

No. 19-5188

ORIGINAL

Supreme Court, U.S.
FILED

JUN 19 2019

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Jermaine Antwan Tart — PETITIONER
(Your Name)

vs.

James Vegas, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

4th Circuit Appeals Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jermaine Antwan Tart
(Your Name)

PO Box 215
(Address)

MAURY, NC 28554-0215
(City, State, Zip Code)

(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. DO INMATES HAVE 5TH AND 14TH AMENDMENT PRE-DEPRIVATION RIGHTS TO FUNDS FROM EXISTENTIAL OUTSIDE EMPLOYMENT OR ROYALTIES?
2. SHOULD THE EASTERN DISTRICT U.S. DISTRICT COURT OF N.C. ORDER THE DEFENDANTS TO PAY WITNESS FEES TO PLAINTIFFS RES GESTAE WITNESSES?
3. SHOULD PLAINTIFF BE ALLOWED COUNSEL IN THE ALTERNATE OF QUESTION (2) TWO, TO ENABLE HIM TO CONFIRM DELIVERY DATES, SIGNATURES, VALUE OF THE TWO ROYALTY CHECKS?
4. IS MALICIOUS INTENT SHOWN BY THERE BEING TWO CHECKS, SENT ON TWO DAYS, BOTH HAVING TO BE SIGNED FOR DISSAPPEARING WITH ALL STAFF DENYING THEIR EXISTENCE?
5. WOULD IT BE CONSTITUTIONALLY CORRECT TO ALLOW JUDGE JAMES C. DEVER III DISMISS THIS CLAIM FROM A RETALIATION LAWSUIT?
6. IS PLAINTIFF ENTITLED TO DISCOVERY OF ALL INFO INCLUDING WHAT DEFENDANTS HAVE DONE WITH THE CHECKS SINCE THEY WERE SENT?
7. DOES THE 4TH CIRCUIT COURT OF APPEALS HAVE MANDAMUS JURISDICTION ~~BE~~ OVER STATE OFFICIAL ACTIONS?
8. IS PLAINTIFF ENTITLED TO REDRESS FOR ANY STOLEN MONIES FROM THE POSSIBLE ILLEGAL DEPOSIT OF CHECKS?
9. THE LAWSUIT HAS BEEN IN EFFECT OVER ONE YEAR, IS PLAINTIFF ENTITLED TO EQUITABLE RELIEF SINCE DEFENDANTS HAVE COMPLETELY DENIED THE EXISTENCE OF THE CHECKS. (THE CHECKS ARE WORTH MILLIONS AND ~~OTHER~~ PLAINTIFF HAS NO OTHER SOURCE OF SMALLER AMOUNTS OF INCOME) PURSUANT TO 42 U.S.C. § 1997(C), IN RE: WHEREABOUTS OF NEGOTIABLE INSTRUMENTS FROM RHAPSODY.COM AND GREENSLEEVES.NET RECORDING DISTRIBUTORS, BOTH SENT IN EARLY TO MID FEBRUARY, 2018. THESE COMPANIES WERE CONTACTED BY RICHARD HOFFMAN - OWNER OF HOFFMAN'S SERVICES ~~AND~~ LOCATED AT PO BOX 539, SUGAR GROVE P.A. ~~3344~~ 16350 TELEPHONE NO: (814) 350-6898.

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:

1. JAMES SMITH
2. MARK TROCK
3. MATE ROOMA STAFF (DISMISSED)
4. ALL OTHER RETALIATORY STAFF DISMISSED.

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

<u>ZINERMON V. BURCH</u>	494 U.S. 113 (1990)	PG. (5)
<u>WRIGHT V REVELAND</u>	219 F.3d 905, 913 (9th Cir. 2000)	PG. (5)
<u>LODERMAN</u>	470 U.S. AT 80-84	PG. (5)
<u>GOLDBERG</u>	397 U.S. AT 264	PG. (5)
<u>BERNAL V FANTER</u>	467 U.S. 216, 222, N.7 104 S. CT. 2312,	PG. (5)
	2317, N.7, 81 L. Ed. 2d. 175 (1984)	
<u>HEWITT V HELMS</u>	459 U.S. 460, 462-472, 103 S. CT. 864,	
	890-891, 74 L. Ed. 2d. 675 (1983)	
<u>HUDSON V PALMER</u>	468 U.S. 541, 104 S. CT. 3194, 3209	PG. (5)
	(1984)	
<u>SANDIAN V CONNER</u>	515 U.S. 472, 115 S. CT. 2293, 132	PG. (5)
	L. Ed. 2d 418 (1995)	
<u>MORTON VS. RUIZ</u>	415 U.S. 199, 235, 94 S. CT. 1055 (1974)	PG. (5)
<u>UNITED STATES EX REL, MILLER VS TWOMEY</u>	479 F.2d 701, 712	
	(CA 7 1973) (FOOTNOTES OMITTED), CERT. DENIED	
<u>DEPARTMENT OF PUBLIC SAFETY OF ILLINOIS</u>	414 U.S. 1146, 94 S. CT. 900, 39 L. Ed	
	STATUTES AND RULES 2d 102 (1974)	

OTHER

1ST AMENDMENT U.S. CONSTITUTION
4TH AMENDMENT U.S. CONSTITUTION
14TH AMENDMENT U.S. CONSTITUTION
5TH AMENDMENT U.S. CONSTITUTION
"FUNCTIONAL PREREQUISITES" U.S. CONSTITUTION
 C + P.S. 229 (1972); THE CASE OF PRISON, 63 J. CRIM. L.,

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JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was JANUARY 2, 2019.

☐ 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: APRIL 2, 2019, and a copy of the order denying rehearing appears at Appendix B.

☐ 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).

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/B 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 C 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.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1ST AMENDMENT RIGHT TO SEND AND RECIEVE MAIL.
- 4TH AMENDMENT RIGHT TO BE FREE FROM UNREASONABLE SEARCH AND SEIZURE
- 5TH AMENDMENT RIGHT TO BE FREE FROM THE DEPRIVATION OF LIFE LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; AND TO BE FREE FROM MY PRIVATE PROPERTY BEING TAKEN FOR PUBLIC USE, WITHOUT JUST COMPENSATION.
- 14TH AMENDMENT RIGHT TO BE FREE FROM THE STATE DEPRIVING MYSELF OF LIFE, LIBERTY, PROPERTY, WITHOUT DUE PROCESS OF LAW; OR DENIAL OF THE EQUAL PROTECTION OF LAWS.

STATEMENT OF THE CASE

THE CASE BEGAN ABOUT TABOR CITY MAILROOM VIOLATING DUE PROCESS MAIL RIGHTS. JUDGE JAMES C. DEVER III DISMISSED ALL MAIL CLAIMS AS ~~FRIVOLOUS~~ FRIVOLOUS. PLAINTIFFS AMENDED THE COMPLAINT TO ADD RETALIATION, AND SEVERAL OTHER ^{RETALIATORY} INCIDENTS. DEVER III DISMISSED ALL RETALIATORY EVENTS EXCEPT A DUE PROCESS DISCIPLINARY CLAIM. PLAINTIFF HAD ALSO ADDED A CLAIM ABOUT THE THEFT OF TWO ROYALTY CHECKS FROM TWO RECORD LABELS HE WRITES MUSIC FOR AND ASKED FOR DEFENDANTS BE HELD LIABLE FOR PAYING ANY FEES NECESSARY FOR HIM TO PRODUCE EVIDENCE OF ~~HIMSELF~~ SOLICITING ON BEHALF OF THE PLAINTIFF TO BOTH GREENSBOYES.NET ^{HIS WITNESS} AND RHAPSODY.COM IN EARLY FEBRUARY, 2018. JUDGE DEVER III ALSO DISMISSED THAT CLAIM AND REQUEST ON SEVERAL OCCASIONS. THE PLAINTIFFS WITNESS, RICHARD HOFFMAN SOLICITED TO THE TWO COMPANIES ON PLAINTIFFS BEHALF BECAUSE THE TWO COMPANIES CAN'T BE CONTACTED FROM THE INMATE TELEPHONE SYSTEM. THE PLAINTIFFS WITNESS CONFIRMED THE CHECKS HAD BEEN DELIVERED TO TABOR CITY. TABOR CITY STAFF ~~CONTINUOUSLY~~ CONTINUOUSLY DENIES THE CHECKS @ DELIVERY. HOWEVER THE CHECKS HAD TO BE SIGNED FOR. THE PLAINTIFFS WITNESS HAS REQUESTED THE PAYMENT PLAINTIFF OWES FOR THE SOLICITATION BEFORE HE WILL PRODUCE EVIDENCE SHOWING HE CALLED. PLAINTIFF APPEALED DEVER III'S DECISION SEVERAL TIMES WITHOUT EFFECT. THE FOURTH CIRCUIT COURT OF APPEALS DENIED ANX MANDAMUS RELIEF ON THE ISSUE ON JANUARY 2, 2019 AND IN A MOTION FOR REHEARING AND AMENDED MOTION ~~DEAILED A POLL~~. PLAINTIFF NOW SEEKS CERTIORARI. ~~FOR REHEARING ON BALANCE~~

REASONS FOR GRANTING THE PETITION

1. PLAINTIFF PRESENTS QUESTIONS OF SUBSTANTIVE AND PROCEDURAL DUE PROCESS.
2. INMATES HAVE A PROTECTABLE PROPERTY INTEREST IN FUNDS FROM OUTSIDE SOURCES. WRIGHT V RIVELAND, 219 F.3d 905, 913 (9th Cir. 2000)
3. TWO CHECKS FROM TWO RECORD LABELS WHICH HAD TO BE SIGNED FOR ON TWO DIFFERENT DAYS COULDN'T BE MERELY NEGLIGENTLY LOST.
4. IN SITUATIONS WHERE THE STATE FEASIBLY CAN PROVIDE A PREDEPRIVATION HEARING BEFORE TAKING PROPERTY, IT GENERALLY MUST DO SO REGARDLESS OF THE ADEQUACY OF A POSTDEPRIVATION TORT REMEDY TO COMPENSATE FOR THE TAKING. ZIMMERMAN V BURCH, 494 U.S. AT 132 (1990) CITING LAUDERMILL, 470 U.S. AT 80-84; GOLDBERG, 397 U.S. AT 264
5. INMATE HAS A WITNESS WHOM SPOKE ON HIS BEHALF TO THE TWO COMPANIES WHOM HAS CONFIRMED THE CHECKS HAD TO BE SIGNED FOR. SEE APPENDIX E
6. THE COURTS HAVE A SPECIAL OBLIGATION TO PROTECT THE RIGHTS OF PRISONERS. BERNAL V FANTHER, 467 U.S. 216, 222, N. 7 104 S. CT. 2312, 2317, N. 7, 81 L. Ed. 2d. 175 (1984)
7. IT IS WELL SETTLED THAT ONCE A STATE CREATES .. A CONSTITUTIONALLY PROTECTED ~~PR~~ INTEREST, THE CONSTITUTION FORBIDS IT TO DEPRIVE EVEN A PRISONER OF SUCH AN INTEREST ARBITRARILY. HEWITT V HELMS, 459 U.S. 460, 462-472, 103 S. CT. 864, 870-871, 74 L. Ed. 2d. 675 (1982)
8. THE DEFENDANTS HAVE CONTINUALLY DENIED THE CHECKS EXISTENCE.
9. THE DUE PROCESS AND THE TAKINGS CLAUSES OF THE FIFTH AND THE FOURTEENTH AMENDMENTS STAND DIRECTLY IN OPPOSITION TO STATE ACTION INTENDED TO DEPRIVE PEOPLE OF THEIR LEGALLY PROTECTED INTERESTS. HUDSON V PALMER, 468 U.S. 541, 104 S. CT. 3194, 3207 (1984)
10. "THE DEPRIVATION OF IMMENSE AMOUNTS OF LEGALLY EARNED MONEY FROM CONTINUOUS EXISTENTIAL ENDEAVORS BY THOSE IN CONTROL OF AN INMATES REFORM IS 'ATYPICAL AND A SIGNIFICANT HARDSHIP ON AN INMATE IN RELATION TO THE ORDINARY INCIDENTS OF PRISON LIFE'". SANDIA V CONNER, 515 U.S. 472, 115 S. CT. 2293, 132 L. Ed. 2d 418 (1995)
11. "PRISONERS DEPRIVED OF ANY SENSE OF INDIVIDUALITY DEVALUE THEMSELVES AND OTHERS AND THEREFORE ARE MORE PRONE TO VIOLENCE TOWARD THEMSELVES OR OTHERS" (FUNCTIONAL PREREQUISITES: THE CASE OF THE PRISON, 63 J. CRIM. L., C & P. S. 229 (1972))

12. THE VIEW ONCE HELD THAT AN INMATE IS A MERE SLAVE IS NOW TOTALLY REJECTED. UNITED STATES EX REL. MUELLER VS. TWOMEY, 479 F.2d 701, 712 (CA7 1973) (FOOTNOTES OMITTED), CERT DENIED SUP. NOM. GUTIERREZ V. DEPARTMENT OF PUBLIC SAFETY OF ILLINOIS, 414 U.S. 1146, 94 S.Ct. 900, 39 L.Ed. 2d 102 (1974).
13. "WHERE THE RIGHTS OF [INMATES] INDIVIDUALS ARE AFFECTED, IT IS INCUMBENT UPON AGENCIES TO FOLLOW THEIR OWN PROCEDURES." MORTON V ROIZ, 415 U.S. 199, 235, 94 S.Ct. 1055 (1974).
14. NCDPS POLICY REQUIRES PRE-DEPRIVATION PROCEDURE FOR ALL INCOMING AND OUTGOING MAIL. SEE APPENDIX D

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Tina B. Peele # 08033477

Date: 6/19/19

NOTARY SIGNATURE *Tina B. Peele*

NOTARY EXPLANATION 8.1.20

