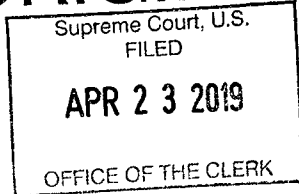


ORIGINAL



No. 18-9125

IN the  
Supreme Court of the UNITED STATES

Luzetha Warrick #1102929 Petitioner  
Your name

VS.

WARDEN Kathy Seabolt, et al Respondent(s)

ON Petition for A WRIT OF Certiorari  
TO.

United States Court of Appeals Eleventh Circuit  
(Name of Court that Last Ruled on Merits of your case)

Petitioner for Writ of Certiorari

Luzetha Warrick 1102929  
(Your name)

P.O. Box 939 Pulaski State Prison  
Address

HAWKINSVILLE, Georgia 31036  
(City state Zip code)

478-783-6000

# Questions Presented)

- 1) Does Federal equitable Tolling Apply While there is a claim pending in state court?
- 2) Can a case Be reopened / Refiled when The Northern District and United Appeals Eleventh Circuit Court. HAS Dismissed you as Time Barred and Trivial as of moot? Because of Equitable tolling?

# 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.

Luzetha Wardrick # 1102828 Pulaski State  
petitioner

WARDEN Kathy Seabolt (Respondent(s))

Belinda Howard Inmate (1105259) Lee County State

COZ OFFICER Dodd

OFFICER Fountain

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# TABLE OF Authorities Cited

## CASES

- 1) Stevens v. ~~70A~~ 76vist Inc 169 GA. App. 189, 311 S.E. 2d 856 (1983) pg 23
- 2) Harrison v. Holsenback, 208 GA. 410 62 S.E. 2d 311 (1951) pg 792
- 3) Hoffman v. Insurance Co. of N American 241 Ga. 328, 248 S.E. 2d 287 (1978) pg 796
- 4) Jim Walter Corp. v. Ward, 245 Ga. 388, 265 S.E. 2d 7 (1980) pg 175  
(B) Middleton v. Pruden, 57 GA. App. 555, 196 S.E. 2d 59 (1938).
- 5) Hudson v. McHaffey, 239 GA. App. 705 521 S.E. 2d 588 (1999) pg 25
- 6) Fed R. Civ. P. 4(m) Under 9-11-94 Refiling Law v. Klinge, 467 Supp 2d 1377 (S.D. GA. 1999) pg 28
- 7) Bennett v. Matt Gay Chevrolet Oldsmobile Inc 200 GA. App. 348, 408 S.E. 2d 111 (1991) pg 28  
Continued 200 GA. App 895 408 S.E. 2d 111 (1991) pg 28

## Statutes AND Rules

- 1) The applicable statutes of limitations are not tolled during the pendency of a lawsuit.
  - 2) Court cannot engraft statute of a lawsuit
  - 3) Statute of time begins to run
  - 4) Fraud which tolls statute may be distinct from fraud giving cause of action  
B) this section consists of three elements
  - 5) Since the complaint was not served on defendant prior to dismissal
  - 6) Dismissal of action without prejudice granted
  - 7) mere passage of time as ground for dismissal.
- So p Tolling - Tort Claim 9-3-98  
Negligence 9-3-99 - 9-4-13-9-3-90

## Other

- 1) Where office fail to Intervene Ruble v. King 911 F. Supp. 1544 (N.D. Ga. (1995) pg 795
- 2) Fraud and conceal of public off. cal Archer v. Gwinnett County, 110 GA. App 469 138 S.E. 2d 892 (1964) pg 179
- 3) Where unskillfulness and neglect in acquit is cause of action.  
Anderson v. Gauley 337, 2d 589 N.D. GA (1929) pg 180 cited in: Person's v. Jones 12 Ga. 371, 58 am. Dec. 476 (1852), Samples v. Banks 217 Cas. 286 (CCSD GA. 1983)  
No 12 278 Freeman v. Xavier, 56 Ga. 161 (1876), Cook v. Commission of Houston County 62 GA. 2232 (1879) pg 180. Research All Time Limitation 110 ALR 178 pg 181
- 4) Adequacy of med. cal Treatment American med. cal Ass. Weaver v Jarvis, 611 F Supp 40 N.D. GA 1985 pg 792

Other Cont:

51 Deliberate Indifference to serious medical needs of prisoners

Roger v Evans 792 F. D 1052 (11th Cir. 1986); Thomas v Evans 980  
F. 2d 1235 (11th Cir. 1989) cert. Denied 498 U.S. 901 115 Ct 261  
#12 Ed 2d 218 (1990) pg 793

## IN the Supreme Court of THE United States

### Petition for Writ of Certiorari

Petitioner respectfully pray that a writ of  
Certiorari issue to reverse the judgment below

#### OPINIONS Below

1/ For cases for Federal courts:

The Opinion of the United States of appeals appears at Appendix  
A to the petition and is

~~unpublished~~ published

~~The~~ opinion of the United States district court appears at  
Appendix B to the petition and is unpublished

2/ For ~~cases~~ cases from state courts:

The opinion of the highest state court to review the  
merits appears at Appendix N/A to the petition and is  
unpublished

The opinion of the Superior court of Habersham County  
Court appears at Appendix C to the petition and is unpublished

(1)

## Jurisdiction

3) For case from Federal courts:

The Date on which the United States Court of Appeals decided MY case was February 5<sup>th</sup> 2019.

no petition for rehearing was timely filed in my case

4) The cases from State courts:

THE Date on which the Highest state court Decided my case was July 5<sup>th</sup> 2017 A copy of that decision appears at Appendix C.

## Statement of the Case

I was In State Court in Haverham County since Dec. 17, 2013 and It was Dismissed without Prejudice July 5<sup>th</sup>, 2017 Because Defendants where not Served in a timely matter.

I Then Filed In United District Court June 2018 In the Northern District and was Dismissed as time Barred Beyond Doubt From a complaint Because of Statute of Limitations *Interial v Chipp*, 11422 Fed Appx. 842, 843. (11<sup>th</sup> Cir: 2011) citing *Huges v Lott*, 350 F.3d 1157, 1163 11<sup>th</sup> Cir 2003  
July 27<sup>th</sup> 2018

Therefore I went to proceed to the United States Appeal Court of the Eleventh Circuit. AND motion for leave to proceed was Dismissed as Frivolous most February 5<sup>th</sup> 2019

(Exhibit A) I was Injuring In an altercation February 12, 2012 due to officers neglect where 10/10 was not called in time and where Restraints wasnt used properly on the Inmate Belinda Howard #105259 and she Broke Free from officers grip and ran and Kick me repeatedly in my left eye while I was In a fetus position cuffed.

## Reason for Granting the Petition.

I have had several eye surgeries due to the cataraction and I was told By Dr. Thomas At Augusta Medical Faculty that I will be looking towards more because of no lacrimal Gland secretes tears which drain away through a ~~small~~ small tube. So therefore, due to this I have had to constantly have a Schott tube replacement. I won't be able to afford medical care. It causes my left eye to constantly to produce tears. Cause there is no lacrimal secretions. My right eye doesn't produce tears at all which causes for daily medication checks by eyes.

## CONCLUSION

The petition for a writ of Certiorari  
should be granted

Respectfully submitted,

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4/8/19

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