

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

CLIFFORD C. ABSHIRE, III
— PETITIONER

vs.

LOUISIANA DEPARTMENT OF PUBLIC SAFETY & CORRECTIONS,
JAMES LEBLANC, SECRETARY
— RESPONDENT

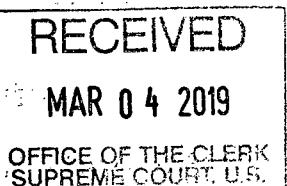
On Petition for Writ of Certiorari
To the Supreme Court for the State of Louisiana

PETITION FOR EXTENSION OF TIME TO FILE WRITS

CLIFFORD C. ABSHIRE, III, No. 439164
Counsel for the Petitioner

General Delivery

Raymond Laborde Correctional Center
1630 Prison Road
Cottonport, Louisiana 71327-4055



IN THE
SUPREME COURT OF THE UNITED STATES

CLIFFORD C. ABSHIRE, III

NUMBER: _____

VERSUS

LOUISIANA DEPARTMENT OF
PUBLIC SAFETY & CORRECTIONS,
JAMES LEBLANC, SECRETARY

PETITION FOR EXTENSION OF TIME TO FILE WRITS

NOW INTO COURT comes the Petitioner, CLIFFORD C. ABSHIRE, III, who respectfully moves this Court, by virtue of 28 U.S.C. § 2101, to grant him a stay in these proceedings:

(1)

The Petitioner avers that on November 25, 2015, he was written for violating Rule No. 10 (Simple Fight) following an incident between he and another offender. On December 1, 2015, the Petitioner appeared before the Disciplinary Board and following a hearing, he was found guilty as charged and was sentenced to pay restitution and his custody status was changed from medium to maximum. The Petitioner sought appeal with the Administration and then the Department and was denied across the board.

(2)

The Petitioner avers that on September 20, 2016, the District Court in the matter of *Abshire v. Louisiana Department of Public Safety and Corrections*, Docket Number: C-649,114; Section: 24, the Honorable R. Michael Caldwell, Presiding, decreed as follows:

“...the Petitioner’s appeal in DBA No. WNC-2015-430 is dismissed without prejudice, without service on the Department, and at Petitioner’s cost in accordance with [La.] R.S. 15:1184 and [La.] R.S. 151177(A)(9), for failure to raise a “substantial right”

violation and thus, for being frivolous and failing to state a cognizable claim or cause of action for relief.”¹

(3)

The Petitioner further avers that following the denial of the district court, he sought appeal in the Louisiana First Circuit Court of Appeal. In the matter of *Abshire v. Louisiana Department of Public Safety and Corrections*, Docket Number: 2017-CA-0005, Justice J. Crain, stated:

“Abshire...argues the order of restitution affects a substantial right,... wherein this Court held that an inmate’s substantial rights were affected by the imposition of restitution...Subsequent[ly]...this Court has repeatedly recognized that significantly smaller awards of restitution do not impose an unusual and significant hardship on an inmate in relation to the ordinary incidents of prison life and, therefore, do not prejudice his substantial rights....Consistent with this jurisprudence, we find that \$5.00 award of restitution does not affect a substantial right...; therefore, the district court did not err in dismissing his claim for failing to state a cause of action...AFFIRMED, MOTION DENIED.”²

(4)

The Petitioner further avers that following the denial of the Louisiana First Circuit Court of Appeal, he sought Certiorari in the Supreme Court of the State of Louisiana.³ On January 8, 2019, the Court unanimously denied certiorari.

(5)

The Petitioner further avers that during the time the Petitioner’s request for Certiorari was being reviewed in the Supreme Court of the State of Louisiana, he was able to ascertain proof that the Respondent withdrew more than the ordered restitution, as well as his medical

¹ Brackets added.

² Brackets added; Citations omitted.

³ *Abshire v. Louisiana Department of Public Safety and Corrections*, Number: 2018-CI-0048 (La. 2019).

documentation that proves the contents of the report to be false, as the injuries on the Petitioner are not supported by the officers statement.

(6)

The Petitioner further avers that the above contention was addressed in the district court via video conference. On August 8, 2018, the District Court denied relief and questions of jurisdiction remain unresolved. Notice of Appeal, Motion for Production of Transcripts, a Notice of Rejection of the Department's offer to "refund" the money that was taken over the ordered restitution amount and a Motion to Disqualify for Prejudice, seeking a Court order for the Department's counsel to be barred from the matter was timely filed. On two (2) separate occasions the Petitioner sent the filings via U.S. Mail, properly addressed with postage prepaid, to the Office of the Clerk of Court.

As of February 21, 2019, the aforementioned filings remain unanswered. No explanation has been offered. The Petitioner is now seeking the assistance of the Louisiana First Circuit Court of Appeal, for the issuance of a peremptory writ of mandamus, but until such time as these matters are resolved, there are matters of jurisdiction that remain unresolved, these matters disrupt this court from having full jurisdiction over this matter.

(7)

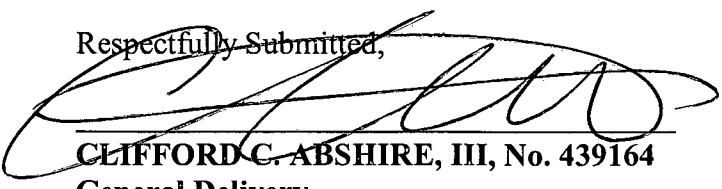
The Petitioner avers that it is for the above reasons that he is seeking a stay in this matter, pending review of the Louisiana appellate courts, to include but not limited to the Louisiana First Circuit Court of Appeal and the Supreme Court for the State of Louisiana.

WHEREFORE, the Petitioner prays that the Court will enter a Stay Order in this matter until all appellate avenues have been exhausted.

IN THE ALTERNATIVE, the Petitioner prays that the Court will grant him an

extension to seek review in this Court, **WITH PREJUDICE** to the claims that are currently being presented to the Louisiana First Circuit Court of Appeal for Writs of Mandamus for the motions and/or petitions aforementioned.

Respectfully Submitted,


CLIFFORD C. ABSHIRE, III, No. 439164

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— PETITIONER

Vs.

**LOUISIANA DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS,
JAMES LEBLANC, SECRETARY**
— RESPONDENT

**ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT FOR THE STATE OF LOUISIANA**

SUBSEQUENT FILING BY PETITIONER:

CORRECTED PETITION FOR EXTENSION OF TIME TO FILE WRITS

**CLIFFORD C. ABSHIRE, III, No. 439164
COUNSEL FOR THE PETITIONER
GENERAL DELIVERY
RAYMOND LABORDE CORRECTIONAL CENTER
1630 PRISON ROAD
COTTONPORT, LOUISIANA 71327-4055**

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IN THE
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NUMBER: _____

VERSUS

LOUISIANA DEPARTMENT OF
PUBLIC SAFETY AND CORRECTIONS,
JAMES LEBLANC, SECRETARY

PETITION FOR EXTENSION OF TIME TO FILE WRITS

NOW INTO COURT comes the Petitioner, CLIFFORD C. ABSHIRE, III, who respectfully moves this Court by virtue of 28 U.S.C. § 2101, and Rule 13.5 of the Supreme Court of the United States, to grant him an extension of **no more than sixty (60) days** to file his writs into this Court.

(1)

The Petitioner herein avers that on November 25, 2015, he received a disciplinary report for violating prison rule # 10 (Simple Fighting) following a physical altercation with another offender. On December 1, 2015, the Petitioner was brought before the Disciplinary Board and following a hearing, the Petitioner was found guilty as charged and was sentenced to pay restitution in the amount of \$5.00 and his custody status was changed from medium to maximum; both of these sanctions were imposed. The Petitioner was also sentenced to ten (10) days isolation; this sanction was suspended for ninety (90) days, and since the Petitioner refrained from further acts of misconduct, the sanction was never imposed. The Petitioner exhausted all of the required were appeals that are required by law.

(2)

The Petitioner avers that on September 20, 2016, the District Court in the matter of *Abshire v Louisiana Department of Public Safety and Corrections*, Docket Number: C649115,

Section: 24, the Honorable R. Michael Caldwell Presiding, decreed:

“...the Petitioner’s appeal in DBA No. WNC-2015-430 is dismissed without prejudice without service on the Department, and at Petitioner’s cost in accordance with [La.] R.S. 15:1184 and [La.] R.S. 15:1177(A)(9), for failure to state a “substantial right” violation and thus, for being frivolous and failing to state a cognizable claim or cause of action for relief.”¹

(3)

The Petitioner further avers that following the denial of the district court he sought relief in the Louisiana Court of Appeal for the First Circuit. In the matter of *Abshire v Louisiana Department of Public Safety and Corrections*, Docket Number: 2017-CA-0005, the Honorable J., Crain decreed:

“...Abshire...argues the order of restitution affects a substantial right [as decreed in *Anderson v LeBlanc*²]...wherein this Court held that an inmate’s substantial rights were affected by the imposition of restitution...[s]ubsequent[ly]...this Court has repeatedly recognized that significantly smaller awards of restitution [such as the award of over \$1700.00 in *Anderson*], do not impose an unusual and significant hardship on an inmate in relation to the ordinary incidents of prison life and, therefore, do not prejudice his substantial rights...[c]onsistent with this jurisprudence, [this court finds] that [the] \$5.00 award of restitution does not affect a substantial right,...therefore the district court did not err in dismissing his claim for failing to state a cause of action...”³

(4)

The Petitioner further avers that following the affirmation of the District Court decision and denial of his request for appeal, the Petitioner sought Certiorari or review with the Supreme Court for the State of Louisiana. In the matter of *Abshire v Louisiana Department of Public Safety and Corrections*, Docket Number: 2018-CI-0048 (La. 2019), the Supreme Court

¹ Brackets by the Petitioner, otherwise quoted as decreed.

² 11-1800, Unpublished, 2012 La. App. 1st Cir.

³ Brackets by the Petitioner, citations omitted, *Anderson* added by Petitioner

denied Certiorari; this denial was unanimous. No request for rehearing was sought, as Louisiana Supreme Court Rule IX § 6, states that a request for rehearing is barred on denial of a writ application.

(5)

Petitioner states that he is currently litigating additional facts before the Court of Appeal First Circuit and should the appellate court grant the Petitioner's request for relief than the question of law that he intends to present to this Court could be resolved without necessity for the issuance of any writs.

(6)

The Petitioners states that on February 21, 2019, a similar motion was sent by way of U.S. Mail to this Court for filing and was received on March 4, 2019; however, on the same date, Deputy Clerk Jacob C. Travers returned the filing citing error that needed to be corrected. This filing contains the corrections so noted.

PRAYER

WHEREFORE, the Plaintiff prays that this filing be good and sufficient and that in accordance with Rule 13.5 of the Supreme Court of the United States, the Court will grant him an extension to file any writs not to exceed sixty (60) days, as prescribed.

Date: March 13, 2019

Respectfully Submitted,


CLIFFORD C. ABSHIRE, III, No. 439164

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Counsel Pro Se for the Petitioner