

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Marvin Belser #352904 — PETITIONER
(Your Name)

vs.

Jeffrey Woods E+AL. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Sixth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

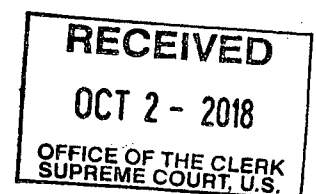
PETITION FOR WRIT OF CERTIORARI

Marvin Belser #352904
(Your Name)

(MRF) Macomb Corr. fac. 34625, 26 Mile Rd
(Address)

New Haven, Mi, 48048-3000
(City, State, Zip Code)

(586) 749-4900
(Phone Number)



QUESTION(S) PRESENTED

- ① Did the Sixth circuit court of appeals incorrectly decide the facts? Yes; If so what facts;
All grievances was properly exhausted per 42 U.S.C. § 1997e(a) and was verified by (M.D.O.C.) legal Affairs Office; Grievance Section
- ② Answer of the violation pursuant to Rule 10(a) and (b); filed order dated 7-6-2018 Affirmed by Sixth circuit Judges Karen Nelson Moore; Julia Smith Gibbons and David W. McKeague, states petitioners criminal convictions and the convictions are being revisited by State of Michigan Court of Claims; see Joint appendix Exhibits - A,

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

Marvin Belser #352904

Petitioner

V.

Respondents

Jeffrey Woods; Warden

Mr. Connie Horton; Deputy Warden

David Isard; Deputy Warden of housing

Samantha Reid Goldberg; Law Library Supervisor

Bienvenido Canlas; D.O., Doctor

Melissa Laplunt; H.U.M., or Health care Unit Manager

Michael Brown; R.N.

Penny Fillion; L.P.N.

Marci ~~De~~ Haatfield; L.P.N.

Stephanie Baldino; D.D.S. Assistant

M. McLean; G.C. or Grievance Coordinator

Aaron Ormsbee; C.O., or Correctional Officer

D. Theut; H.I.; or Hearings officer

Keran Giesen; ARUS; acting residential Unit supervisor

Erica Huss; D.W.; or Deputy Warden

Derek Falk; D.O.,

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- Joint*
APPENDIX D - *Exhibits - A*

APPENDIX E

APPENDIX F

- Exhibit - B - 1-page*
- Exhibits - C - 3-pages*
- Exhibits - D - 4-Pages*
- Exhibits - E - 3-Pages*
- Exhibit - F - 1-Page*
- Exhibit - G - 3 pages*

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

1 On 10-23-2017 Report and Recommendations for originating case number
2:18-cv-00134 was affirmed and ordered on 11-7-2017, Western District Mich.
On 7-6-2018 Sixth circuit Court appeals ordered to affirm district courts
judgment;

STATUTES AND RULES

42 U.S.C. § 1997e(a) enacted as part of Prison Litigation Reform Act; or (PLRA)
provides 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.

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 A to the petition and is

☐ reported at U.S. Court of appeals for the Sixth Circuit; 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 U.S. Dist Court; Western dist Northern Division; 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 joint Appendix E-A to the petition and is

☒ reported at State of Michigan Court of Claims; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the Western dist of Mich court appears at Appendix C to the petition and is

☒ reported at U.S. Dist Court; Western dist of Mich; 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 7-6-2018.

☒ 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 7-26-2018 (date) on 2-28-2019 (date) in Application No. 6 A 17-2411.

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

In the Supreme Court of the
United States, Washington D.C.

Re: Belser V. Woods; Warden, AL E+

USCA 6 No. 17-2411

Jurisdiction

Now come Petitioner Marwin Belser #352904 pursuant to Rule 14.1(e) in a Concise statement of the grounds on which jurisdiction is invoked; Congress has vested only the supreme Court with jurisdiction to review state Court decisions; see 28 U.S.C. 1257 (a)(b); The Rooker-Feldman doctrine prohibits lower federal Courts from exercising appellate jurisdiction over final state Court judgments; see Wilson V. Fed. Natl Merg. Ass'n 3:11-CV-537-MDC-DCK; 2012 U.S. Dist. Lexis 66142; 2012 WL 1659138; at *3 (WDNC Apr. 19 2012) (RPR adopted 3:11-CV-537 2012 U.S. Dist. Lexis 66136; 2012 WL 1658248 (W.D.N.C. May 11, 2012; also see Grunty V. County of Los Angeles, 177 F.3d 728 (9th Cir. ~~1999~~ 1999) RE. Grunty 202 F.3d 1074, 1078 (9th Cir. 2000); and also pursuant to the following 28 U.S.C.S. 1253 (2)(5) Direct Appeals from decisions of three judges Courts; and section III and IV; (23)(25); 10-20 of the Supreme Court Rule Book jurisdiction on writs of Certiorari and others; and 28 U.S.C.S. 1254, #28 jurisdiction (A) Certiorari,

Respectfully Submitted

Date 3-10-2019

Marwin Belser #352904
Macomb Correctional Facility
34625; 26 Mile Road
Lenox; Michigan
48048-3002

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Eighth Amendment right to be free from cruel and unusual punishment; the withholding of proper medical care; Unconstitutional behavior was violated because of use of excessive force; failure to protect; Personal injury medical malpractice; personal property damaged & destroyed; Civil rights; Prison Conditions; Administrative procedure Act; Housing Accommodations; American with disabilities act; Health care personal injury Neglect; prohibition Redisclosure Michigan Department of corrections administration refuse to address or correct any issues of grievances that have been properly exhausted

STATEMENT OF THE CASE

On March 1, 2014 appellant Marvin Belser #352904; a prisoner incarcerated in Michigan Department of Corrections system; I was being housed at URF or Chippewa Correctional facility at 4269 West M-80; Kinceloe Michigan 49784 I was being housed in Marquette housing unit on C-wing; appellant was suddenly brutally attacked by three unknown inmates; I was helped off of the floor back into my wheelchair and back to my cell and I was attacked again by three other unknown inmates who stated to me that they saw my (C.P.S.) or Child protective service case information on (M.D.C.) law library computers; I requested and was given (P.C.) or Protective Custody from custody staff; As a result of being brutally attacked I suffered another stroke; I'm unable to stand, walk, speak or talk; my left side and eye won't move independently; during both altercations I was thrown from my wheelchair to the floor; stomped and kicked in the head, face, neck, back until I was unable to move and passed out; during the first attack I did stand to try and defend myself only to overcome by attackers; even now to this day my condition has got worse; while in (P.C.) Dr. Michael L. Brostoski (M.D.O.C.) employee at the order of William Bergerding D.O. who is the ~~MD~~ (A.C.M.O.) for (M.D.O.C.) or the Assistant Chief Medical Officer in a E-mail stated that the ~~app~~ petitioners wheelchair and all other medical equipment to be taken as well as details and it was; the E-mail was sent to respondents Jeffrey M. Wood, David Isard; * Melissa A. Laplunt; petitioner was forced to crawl on the floor to get my food, medication to sleep use the toilet and change my incontinent garments; On March 29, 2014; petitioner was then taken to Washtenaw Memorial Hospital for chest pains and difficulty breathing; Dr. Pohn the attending physician examined the petitioner and informed custody staff on sight and medical staff at the U.R.F. facility that I the petitioner is unable to walk, stand, speak or talk due to stroke and the hospital was making arrangements that I will be transferred to

Statement of the Case Continue

Medically assistant living facility; U.R.F. Medical provider informed the hospital staff and attending physician Dr. Pohn that the medical staff at U.R.F. would take care of making the arrangements to send petitioner to the assistant living facility; On April 1, 2014 petitioner was discharged from the hospital; Correctional officers Forest and Lightfoot came to transport petitioner back to the prison facility (U.R.F.); Custody staff upon arrival to the hospital informed the petitioner that by the order of U.R.F. Warden Jeffrey Wood that if petitioner did not get up and get dressed on his own that I would be tased; I could not comply because of my condition so the custody staff Co's Forest and Lightfoot called there Sgt. Arron Ormsbee who informed me the same; After trying to and could not comply; Sgt. Arron Ormsbee instructed the two officers not to worry about dressing the petitioner but make sure I was in full restraints; I was dressed only in a hospital gown and an incontinent garment; petitioner was aided from the hospital bed to a wheelchair by Co's Forest & Lightfoot; and wheeled outside to a waiting transportation Van; where Sgt. Arron Ormsbee told petitioner that if I didn't get up on my own and get into the transport van by order of U.R.F. Warden Jeffrey Wood that I would be tased; after I could not comply; and Sgt. Arron Ormsbee tased me twice until I passed out; petitioner was awoken by two Correctional officers back at the prison facility URF pulling me out of the transport van off of the floor naked both holding me up on both sides aiding me to a waiting wheelchair; Sgt. Arron Ormsbee ^{cell phone ringed; and looked at the caller I.D. and said it's the Warden Jeffrey Woods calling; and I listened as he told who ever it was on the phone in detail about all that he had done to the petitioner in the hospital parking lot in a joking manner; then he ended the call; and Sgt. Arron Ormsbee stated to the petitioner that he tased me because of my Criminal Case and Charges; petitioner has a very bad heart; and have had several heart attacks; also petitioner take daily aspirin and nitroglycerin and other heart medication; petitioner was transferred to three other prison facilities}

Statement of Case Continue

and was forced to crawl on the floor from 3-1-2014 til 3-23-2016 while at A.M.F. or Baraga maximum security level IV after crawling on the floor for three days and I was given a wheelchair and special accommodations order for permenate wheelchair; On 3-24-2016 petitioner was transfered back to U.R.F. or Chippewa Corr-fac. Upon arrival requested (PC) or protective Custody from C/O Smith; I was informed that she asked her Sgt. who name is erron Ormsbee and my request was denied; I was then placed in the same unit on the same wing that I was attached on in March 1, 2014 petitioner requested a singel cell / Barrier free / wheelchair Accessible / Handi cap accommodations and was denied by Sgt Ormsbee; but I was informed that (C.F.A) or Correctional facility Administrator Warden Jeffrey Wood & Deputy Wardens David Isard and Mr. Connie Horton are aware of petitioners condition and request and all are denied and the only reason that petitioner is back at U.R.F. level II is because (C.F.A.) waived down petitioners security level to a II so that I would be returned to U.R.F.; I informed him I'm still afraid for my life; because I did not want to be tased or attacked again by staff or inmate; while still at (U.R.F.) on 5-5-2016 the petitioner caught his bunky inmate Bergus D. Hester # 726200 stealing my personal property out of my locker; after confronting my bunky I was threaten and ~~warned~~ warned that if staff or inmate is informed in any way about what he did that he and his friends would bring the petitioner great bodily harm; then he made fun of the fact that I have to change my incontinente garments in his presence and that he is going to rape me; and he did; and that he did this to me because of my criminal case that is listed on the law library computer that his supervisor where he work Miss Samantha Reid-Goldberg informed him and a few other inmates; On 5-5-2016 petitioner requested (P.C.) again and was placed in custody in segregation pending investigation for proper placement; On 5-6-2016 petitioner saw (S.C.C) or security classification Committee for interview and recommendations for placement petitioner was informed by (S.C.C.) that I'm to return to the same housing unit and same wing by (H.I.) hearings investigation Mr. D. Theut; and he did not care that I'm

Statement of the Case continue

In fear of being raped again or my life being taken because of my case and charges and if I didn't return I will receive a Class I misconduct ticket for (DDO) or disobeying a direct order; I informed him again I'm in fear of my life being taken and being raped again; petitioner he stated to me that he did not care; and that petitioner would be getting what he deserved; the intentional failure to protect; the cruel and unusual punishment clause of the Eighth Amendment embodies a constitutional limitation on the power of the state to punish those convicted of crimes; punishment should not be "barbarous" or may it contravene society's evolving standards of decency; see *Estelle v. Chapman* 452 U.S. 337, 346, 101 S. Ct. 2392; 69 L. Ed. 2d 59 (1981) and *Wolff v. McDonnell* 356 U.S. 81, 785, Ct. 590; 2 L. Ed. 29, 630 (1958); the Eighth Amendment prohibition against cruel and unusual punishment also applies not only to the punishment imposed by the state but also deprivations which occur during imprisonment and are not part of the sentence that is imposed; see *Farmer v. Brennan* 511 U.S. 825, 834, 114 S. Ct. (1994), 123 L. Ed. 811 (1994); the Eighth Amendment places lawful restraints on prison officials so that they may not use excessive physical force against prisoners and take reasonable measures to guarantee the safety and well-being of the inmates; see *Farmer* 511 U.S. at 832 (quoting *Hudson v. Palmer* 468 U.S. 517, 526-27, 104 S. Ct. 3194, 82 L. Ed. 2d 393 (1984); In Conclusion (all listed appellees or respondents intentionally conspired not to protect and not provide proper / timely medical assistance / treatment and detail special accommodations orders; nor transfer to an medical assistant living facility for round the clock assistance; failure to act based upon petitioners known medical condition and need for chronic care that resulted in permanent and irreparable damage / injury; condoning policies / practices that are inadequate and deficient; Discrimination and Unequal protection of the law; and lastly the failure to not follow prison policy; Using tactics / methods to thwart petitioners Attempts to get help after several strokes.

Statement of the case continue

even on today petitioner has the written special accommodations orders and do not have the actual accommodations; only on paper; and it has been that for the duration of my time in prison; even after petitioner condition was verified medical staff still refuse to provide the actual accommodations; I'm told that it is to save the state some money; and my medical condition was not factored into the equation; although irrelevant; I have learn to accept what is not being done to me and find assistance from different inmates who are willing to assist me when needed; to transfer to and from my wheelchair; to bed; to shower; to dress; to make and change my bed; this is accepted by some of the custody staff members; but the other staff members tell the inmates that help me not to do so; and if they do help me they will be given a ~~10~~ ticket; See Exhibit B; special accommodations orders; all outlined with a *; I do not have to save the state money for misconducts class II tickets that have already been written by custody staff for helping the petitioner; see Exhibits C, 3 pages; for additional information on request made for accommodations under (ADA) see Exhibits D; 4 pages; for (P.D.) or Policy directive on offenders with disabilities; P.D. 04-06-155; see Exhibits E; 3 pages; for petitioners current (M.D.O.C.) security Classification screen review; see Exhibit F; one page;

Date 9-26-2018

Respectfully Submitted

Pursuant to 28 U.S.C. § 1746; the undersigned declare and verify under penalty of perjury under the laws of the United States of America that the forgoing is true and correct.

Marvin Belser #352904
 Macomb Correctional Facility
 34625, 26 Mile Road
 New Haven, Michigan
 48048-3002

REASONS FOR GRANTING THE PETITION

Pursuant to rule 10 (a) (b) the decision of the Sixth Circuit Court of appeals is erroneous and implicates a Circuit split of broad importance because the court is in conflict with the decision; see joint appendix Exhibits - A,

① Sixth Circuit Court of Appeals Judges

Karen Nelson Moore

Carl B. Stokes U.S. Courthouse

801 Superior Ave; Ste 21-A

Cleveland; Ohio, 44113

② Julia Smith Gibbons

970 Clifford Davis Federal Bldg

167 North Main Street

Memphis; TN, 38103

③ David W. McBeague PI7459

315 W. Allegan; Ste 213

Lansing; Michigan 48933

Based there final affirmation and denial upon appellants Criminal Case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Marvin Belser #352904

Date: 9-26-2018