

No. 18-9586

ORIGINAL

Supreme Court, U.S.
FILED
MAY 28 2019
OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

JOVAN WATKINS — PETITIONER
(Your Name)

vs.

D.P.S.C.S. ET AL. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JOVAN WATKINS
(Your Name)

107 CIRCLE DRIVE
(Address)

CROWNSVILLE MD. 21032
(City, State, Zip Code)

NOT AVAILABLE TO RECEIVE INFO
(Phone Number)

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SUPREME COURT, U.S.

443-598-6900

(4)

QUESTION(S) PRESENTED

- (1) DID THE COURT OF APPEALS ERRED IN NOT REVIEWING THE LOWER COURT DECISION BY HOLD ME TO A HIGHER STANDARD OF LAW THEN THE STANDARD OF A PRO SE PLAINTIFF.?
- (2) DID THE COURT OF APPEALS DECISION TO DISMISS THE SECRETARY OF THE D.P.S.C.S. STEPHEN T. MOYER AS A DEFENDENT JUSTIFIED, DISMISSING A STATE PRISONER CIVILS RIGHT COMPLAINT UNDER 42USCS § 1983 FOR FAILURE TO STATE A CLAIM. THE U.S. SUPREME COURT MUST TAKE AS TRUE THE HANDWRITTEN PROSE ALLEGATIONS OF THE COMPLAINT.?
- (3) WAS THE UNITED STATE COURT OF APPEALS DECISION TO DISMISS A § 1983 CIVIL SUIT FOR FAILURE TO STATE CLAIM ERRONEOUS BECAUSE IT IS IN DIRECT CONFLICT WITH THE U.S. COURT OF APPEALS FOR THE 5TH CIRCUIT WHO REVERSED AND REMANDED WITH INSTRUCTIONS TO REINSTATE THE COMPLAINT (516 F. 2d 937) 50 LED2D 251, 429 U.S. 97 ESTELLE V. GAMBLE.?
- (4) IN JAN LAAMAN, ET AL. V RAYMOND A. HELGENOE A SERIOUS MEDICAL NEED IS ONE THAT HAS BEEN DIAGNOSED BY A PHYSICIAN AS MANDATING TREATMENT OR ONE THAT IS SO OBVIOUS THAT EVEN A LAY PERSON WOULD EASILY RECOGNIZE THE NECESSITY FOR A DOCTOR'S ATTENTION. MR SA IS A SERIOUS MEDICAL NEED. WAS THE PLAINTIFF EIGHTH AMENDMENT VIOLATED FROM 7/10/15 - 7/11/15 BY H-UNIT STAFF AT MCI-J WHO REFUSED TO ESCORT ME TO MEDICAL K-HOSPITAL AS ORDERED BY DOCTOR BRENDA HALL TAFT.?
- (5) IS STEPHEN T. MOYER, SECRETARY OF THE DPSCS DIRECTOR AND PUT IN PLACE POLICIES AND PROCEDURES IN CHARGE D.O.C. STAFF AT MCI-J ? AND IS HE LIABLE FOR THIER ACTIONS THAT DENIED ME ACCESS TO MEDICAL FOR A SERIOUS MEDICAL NEED AFTER A

TREATMENT PLAN WAS PUT IN PLACE by MCIJ DOCTOR BRENDA HALL FOR MRSA. ?

(6) Did The U.S. COURT OF APPEAL FOR THE FOURTH CIRCUIT APPLY, REVIEW, OR EXAMINE, ESTELLS V. GAMBLE IN THE FIFTH CIRCUIT PP. #14 THE HAINES TEST [429 US 111] AND [429 US. 112] ?

(7) WAS THE PETITIONER JOVAN WATKINS EIGHTH AMENDMENT OF THE U.S. CONSTITUTION VIOLATED WHEN PLACED IN A SEGREGATION UNIT WITH NO WATER FOR 5 days to WASH MY HANDS, BRUSH MY TEETH, MORE IMPORTANT DENIED ACCESS TO MEDICAL FOR A SERIOUS MEDICAL NEED MRSA, ACCORDING TO LARMAN V. HELGEMORE SUPRA 323 PP. # 21 IN RHODES V. CHAPMAN ?

(8) Did The Plaintiff follow the Policy and Procedure ACCORDING D.O.C. AND LAW BETWEEN 7/10/15 AND 7/15/15 WHILE ON SOCIAL ISOLATION by following the chain of command AFTER BEING DENIED ACCESS TO MEDICAL FOR MRSA by REQUESTING CAPTAIN PARKER, CAPTAIN LILLY, AND Lt. BROWN AFTER I told H-UNIT STAFF I WAS IN EXTREM PAIN AND I NEEDED TREATMENT AND DRESSING CHANGE TO THE SITE BECAUSE THE ODOR OF ROTTEN FLESH WAS UNBARRABLE AND THE PUSE AND DRAINAGE WOULD NOT STOP. ?

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:

STEPHEN T. MOYER, SECRETARY D.P.S.C.S.
MCI-J D.O.C. STAFF, CAPTAIN TIKAYE PARKER,
CAPTAIN LILLY (MCI-J STAFF); LT. BROWN
(MCI-J STAFF) DEFENDANTS

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 _____ 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. Q A Q.

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.

[] 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

PETITIONER WAS DENIED ACCESS TO K-HOSPITAL MEDICAL UNIT AT MCI-J FROM 7/10/15 THRU 7/15/15 FOR A SERIOUS MEDICAL NEED MRSA. PETITIONER HAD BEEN DIAGNOSED AND A TREATMENT PLAN WAS PUT IN PLACE BY DOCTOR BRENDA HALL.

- 11) 50 LED2D 251, 429 US 97 ESTELLE V. GAMBLE ON CERTIORARI, THE UNITED STATES SUPREME COURT REVERSED AND REMANDED IN A OPINION BY MARSHALL, J., JOINED BY BURGER, CH. J., BRENNAN, J., STEWART, J., WHITE, J., POWELL, J., REHNQUIST J., IT WAS HELD THAT (1) DELIBERATE INDIFFERENCE TO A PRISONER'S SERIOUS MEDICAL NEEDS CONSTITUTED CRUEL AND UNUSUAL PUNISHMENT UNDER THE EIGHTH AMENDMENT AND GAVE RISE TO A CIVIL RIGHTS CAUSE OF ACTION UNDER 42 USCS § 1983, REGARDLESS OF WHETHER THE INDIFFERENCE WAS MANIFESTED BY PRISON DOCTORS IN THEIR RESPONSE TO THE PRISONER'S NEEDS OR BY PRISON ~~ERS~~ GUARDS IN INTENTIONALLY DENYING OR DELAYING ACCESS TO MEDICAL CARE OR INTENTIONALLY DENYING OR INTERFERING WITH TREATMENT ONCE PRESCRIBED.

* ESTELLE V. GAMBLE PP. #3 1. UPON REVIEWING A FEDERAL COURT OF APPEAL'S JUDGMENT WHICH REVERSED A FEDERAL DISTRICT COURT'S DISMISSAL OF A STATE PRISONER'S CIVIL RIGHTS COMPLAINT UNDER U.S.C.S § FOR FAILURE TO STATE A CLAIM, THE UNITED STATES SUPREME COURT MUST TAKE AS TRUE THE HANDWRITTEN, PRO SE ALLEGATIONS OF THE COMPLAINT.

* ESTELLE V GAMBLE PP. #11 (11) (12) AGAINST THIS BACKDROP, WE NOW CONSIDER WHETHER RESPONDENT'S COMPLAINT STATES A COGNIZABLE § 1983 CLAIM. THE HANDWRITTEN PRO SE DOCUMENT IS TO BE

LIBERALLY CONSTRUED. AS THE COURT UNANIMOUSLY HELD IN HAINES V KERNER, 404 US 519, 30 L ED 2D 652, 92 S CT 594 (1972) A PRO SE COMPLAINT, "HOWEVER INARTFULLY PLEADED", MUST BE HELD TO "LESS STRINGENT STANDARDS THAN FORMAL PLEADINGS DRAFTED BY LAWYERS" AND CAN ONLY BE DISMISSED FOR FAILURE TO STATE A CLAIM IF IT APPEARS "BEYOND DOUBT THAT THE PLAINTIFF CAN PROVE NO SET OF FACTS IN SUPPORT OF HIS CLAIM WHICH WOULD ENTITLE HIM TO RELIEF ID., AT 520-521, 30 L ED 2D 652, 92 S CT 594, QUOTING CONLEY V GIBSON, 355 US 41, 45-46, 2 L ED 2D 80, 78 S CT 99 (1957)

* ESTELLE V GAMBLE PP. #16 1 TITLE 42 USC § 1983 [42 USC § 1983] PROVIDES:

"EVERY PERSON WHO, UNDER COLOR OF ANY STATE, ORDINANCE, REGULATION, CUSTOM, OR USAGE, OF ANY STATE OR TERRITORY, SUBJECTS, OR CAUSE 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 IN AN ACTION AT LAW, SUIT IN EQUITY OR OTHER PROPER PROCEEDING FOR REDRESS."

* ESTELLE V. GAMBLE PP. #21 NO. 13 THE COURT INDICATES THE EIGHTH AMENDMENT IS VIOLATED

"by Prison guards in intentionally denying or delaying access to medical care or interfering with the treatment once prescribed." Ante, at 104-105, 50 L Ed 2d 260. If this is meant to indicate that intent is a necessary part of an Eighth Amendment violation, I disagree. If a State elects to impose imprisonment as a punishment for a crime, I believe it has an obligation to provide the persons in its custody with a health care system which meets minimal standards of adequacy. As a part of that basic obligation, the State and its agents have an affirmative duty to provide reasonable access to medical care, to provide competent, diligent medical personnel, and to ensure that prescribed care is in fact delivered. For denial of medical care is surely not part of the punishment which civilized nations may impose for crime.

* *Jaan Laaman, et al. v. Raymond A. Helgemoe*, United States District Court for the District of New Hampshire - Civil Action No. 75-258 pp. #44
Underlying these opinions is the recognition that the government's affirmative duty to provide reasonable medical care arises because the inmate is reduced to a state of complete medical dependency upon the prison authorities. *Gamble*, supra, 429 U.S. at 103; *Newman*,

SUPRA, 503 F.2d at 1329. This imposed dependency is a characteristic of all prisoners and, as a class, they may attack as constitutionally deficient a system upon which they are forced to depend for their life and health needs. E.g. SWEET V. SOUTH CAROLINA DEPT. OF CORRECTIONS, 529 F.2d 854 (4th Cir. 1975); FINNEY, SUPRA, 505 F.2d 194; NEWMAN, SUPRA, 503 F.2d 1320; GATES, SUPRA 501 F.2d 1291; MARTINEZ RODRIGUEZ V. JIMENEZ 409 F. Supp. 582 ~~437~~ F. Supp. 312 (D.P.R. 1976) AFF'd 537 F.2d 1 (1st Cir. 1976).

STATEMENT OF THE CASE

ON JUNE 11, 2015 I WAS TRANSFERRED TO MCI-J AND WAS HOUSED IN GOLF UNIT. I CUT MY FINGER ON MY RIGHT HAND (MIDDLE) ON MY BUNK THAT HAD LARGE STRIPS OF METAL REMOVED FROM BACK OF THE BED. BY 6/19/2015 MY FINGER HAD GREEN DISCHARGE COMING FROM IT WITH A STRONG FOUL ODOR COMING FROM THE SITE WHERE THE CUT WAS. I WAS GIVEN BACTRIM WHICH DID NOT RESOLVE THE DISCHARGE PAIN AND ODOR. ON 6/30/15 I WAS GIVEN A PASS FROM MEDICAL VALID FROM 6/30/15 TO 7/30/15 TO HAVE TREATMENT AND DRESSING DONE AT 4PM AT K-HOSPITAL IN MCI-J, AND A CULTURE WAS DONE TO THE SITE WHERE THE GREEN DRAINAGE AND FOUL ODOR CAME FROM. ON 7/10/15 THE CULTURE CAME BACK POSITIVE FOR MRSA AND DOCTOR BRENDA HALL PUT ME ON SOCIAL ISOLATION STAT. I WAS SENT TO H-UNIT A LOCK UP UNIT AND PUT IN A OBSERVATION CELL BUT SOCIAL ISOLATION STATUS, MY SECURITY DID NOT CHANGE ONLY MY HOUSING STATUS BECAUSE OF THE MRSA AND THE POTENTIAL TO HEALTH HAZARDOUS TO THE PRISON POPULATION OF MCI-J. FROM 7/10/15 THRU 7/15/15 I WAS IN EXTREME PAIN AND DISCOMFORT, THE FINGER HAD FRESH PEELING OFF IT AND THE SMELL WAS ROTTEN OF A DEAD BODY. H-UNIT STAFF OF MCI-J REFUSED TO ESCORT ME TO K-HOSPITAL AS ORDER BY A DOCTOR (BRENDA HALL) I REQUESTED A SUPERVISOR "BY OFFICER FLETCHER" AND CAPTAIN PARKER CAME TO H-UNIT AT I EXPLAINED TO HER WHAT WAS GOING ON

STATEMENT OF THE CASE.

With me and her staff in H-Unit that refused to escort me to medical as Dr. Hall order the treatment for MRSA. The reply I got from Captain Parker was you stink I'm not coming over there. That was said in front of C.O. II Fletcher. I requested to see a supervisor on all shifts and each day from 7/10/15 thru 7/15/15 because I was in extreme pain and with flesh falling off my finger I was psychological torture. Captain Lilly came to H-Unit between those date and I told her I was in pain and because of the odor and swelling I need to be escorted to medical for treatment my finger turned dark green in spots and discolored purple in other spots. I still ~~was~~ refused to be escorted to medical by custody H-Unit staff and Captain Lilly, as well as Lt. Brown who came to H-Unit as acting supervisor, and she was informed of me not being escorted to medical and that I was in a lot of pain and was in fear of my life because of how rotten my finger smelt. I was mentally tortured and

2 OF # 3

STATEMENT OF THE CASE

GOING CRAZY BEATING THE DOOR OF THE CELL OVER AND OVER JUST TO GET A H-UNIT STAFF (C.O. OFFICER) TO COME TO THE DOOR ONLY TO BE DENIED ACCESS TO MEDICAL FOR A SERIOUS MEDICAL NEED. I HAVE PERMENT DAMAGE TO MY RIGHT FINGER AND STILL IS IN PAIN AND ACTIVE WITH MRSA.

FROM 7/10/15 THRU 7/15/15 I SUFFERED A HORRIFIC SITUATION BEING DENIED ACCESS TO MEDICAL BY D.O.C. STAFF H-UNIT AT MCI-J AND THE SUPERVISOR'S CAPTAIN PARKER, CAPTAIN LILLY, AND LT. BROWN WHO WAS IN CHARGE OF H-UNIT OFFICER'S DID NOTHING TO INTERVENE ON MY BEHALF.

TRY TO GET RELIEF IN THIS MATTER HAS BEEN A FINACIAL BURDEN ON ME, PHYSICALLY STRESSING ME OUT MENTALLY.

RESPECTFULLY

JOHN WATKINS

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
50 LED2D 251, 429 US 97 ESTELLE V. GAMBLE	PP. # 1 - # 3 - # 4 PP. # 10 [6] [7] PP. # 11 PP. # 14 PP. # 16
69 LED2D 59, 452 US 337 RHODES V. CHAPMAN	PP. # 12 PP. # 21
501 U.S. 294; 115 L. Ed. 2d 271; 111 S. Ct. 2321 (1991) WILSON V. SEITER	PP. # 1 - PP. # 3

STATUTES AND RULES

CRIMINAL LAW § 77 / 78 / 76

OTHER

REASONS FOR GRANTING THE PETITION

- 1) THE CASE HAS MERITS AND RELIEF SHOULD BE GRANTED AS A MATTER OF LAW.
- 2) BE THEIR OWN SUBMISSION IN THE D.P.S.C.S. MOTIONS MEMORANDUMS AND REQUEST FOR SUMMARY JUDGEMENT IT WAS ACKNOWLEDGE THAT THERE IS NO DISPUTE OF THE FACTS THE EVENTS OCCURRED.
- 3) THE COURTS CONTINUE TO DENY MY MOTION TO APPOINT COUNSEL, AND IN EVERY INSTANCE DISMISS MY CLAIM BECAUSE I FAIL TO STATE A CLAIM.
- 4) A PRO SE PLAINTIFF CLAIM SHOULD BE TO A LESSER STANDARD. YET THE COURT HOLDS ME TO THE STANDARD OF A ATTORNEY THAT IS QUALIFIED TO PRACTICE OR EXPERTISE IS CIVIL LAW.
- 5) THE CORRECTIONAL STAFF AT MCI-J DENIED AND DELAYED TREATMENT FOR A SERIOUS MEDICAL NEED MRSA, BY NOT AND REFUSING TO ESCORT ME TO MEDICAL AS DOCTOR BRENDA HALL ORDER'D. THE LAW HAS HELD THAT AS CRUEL AND UNUSAL PUNISHMENT WHICH IS A VIOLATION OF U.S. CONSTITUTION 8th AMENDMENT Right.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jovan Watkins

Date: May 25, 2019