

PROVIDED TO DESOTO C.I.
11-5-2018 FOR MAILING
INMATE INITIALS
OFFICER INITIALS

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Washington, D.C.

Eduardo Molina Bracero — PETITIONER
(Your Name)

vs.

Florida Dept. of Corrections — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States 11th Circuit Court of Appeals, Atlanta
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Eduardo Molina Bracero, DC#H-27788
(Your Name)

13617 S.E., Hwy. 70
(Address)

Arcadia, FL 34266
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. It is not the obligation of Dept. of corrections to comply with any statutory or constitutional obligation related to the protection of inmates from danger, specially from assaults from other inmates?
2. It is not the obligation of Dept. of corrections officials to respond grievances and/or to take reasonable measures on complained facts exposed by inmates at grievance or verbal communications?
3. It is the District and appeals court duty to protect inmates fundamental rights?

4. It is not a failure to protect and physical assaults claim a factual allegation in court, when prison officials are fully responsible for the failure to protect and physical assaults received by an inmate due to prison official deliberate indifference and gross negligence?
5. Is not physical assault in knowledge of prison officials a failure to protect, deliberate indifference and gross negligence causes for a claim, when they failed to act being aware of a risk of danger?
6. Do a Dept. of corrections Secretary and prison warden have immunity when inmate claim for damages under 8th Amendment that he suffered physical and psychological injuries resulting from prison officials labeling him as a snitch?
7. Do letters place prison officials in notice of a situation, giving them the opportunity to act in protecting an inmate who write the letters, since his grievance has not being responded.
8. If prison officials failed to respond grievances, or to act on grievance situation, or to respond letters, it is not a factual allegation?
9. According to Weiss v. U.S. Barribeau 853 F.3d 873, District Court failed to consider inmate factual allegations, which were uncontested, where inmate contended he was prevented from the exhaustion requirement of PLRA 1997 (e)(1)(A), the District and appeal courts in the case of bar failed to apply it, when this case is similar to the Aaron Patterson case.

10. It is not an issue where prison officials revealed information that inmate was part of a Task Force in conjunction with certain prison officials in the investigation of corruption at prison, when inmate refuse to identify the prison officials to whom he was providing the confidential information as an act of retaliation rather than an act of mistake, and an actionable cause or factual allegation?

11. What has in caption, Weiss vs. Barribeau and other cases cited at the Table of authorities cited page of the foregoing with this case of the Korean petitioner relating to claims of exhaustion and due process?

12. The appeal court stated that "prison official failure to respond grievance did not relieve inmate of his obligation to file an appeal when grievance procedure provided that inmate could file an appeal if he don't receive a response to a grievance in 30 days" the appeal court in this case is wrong, according to Tillus vs. Kelly, Armstrong vs. Drabos, Weiss vs. Barribeau, Davis vs. Mason, Aguilar vs. Terrell, and Foulk vs. Charrier, (listed in the table of authorities cited) if inmate is prevented from filing grievances, and/or prison officials failed to respond grievance, there is nothing to appeal, the district and appeal court decision is totally contrary to decisions already establishing a precedent?

13. What kind of protection(s) can an inmate have in general, and specially when he was part of a successful task force investigating corruption of prison, and thanks to him a large number of corrupt employees were caught, but his identity and history was revealed by "mistake" or by design by prison officials, placing his life at risk, wanton disregard of consequences. 14. It is a serious physical injury, not once, but twice obtained an issue to ignore, specially when the injuries were produced by deliberate indifference, gross negligence, and willful misconduct of prison officials that placed the inmate life, health and security in unnecessary danger? 15. It is not the responsibility of prison officials in an administrative position to take serious the issue of keep the identity of an informant in confidential and if said informant identity is revealed, it is not their duty to protect the inmate?

16. Is Qualified immunity a defense for the defendants, when defendants when the defendants willfully and deliberately failed to protect an inmate was asked for protection?

17. Is the informant inmate's life, health and security not important specially when there then 14 corrupt employees were apprehended and fired thanks to informant inmate in payment of corrupt activities.

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:

Julie Jones, Secretary Fla. Dept. of Corrections

Glenn Morris, Warden Dade Correctional

Rod Frederick Newell, Colonel

Darlene Green, Captain

Javier Jones, classification dept. Director

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	5
REASONS FOR GRANTING THE WRIT	10
CONCLUSION.....	14
<i>Questions Presented</i>	8

INDEX TO APPENDICES

APPENDIX A	<i>Decision of U.S. District Court</i>
APPENDIX B	<i>Magistrate Report</i>
APPENDIX C	<i>Decision of U.S. Court of Appeal</i>
APPENDIX D	<i>Denial of U.S. Court of appeal For Motion For Rehearing Review which was wrongfully returned, it was timely filed.</i>
APPENDIX E	<i>Motion For Rehearing</i>
APPENDIX F	<i>Petition for injunction Denial</i>

1

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 8-14-2018.

☐ 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 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. § 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

42 U.S.C. 1983; Every person under color of any state, statute, ordinance, regulation, custom, or usage, of any state or territory, or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. (Carey vs. Phipps, 435 U.S. 247; as a general rule, S. 1983 allows inmate to recover for all injuries recognized in the common law torts, e.g., physical injury, mental anguish and emotional distress, fear, anxiety and humiliation. S. 1983 allows inmate to seek a remedy for constitutional and statutory violations committed by state or local government officials; American vs. Sullivan, 526 U.S. 40; Parratt vs. Taylor, 451 U.S. 527, in order to state a viable claim for relief under S. 1983, the complained conduct must have deprived the inmate of rights, immunities and privileges secured by the constitution.)

42 U.S.C. 1997 (e)(a); no action shall be brought with respect to prison conditions under Section 1983 of this title, or any other federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

42 U.S.C. 1997 (e)(e); No federal action may be brought by a prisoner confined in jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury. (Ibrahim vs. D. Columbia, 463 F.3d 3, 7; Jones vs. Greninger, 188 F.3d 322, 326; Courts have ruled that an inmate physical injury must be more than minimal. Bennefield vs. McDowell, 241 F.3d 1267; Under 42 U.S.C. 1997 (e)(e) inmate claim for damages under 8th amendment that he suffered psychological injury resulting from prison officials labeling him as a snitch survived defendant motion to dismiss for qualified immunity; Despain vs. Updeff, 264 F.3d 965; in order to promote the efficient administration of public services, the doctrine of qualified immunity shields government officials performing discretionary functions from individual liability under S. 1983, unless their conduct violates clearly established statutory or constitutional rights of which a reasonable person would have known).

Florida State Constitution, Declaration of rights S. 4; Every person shall have a legal remedy for any injury, the word person must be construed to mean the whole man, his personality as well as his physical body, the word injury implies the doing of some act which constitute an invasion of legal rights under statute or common law; Prieto vs. Malgor, 361 F.3d 1313; Florida law provides an exclusive remedy against any relevant governmental entity for an injury caused by an officer acting in the course of his/her employment.

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Tillis vs. Kelly, 510 Fed. appex. 864-866	7
Weiss vs. Barribeau, 853 F.3d 873	4
Benne Field vs. McDowall, 241 F.3d 1267-1272	14
Gibbs vs. Roman, 116 F.3d 83-86	2
Quintones vs. Jimenez, 842 F.2d 556	2
Bingham vs. Thomas, 654 F.3d 1171-1175	2
Hudson vs. Palmer, 468 U.S. 517	2
American Manufact. vs. Sullivan, 526 U.S. 40	3
Caldwell vs. Warden, 748 F.3d 1099	3
West vs. Rowe, 448 F. Supp. 58-60	4
Jett vs. Penner, 439 F.3d 1091-1098	4
Wolff vs. McDonnell, 418 U.S. 556	4
Gibbs vs. Franklin, 18 F.3d 521	14
Pennsylvania vs. West Virginia, 262 U.S. 553	5
Bizzard vs. Quillen, 579 F. Supp. 1446	5
STATUTES AND RULES	5

42 U.S.C. 1997(e),(a)	
42 U.S.C. 1997(e),(e)	4, 5, 6
Fla. Statute 768.28	14
Fla. Statute 768.72	11
42 U.S.C. 1983	12
Eight Agent. U.S. Constitution	2, 3, 8, 10
	23, 7, 8, 9, 12, 14

OTHER

Roland vs. Johnson, 856 F.2d 764-770	6
Pope vs. Shafer, 86 F.2d 90	6
Woodward vs. Corrections, 368 F.3d 917-930	6
Aguilar vs. Terrell, 478 F.3d 1223, 1225	7
Brooks vs. Warden, 800 F.3d 1295-1301	8
Helling vs. McKinney, 509 U.S. 25-31	8
Carter vs. Galloway, 352 F.3d 1346-1349	8
Farmer vs. Brennan, 511 U.S. 825	9
Estelle vs. Gamble, 429 U.S. 97-106	9

STATEMENT OF THE CASE
AFFIDAVIT

While at Dade C.I., I used to be part of a task force investigating corruption at Prison for over 8 years. Working hand to hand with different good standing Correctional employees. Because of my work I delivered information leading to the capture of more than 14 corrupt employees members of drug, phones and prostitution rings. All this corrupt employees were fired, some of them criminally charged.

In April 6, 2016, I was physically assaulted by gang members of inmates by order of some corrupt employees still unapprehended linked to the ones already captured, then was discovered that said assault was product of information revealed by Fla. D.O.C. Secretary Julie Jones to Dade C.I. administration, information that reached the wrong hands, and my name was unprotected, totally exposed at said informative "reports".

Having me advised by two ranked correctional employees in good standing, that D.O.C. Secretary revealed my identity by "mistake", and now a lot of corrupt employees know who was the one responsible for the disruption of their corrupt organization at Dade C.I.

I talked with classification dept. Director Javier Jones about what Julie Jones did, and that the April 6, assault was product of that, and that I was looking for a transfer to avoid more complication, since not only corrupt employees now knows about me, but also gang members of inmates working for corrupt employees, and my life was on danger. Javier Jones told me that I have to write a grievance on that, that he cannot transfer me. So I wrote the grievance to the warden Glenn Morris, at said grievance I included the issue that I talked to class. Director Javier Jones and to Capt. Monroy who was the one taking photos of the head injuries and the incident report for the April 6, 2016 incident, whenever conducted an investigation neither placed under custody the two assailants, who repeated the physical assaults among other inmates like Neury Morcino in May 5, 2016.

I complained to Capt. Green about the security issues of my concern, in person and in write, including the lack of action of Capt. Monroy and classification dept. Director Javier Jones, and the lack of grievance responses by the warden. Capt. Green advised me since the issue involved D.O.C. Secretary, I have to write to her to make her to do her job properly, I did it too, but like grievances, letters were never responded neither. I also talked to Col. Newell, and delivered to him letters and grievances at hands, since placing it at the grievance box, no body seem their responsibility to answer grievances, but nothing was done.

Because no body at Florida D.O.C. responded in any way to protect me, I wrote to Florida Governor Rick Scott and Florida Senator Denisse Grimsley, both assigned a person from their office to call D.O.C. Central office to get information about my complaints and my security, also several human rights organizations to place them on notice of the situation.

Everything was getting worse, I was having some situations with some inmates, including My Bunky and his gang partners, who was hiding drugs on the bunks since the bunks were able to be detached one from the other, exposing holes at the bunk connectors, used as concealing places, because they knew who was me, they was mistreating me, having them full protection by corrupt employees who care nothing. Again my grievances at institutional level never were answered, neither any action taken by any of the herein employees who as the D.O.C. Secretary are all defendants in this case. none of the grievances 5, in total between April 6, 2016 to July 29, 2016, or the letters to D.O.C. Secretary, 4 at that time were neither responded, and my petition to be transferred or placed in protective custody never considered.

in August 9, 2016, again I was assaulted, this time receiving more serious physical injuries, over 65 stitches to repair the wound were necessary. Because I warned Col. Newell, classif. dept. Director Javier Jones and warden Morris of a lawsuit, for deliberate indifference, gross negligence, official misconduct that leads to the assaults, due to the level on the injuries, they placed me in confinement, rather than in medical infirmary, lack of shower, lack of clean clothes, lack of medical treatment like wound care, my injury get an infection (details are exposed at the original complaint filed at District Court). the defendants in this case refused to provide me with writing utensils and paper, so other inmates at some employees with whom I use to work with in the task force team, was the one providing me with it.

immediately I start writing letters to D.O.C. Secretary Julie Jones, D.O.C. General Counsel Kenneth Steely, Florida Governor Rick Scott, the human rights organizations I know, and Fla. Senator Grimsley and my family. by August 28, 2016 I was now transferred for "protection" upon the approval of an emergency transfer. Because of the lack of showers, clean clothes and medical treatment, my infection get worse, and I contracted ("scabies") infection, partially treated at Central Florida Reception and Medical Center. then transferred again, this time to Avon Park C.I., once there I received a letter from D.O.C. Regional Director Larry Mayo, signed by Ms. Tamara Harris confirming that I was transferred for "protection", and that an investigation for officials misconduct was referred to D.O.C. inspector general.

in January 2017 and April 2017, at Avon Park C.I., Capt. Conrad, Sgt. Anderson, Lt. and Dr. Barkley interviewed me by order of D.O.C. Central Office regarding more calls from Governor Scott office and Senator Grimsley, looking for me since they were never notified of the transfer and new location.

now at Avon Park Mailroom employee Christina Mong was intercepting all my mail incoming and outgoing by order of Roger McCracken Asst. Warden, interested in my communications with Sen. Grimsley, Gov. Scott, D.O.C. General Counsel Steely, and the human rights organizations as well as of the ones with my family, they choose to transfer me out of Avon Park C.I., when I discovered and complained what Ms. Mong and Mr. McCracken was doing, including 58 missing pages of legal documents pertaining to my criminal case and the lawsuit against D.O.C. they advised me that they don't like inmates filing grievances or filing lawsuits.

Because their no records of any grievance after the first incident of April 6, 2016 since my grievances were not filed or answered, to avoid that the incidents, specially the one of August 9, 2018, were recorded in full, and to avoid information at the records that can clearly shows the pattern and practice of defendants of being indifferent to the daily basis violent incidents and the involvement of the very well protected criminal organization of corrupt employees at Dade C.I.

That is the reason very well manipulated by the attorney general office to use and misuse the PLRA 1997 (e), (a) which requires the exhaustion of administrative remedies, a.k.a, grievances, in order to present a suit on court against D.O.C. or prison conditions, no matter if there is physical injuries produced by employees deliberate indifference as evidence. The use of PLRA 1997 (e), (a), is easy to be manipulated by attorney general office as well as per the courts, absent "evidence" of exhaustion of grievance procedure to win the dismissal of cases, even those like this one, which are fully meritorious before the law.

Senseless and ridiculous is the issue of the courts and attorney general office, to require exhaustion of grievance procedure, before the first assault there was no way to know it was going to happen, but was a major failure from D.O.C. secretary in not to protect my name, she should know in advance of any risk by not to protect my name, which was always protected by the last 8 years. no way for me to know how she was having her communication with Dade C.I. administration and with who or whom, attorney general and the courts are overlooking the fact that because I was unaware of it, there is no way for me to grieve about some I don't know was happening on my back.

Then after the first assault, no body has to wait that I start writing any grievances, was their obligation to take necessary measures to protect me, and none were taken anyway, when I start writing grievances, having those unresponded, I talked again with Classif. Director Javier Jones, and his response was "hold it like a man", "this is prison". D.O.C. Secretary never answered any letter, including the ones where I was exposing the April 6, 2016 incident, lack of grievance responses and the deliberate indifference of Dade C.I. administration concerning my security. a major breach of security placed my life, health and security at risk and nobody did nothing allowing the first assault, then without any measure leading for the second one, clearly showing not only deliberate indifference gross negligence and official misconduct, but also retaliation and an act of conspiracy since all defendants, together, talked about me, and none did nothing.

The issue of exhaustion of grievances is a pattern and practice of D.O.C. in concert with the attorney general office to play with the inmates complaints, through the non responses and no filing of grievances, to dismiss the cases, and to avoid claims be recorded, employees accountability and to tamper with the truth about corruption at prison, for which I am a witness as an informant, now a victim, wanted to be killed, and the courts support it, giving license to corrupt employees organizations to be developed freely. A real danger not only to the prison system, but also to our society, a clear showing of waste of the "public funds", the tax payers money.

REASONS FOR GRANTING THE PETITION

Because of the Serious violations to state of Florida Statutes, Constitution and Florida Administrative Code, as well as to Federal Constitution, Major breach of Security and Mandated duties that caused Serious physical and emotional injuries to the petitioner in a permanent manner. The Complaint should not be dismissed, or claims ignored.

1. The District Court as well as the appeals Court Failed to apply Fundamental principles and factual allegations cited by petitioner, despite of Cases laws and statutes under the same circumstances of Petitioner Situation: Gibbs vs. Roman, 116 F. 3d 83, 86; Complaint should not be dismissed, when inmate allege danger, when Prison officials revealed information about inmate history as an informant. Bizzard vs. Quillen, 579 F. Supp. 1446; Affirming judgment that prison officials violated inmate civil rights when failed to protect inmate who was involved in Task Force investigating Corruption at prison. Anderson vs. Gutschenritter, 836 F. 2d 346, 349; reversing Summary Judgment when officials refused to place inmate in protective custody. Pape vs. Shafer, 86 F. 2d 90; affirming verdict for inmate, as evidence supported finding that officials were subjectively aware of risk when failed to transfer inmate for protection. Davidson vs. Cannon, 474 U.S. 344; in order to state a claim for cruel and unusual punishment the court have required that inmate must allege a conscious or callous disregard or indifference to his rights by prison officials.

2. The state of Florida "defendant's counsel", allege that petitioner failed to exhaust administrative remedies, it is wrong, petitioner in fact exhausted all and every administrative remedy available, but prison officials precluded the filing of grievance and failed to respond to it, the District Court as well as the appeal Court based the dismissal on ground of exhaustion. Contrary to Tillus vs. Kelly, 510 Fed. app. 864, 866; in opposing dismissal on ground of exhaustion, inmate may assert that he was unfairly prevented or thwarted from pursuing his administrative remedies for instances in situations where prison officials failed to respond to inmate's grievances, or prevented from being filed, in effect rendering administrative remedies unavailable. Aguilar vs. Terrell, 478 F. 3d 1223, 1225; an administrative remedy is not considered to have been available if a prisoner through no fault of his own, was prevented from availing himself of it. Foult vs. Charrier, 262 F. 3d 687, 698; inmate exhausted his available remedies where his testimony establish that prison officials failed to respond grievances, thereby preventing him from filing grievances or appeals.

The appeals court also mentioned on its dismissal that petitioner could file an appeal if prison officials fails to respond grievances, that is also incorrect, as established in Armstrong vs. Drahos, No. 01C 2647, 2002, U.S. Dist., Lexis 1838 at 3 (N.D. 111); if there is no response, there is nothing to appeal. The appeal court refused to review the motion for rehearing as untimely when in fact it was timely.

3. Inmate is not obligated to file an appeal for non responded grievances, since the grievance appeal coordinator always requires a response of grievance for appeal, Logically if there is no response, there is nothing to appeal. Besides the plaintiff efforts for filing grievances, petitioner sent letters to corrections Dept. Secretary (one of the defendants) as provided by West vs. Rowe, 448 F. Supp. 58, 60; Jett vs. Penner, 439 F. 3d 1091, 1098; Reed vs. McBride, 178 F. 3d 849, 854; Letters placed prison officials on notice of a situation; Denying defendant Motion to dismiss where plaintiff was stabbed after prison officials ignored his repeated letters notifying them that his life was in danger; when successive letters are sent to numerous supervisory officials by inmate in an effort to enlist their assistance in protecting him from life endangering situation, thereby placing them on notice of such situation, and administrative negligence can rise to the level of deliberate indifference to, or reckless disregard for that inmate safety, in the case of instance none of the letter were neither responded.
4. In Weiss vs. Barribeau, 853 F. 3d 873; The court dismissed complaint based on inmate "Failure to exhaust administrative remedies as required by PLRA 1997(e)(a)", but the 7th circuit held that the court failed to consider the inmate uncontested factual allegations in which he contended he was prevented from complying with the requirement, and that the district court ignored the fact that Weiss had done the best he could under the circumstances, Weiss alerted prison officials of life endangering situation, but he was ignored, Weiss later was assaulted. The court reinstated the lawsuit. In Davis vs. Mason, 881 F. 3d 982, also the 7th circuit held that Davis was prevented to exhaust his administrative remedies, and that a reasonable trier of fact could conclude that Davis did all available to him to file grievances, but he was prevented.
5. Another issue the district court and appeal court based its decision for dismissal was the issue of "qualified immunity". Contrary to Bennefield vs. McDowall, 241 F. 3d 1267, 1272; under PLRA 1997(e), (e); inmate claim for damages under eight Amendment, that he suffered psychological injury resulting from prison officials labeling him as a "snitch", SURVIVED defendant motion to dismiss under qualified immunity, even though inmate was not in fact assaulted. Northington vs. Marin, 102 F. 3d 1564; affirming award for inmate who claimed official caused other inmate to assault him by spreading rumor that he was a snitch.
6. The district and appeal courts decisions for dismissal is wrongful and contrary to established authorities and other courts decisions on cases under the same circumstances and situation, and failed to consider the factual allegations, Before the first assault, there was no way to know it was going to happen, for such is senseless that the courts require exhaustion of remedies, as grievances, but then, the unresponded grievances and letters between that first assault of April 6, 2016 and the second assault of August 9, 2016, PLRA 1997(e)(a) does not fit the Dept. of Corrections named defendants defense. The defendants knowing of the first assault, and the imminent danger of life, and possible more assaults as threatened, failed to protect the petitioner, despite of his plea for protection, which constitutes deliberate indifference and gross negligence.

7. As in Weiss vs. Barribeau, 853 F.3d 873, The Court failed to consider factual allegations, and to consider the applicable laws and cases laws. If a prison official fails or ignore to take action on a grievance, which is not responded as it is mandated to respond, it is not the petitioner's fault that there is no "record" of any filed grievances, since petitioner has no control over the computers. 12
8. Before the law and legal principles, the defendants actions constitutes cruel and unusual punishment, a straight violation to the eight amend. Hudson vs. Palmer, 468 U.S. 517; eight Amendment imposes duties on prison officials, who must provide humane conditions, and guarantee inmate's safety. Caldwell vs. Warden, 748 F.3d 1099; Carter vs. Galloway, 352 F.3d 1346, 1349; prison official violate the eight amendment when substantial risk of serious harm of which the official is subjectly aware, exist and the official does not respond reasonable to the risk. Farmer vs. Brennan, 511 U.S. 825, 834; The protection an inmate is afforded against other inmates, is a condition of confinement subject to scrutiny under the eight amendment, prison officials who ignores a substantial risk of serious harm to an inmate must have a sufficiently culpable state of mind which is deliberate indifference to inmate's health and safety. Estelle vs. Gamble, 429 U.S. 97, 106; Traditionally, applicable authorities have described deliberate indifference, as a state of mind. Gibbs vs. Franklin, 18 F.3d 321; prison officials have a constitutional duty to take reasonable measure to protect inmate, Woodward vs. Corrections, 368 F.3d 917, 930; Failure to act in the face of known violations of its own written policies is relevant circumstantial evidence to show knowledge and state of mind.
9. Because of the issue of exhaustion, was senseless the claim of defendants counsel that petitioner had to file grievances before the first assault, logically if petitioner was unaware of when it was going to happen and who was going the perpetrator, more over, unaware of the risk, and unaware of what D.O.C. Secretary Julie Jones (defendant) did by revealing petitioners identity as a confidential informant, there was no way to know the "future", since petitioner is not a future telling, the issue of exhaustion before the first assault does not proceed, but the court must apply the deliberate indifference for the knowledge, state of mind, and failure to protect of all defendants who receive the information from Julie Jones D.O.C. Secretary, which was allowed to reach the wrong hands, leading to a fast spreading news labeling petitioner as snitch.
10. After that first assault, All the defendants keep up their deliberate indifference, and gross negligence, and failure to protect, when All defendants failed to place petitioner in protective custody, or transfer him to a safe location, knowing that now the status of the petitioner as the informant who was the responsible for the capture of more than 14 corrupt employees dealing with various criminal rings inside the institution, and now the majority of employees linked to the already captured ones, this major failure made possible the second assault, since no security measures were never taken, this time the perpetrators, hired by corrupt employees who created a new gang of inmates to protect their identities and their dirty illicit business, with orders to kill the petitioner. Since they failed the first time, in both occasions the petitioner received serious physical injuries requiring suture, as more than 65 stitches the second assault. Petitioner after the first assault grieved defendants major security failures, negligence and deliberate indifference, but none of the grievance were responded, next step was sending letters, West 448 F.Supp. 58, 60, Jett vs. Penner, 439 F.3d 1091, 1098, Reed vs. McBride, 178 F.3d 849, 854, to place defendants on notice of the situation of life endangering, and the lack of grievance response, but no actions in any way was never taken, when petitioner announced a lawsuit, Regional director and Classification Dept. approved an emergency transfer for "protection", once the lawsuit was filed, that "protection" expired, as a retaliation and intimidation tactic, transferring again petitioner to general population in a third institution.

11. As for the issue of Qualified immunity, as in Bernfield 241 F. 3d 1267, 1272; under 42 U.S.C. 1997 (e), (a), inmate claim for damages under 8th Amend., that he suffered psychological injury resulting from prison official labeling him as a snitch SURVIVED defendant Motion to dismiss for Qualified immunity, even though inmate was not assaulted, Northington 102 F. 3d 1564 affirming award for inmate who claimed official caused other inmate to assault him by spreading rumor that he was a snitch; Gibbs 116 F. 3d 83, 86, Complaint should not be dismissed, when inmate allege danger, when prison officials revealed information about inmate history as an informant, both Courts ignored Tillus 510 Fed. app. 84; in opposing dismissal on ground of exhaustion, an inmate may assert that he was unfairly prevented or thwarted from pursuing his administrative remedies for instances in situations where prison officials failed to respond to grievances, or prevented from being filed in effect rendering administrative remedies unavailable. Foult v. Charrier, 262 F. 3d 687, 698; inmate exhausted his available remedies where his testimony establish that prison officials failed to respond to grievances, preventing him from filing grievances or appeals. Aguilar 478 F. 3d 1223, 1225; an administrative remedy is not considered to have been available if a prisoner through no fault of his own, was prevented from availing himself of it. Armstrong, NO. 01-2697, 2002, U.S. Dist. LEXIS 1838 at 3 (N.D. Ill.); if there is no response, there is nothing to appeal.
12. In this case at bar, both District Court and appeal Court failed to resolve the case according to petitioner factual allegations, protecting the defendants under Qualified immunity, and exhaustion requirements issue without considering that were all the defendants guilty of failure to protect, deliberate indifference and gross negligence, petitioner physical injuries also never were taken in consideration by the two Courts, as well as petitioner's personal security at any Florida State Correctional Institution, since corrupt employees are statewide linked.
13. For such the reason for granting petition is the deliberate indifference, gross negligence, failure to protect and breach of a mandated duty that caused serious physical injuries to the petitioner. Since according to defendants, Petitioner is a state property without rights, and nobody cares.

Wolfe v. McDonnell, 418 U.S. 556, convicted person does not forfeit his constitutional protections by reason of his conviction or imprisonment, he retains a variety of important rights that Courts must be alert to protect.

The Qualified immunity and exhaustion issues are not a defense in behalf of any of the defendants since the level of violations that placed the life of petitioner in a permanent risk and danger and serious physical injuries were never assessed by the Courts.

The lower Courts decisions are erroneous and this case is in conflict with the decisions of other appellate Courts, the importance of this case is not only for the petitioner, but also to others similarly situated, it is a matter of national importance of having the Supreme Court involved to decide the questions involved, since it threatens the PLRA 1997 which can be, and is very well manipulated by prosecutors and prison system to avoid inmates to obtain a remedy or relief on their meritorious claims.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Eduardo Molina Bracero

Date: 30F November 2018