herein is restricted to the grounds specified in Rule 44, and that it is presented in good faith and not for delay.

Date: May 22, 2019. Signature: *Michael Fries*

Mr. Michael Fries / R-15230. CB. 123.
Kern Valley State Prison, P.O. Box 5103,
Delano, California, 93216.