

18-8180

No.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

NOV 27 2018

OFFICE OF THE CLERK
SUPREME COURT, U.S.

William N. Lucy — PETITIONER
(Your Name) PERSONAL REPRESENTATIVE
ANNIE D. FOX (DECEASED)

VS.

DIALYSIS ASSOCIATES ET AL. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

SUPREME COURT OF ALABAMA
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

William N. Lucy
(Your Name)

3800 FOUNTAIN
(Address)

ATMORE, AL. 36503
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1). THE ISSUE IS WHETHER THE ALABAMA SUPREME COURT ERRED IN HOLDING THAT PETITIONER WERE NOT ALLOWED TO PROCEED ON APPEAL FROM THE MOBILE COUNTY CIRCUIT COURT INFORMA PAUPERIS PURSUANT TO PRISON LITIGATION REFORM ACT AND MUST PAY FILING FEE IN FULL, IN ADVANCE.
- 2). DID THE ALABAMA SUPREME COURT ERRED BY DENYING PETITIONER TO PROCEED ON APPEAL PURSUANT TO THE PRISON LITIGATION REFORM ACT - (28 U.S.C. 1915 §(B)(2)(4)) WITHOUT PREPAID FILING FEES IN FULL.

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. DIALYSIS ASSOCIATES
2. SPRINGHILL HOSPITALS, INC. D/B/A
3. SPRINGHILL MEMORIAL HOSPITAL
4. PHARISEES FOX
5. UNNAMED DOCTORS AT SPRINGHILL MEMORIAL HOSPITAL
6. UNNAMED DOCTORS AT DIALYSIS ASSOCIATES

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION	6

INDEX TO APPENDICES

APPENDIX A -	ALABAMA COURT OF CIVIL APPEALS TRANSFERRED CASE TO ALABAMA SUPREME COURT. LACK OF SUBJECT MATTER JURISDICTION
APPENDIX B -	MOBILE COUNTY CIRCUIT COURT - GRANTED DEFENDANT'S MOTION TO DISMISS.
APPENDIX C -	MOTION TO RECONSIDER DENIED BY ALABAMA SUPREME COURT.
APPENDIX D -	ORDER THAT THE APPEAL IS DISMISSED BY ALABAMA SUPREME COURT FOR FAILURE TO PROVIDE PAYMENT IN ACCORDANCE WITH COURT'S ORDER OF SEPTEMBER 21, 2018. (PAY FILING FEE IN FULL IN ADVANCE)
APPENDIX E	
APPENDIX F	

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

GRIFFIN VS. ILLINOIS, 351 U.S. 12, 76 S. CT. 585, 100.
L. ED 891 (1956)

ADKINS VS. E.I. DU PONT DE NEMOURS & CO. (1948)
335 U.S. 331, 93 L. ED 43, 69 S. CT. 85, 11 ALR 2d 599

STATUTES AND RULES

28 U.S.C. § 1915 (B) (2) (4)

28 U.S.C. § 1915 (B) (1) (A)

28 U.S.C. § 1915 (B) (1) (B)

28 U.S.C. § 1915 (B) (2)

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 _____ 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 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 _____ 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 _____.

☐ 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 SEPT. 21, 2018
A copy of that decision appears at Appendix C.

☒ A timely petition for rehearing was thereafter denied on the following date: OCT. 30, 2018, and a copy of the order denying rehearing appears at Appendix C.

☐ 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

PRISON LITIGATION REFORM ACT (28 U.S.C. § 1915(B)(2)(4))

IT WAS HELD IN PERTINENT PART "IN NO EVENT SHALL A PRISONER BE PROHIBITED FROM BRINGING A CIVIL ACTION OR APPEALING A CIVIL OR CRIMINAL JUDGMENT FOR REASON THAT THE PRISONER HAS NO ASSETS, AND NO MEANS BY WHICH TO PAY THE INITIAL FILING FEE."

28 U.S.C. § 1915(B)(2) - AFTER PAYMENT OF THE INITIAL FILING FEE THE PRISONER SHALL BE REQUIRED TO MAKE PAYMENTS OF 20 PERCENT OF THE PRECEDING MONTH'S INCOME CREDITED TO THE PRISONER'S ACCOUNT.

STATEMENT OF THE CASE

THIS CASE BEGAN WHEN THE DECEASED (ANNIE D. FOX) WAS ADMITTED INTO SPRINGHILL MEMORIAL HOSPITAL, AS SHE SUFFERED FROM HIGH BLOOD PRESSURE, A BAD (WEAK) HEART, DIABETES AND INJURIES TO HER BACK AND KNEES (LEGS) - FROM WORKING AT INGALL'S SHIPYARD WHERE SHE RETIRED. SHE SUFFERED FROM SEVER HIGH PRESSURE; ON A(N) OCCASSION WHEN HER BLOOD PRESSURE WAS EXTREMELY HIGH. SHE (ANNIE D. FOX) WAS ADMITTED INTO SPRINGHILL MEMORIAL HOSPITAL. WHILE IN THE HOSPITAL AND HEAVILY SUDATED, HER LEFT LEG WAS AMPUTATED; ALTHOUGH SHE HAD BEEN SUFFERING FROM A(N) OPEN WOUND ON HER RIGHT FOOT; [THEY CUT OFF THE WRONG LEG... THE RIGHT LEG WAS THE ONE INFECTED]. THEN ALTHOUGH HER KIDNEY'S WAS WORKING PROPERLY, THE SPRINGHILL HOSPITAL DOCTORS INSISTED AND INSISTED UNTIL ANNIE WAS PUT ON DIALYSIS. THIS WENT ON FOR A NUMBER OF YEARS. DURING HER DIALYSIS TREATMENT (DIALYSIS ASSOC.) ON A NUMBER OF OCCASSIONS ANNIE EXPERIENCED DRAMATIC DROPS IN HER BLOOD PRESSURE AND NEARLY DIED, BECAUSE OF THE UNTRAINED WORKERS AT THE DIALYSIS CENTER [DIALYSIS ASSOCIATES]. NOT ONLY WERE THE DIALYSIS PEOPLE AT DIALYSIS ASSOCIATES WERE / ARE NOT PROPERLY TRAINED, THEIR EQUIPMENT IS NOT STERIL; THESE TWO FACTORS, UNTRAINED WORKER AND UNSTERILIZED EQUIPMENT; CAUSED ANNIE TO CONTRACT A(N) INFECTION IN HER BLOOD, WHICH MADE DIALYSIS TREATMENT MORE FREQUENT. THE BLOOD INFECTION ALSO (ACCORDING TO THE DOCTORS) CAUSED THE OPEN WOUND ON HER RIGHT FOOT TO DEVELOP GANGRENE. DOCTORS AT SPRINGHILL MEMORIAL HOSPITAL PUT ANNIE ON STRONG ANTI-BIOTICS TO TRY AND CURVE THE GANGRENE MOVING IN ANNIE'S RIGHT LEG; AFTER MONTHS OF THIS INEFFECTIVE MEDICAL TREATMENT, ANNIE CONTINUED TO SUFFER. AFTER MONTHS OF THIS, ANNIE WAS RE-ADMITTED INTO SPRINGHILL MEMORIAL HOSPITAL. THIS TIME WAS NOT LIKE THE MANY OTHER TIMES SHE [ANNIE] HAD BEEN

ADMITTED INTO SPRINGHILL MEMORIAL HOSPITAL, THIS TIME SHE VERY WEAK FROM THE DIALYSIS TREATMENTS, THE STRONG ANTI-BIOTICS AND THE SPREAD OF THE GANGRENE. ANNIE WAS ALLOWED TO DIE BECAUSE THE BLOOD INFECTION FROM THE UNSANTIZED DIALYSIS EQUIPMENT, THE POORLY TRAINED DIALYSIS ATTENDANTS AND THE UNCARING DOCTORS AT SPRINGHILL MEMORIAL HOSPITAL WHO REFUSED TO AMPUTATE HER GANGRENE INFECTED LEFT LEG. WHAT ALSO MAKE THIS ESPECIALLY TROUBLING IS MY SISTER ANNIE D. FOX WAS ALMOST 70 YEARS OLD AND UNABLE TO CARE FOR OR PROTECT HERSELF AND I AM INCARCERATED AND WERE NOT THERE TO PROTECT AND CARE FOR HER, BECAUSE SHE WAS A MOTHER TO ME AND PROTECTED AND CARE FOR ME WHEN I WAS UNABLE TO PROTECT AND CARE FOR MYSELF. NOW THE COURT IS ATTEMPTING TO DENY ME THE RIGHT TO VENEDICATE MY SISTER (MOTHER) BY DENYING ME THIS CAUSE OF ACTION BECAUSE I CAN'T AFFORD TO PAY THE FILING FEE (\$200.00) IN FULL, IN ADVANCE. THIS CASE IS ALSO FILED IN HOPE OF KEEPING ANOTHER FAMILY OR PERSON WATCHING THEIR MOTHER OR PERSON FROM SUFFERING AND DYING AT THE HAND OF THESE PEOPLE.

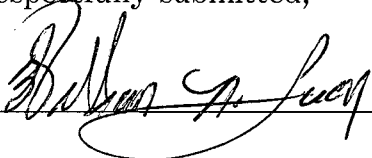
REASONS FOR GRANTING THE PETITION

THIS PETITION SHOULD BE GRANTED BECAUSE THE RULING BY THE ALABAMA SUPREME COURT IS IN ERROR AND REFLECT A(N) ABUSE OF DISCRETION, AS IT (ALA. SUP. CT.) STRAYED AWAY FROM ESTABLISHED AND RECOGNIZED LAW AT 28 U.S.C. 1915(B)(2)(4) BY REQUIRING PETITIONER NOT ONLY TO PAY THE FULL AMOUNT OF THE FILING FEE, BUT REQUIRED TO PAY IT IN ADVANCE, WHEREAS PURSUANT TO 28 U.S.C. § 1915 ET. SEQ... PRISONER'S ARE ALLOWED TO MAKE INITIAL PAYMENT OF 20% AND BALANCE PAID IN 20% INCREMENTS; CONTRARY TO THE ALABAMA SUPREME COURT UNLAWFULLY DEMAND OF FILING FEES PAID IN FULL, IN ADVANCE.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: FEBRUARY 15, 2019