

No. \_\_\_\_\_

19-5207

IN THE

SUPREME COURT OF THE UNITED STATES

ADMASSU REGASSA

(Your Name)

VS.

PETITIONER  
FILED

JUN 28 2019

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

EMILY CIMINO, ET AL., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ADMASSU REGASSA #09303-007

(Your Name)

FEDERAL CORRECTIONAL COMPLEX-MEDIUM

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## QUESTION(S) PRESENTED

Petitioner, Admassu Regassa, a DC inmate and pro se indigent prisoner currently confined in a federal facility at FCC Petersburg, Virginia, initiated his combined civil rights (Bivens) and FTCA action in regards to the conditions of his confinement and deprivation of his multiple Constitutional rights (his First, Fifth, Eighth, and Fourteenth Amendment rights) by respondents, several defendant prison officials at his previous institution (USP Marion, Illinois) who acted under the color of federal law. In his Second Amended Complaint (Doc. 29), Regassa asserted clear and legitimate and viable [actionable] Constitutional claims against the Bivens Defendants and clear and legitimate and viable [actionable] FTCA claims against the United States. However, the United States District Court for the Southern District of Illinois dismissed Regassa's Second Amended Complaint (Doc. 29) in its entirety with prejudice for failure to state a claim upon which relief may be granted, and on appeal, the United States Court of Appeals for the Seventh Circuit improperly affirmed the district court's erroneous decisions and Order and final judgment (Docs. 31 & 32). With this general backdrop of information, should the United States Supreme Court intervene in this matter and exercise its supervisory role and review the lower courts' decisions and grant Regassa's petition for a writ of certiorari because

A) as the Highest Court of the land, the United States Supreme Court has the power and mandate and discretion and jurisdiction and judicial authority and Constitutional prerogatives to uphold and to protect, among other things, basic human rights and dignity and fundamental Constitutional rights of an indigent pro se prisoner [Regassa]?

QUESTION(S) PRESENTED (CONTINUED)

B) the district court erroneously dismissed Regassa's Second Amended Complaint (Doc 29) in its entirety with prejudice for failure to state a claim upon which relief may be granted and the United States Court of Appeals for the Seventh Circuit improperly affirmed the district court's erroneous decisions and Order and final judgment (Docs. 31 & 32)?

C) there are several compelling reasons and questions of exceptional importance and the decisions of the district court and the panel conflict with the decisions of (i) the United States Supreme Court (ii) the United States Court of Appeals for the Seventh Circuit (iii) other United States Courts of Appeals that addressed these issues?

## 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: K. Sanders, R. Baskerville, C. Krawczyk, Emily Cimino, H. Rivas, J. Novotney, J. McMilon, T. Schumer, C. Brooks, B. May, K. Lampley, D. Prater, Christain Lepe, John David, D. Huggins, C. McColm, M. Daun, Melissa Winn, T. Townley, Todd Sloop, J.M. Powers, Maureen P. Bird, William B/ True III, Tracy Knutson, D. Lockridge, C. Scott-Davis, Ms. Cochran, L. Sample, R. Blair, B. Hall, Ms. Murphy, K. Bartruff, A. Absner, R. Crouch, J. Wadas, Leslee Brooks, C. Hanbaum, Dr. Cook, Dr. Munneke, L. Owings, J. Ulrich, Ms. Dietrich, Sara Hampton, A. Figurido, Brad Weisel, M. Sveningson, Sara M. Revell, Richard M. winter, Ian Connors, Charles E. Samuels, Jr., United States, General counsel of the FBOP, Ms. Bagwell, J. Dooley, E. Edmister, M. Emery, Paul Harvey, Caleb Meyer, Randall Pass, M. Puckett, B. Middleton.

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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 \_\_\_\_\_; 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 B1&2 to the petition and is

reported at 2018 U.S. Dist. LEXIS 143618; 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 April 11, 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: May 15, 2019, and a copy of the order denying rehearing appears at Appendix C.

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).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Even as an indigent prisoner and noncitizen legal resident of the United States, Petitioner, Admassu Regassa who is a native of Ethiopia and legally resided, as a bona fide human being, within the jurisdiction and territorial boundaries of the United States for a quarter of a century, is guaranteed certain inalienable fundamental Constitutional and Statutory rights. Among other things, Regassa's fundamental rights to freedom of speech and to petition the government for redress of grievances are protected by the First Amendment of the United States Constitution, whereas the Fifth and Fourteenth Amendments of the United States Constitution would provide Regassa fundamental rights to have due process and equal protection of the law and, as a fundamental corollary, to have access to the courts. Furthermore, Regassa's basic human rights and dignity and fundamental Constitutional rights to be free from a campaign of harassment and psychological torture and false imprisonment and cruel and inhumane and other degrading treatment or unusual punishment are fully and completely guaranteed by his Eighth Amendment rights. Statutory provisions involved would include Regassa's rights to file a civil rights (Bivens) action pursuant to 28 USCS §1331 and §1333(a)(3) to redress the deprivation, under color of federal law, of his rights secured by the Constitution of the United States; and Regassa's Federal Tort Claims Act (FTCA) claims are authorized by 28 USCS §1346(b), §2671 et seq., §2680(h). See Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388. Pursuant to 28 USCS §1391(b)(2), the United States District Court for the Southern District of Illinois is the proper venue for Regassa's

civil lawsuit because multiple deprivations of his Constitutional rights (First, Fifth, Eighth, and Fourteenth Amendment rights) occurred at his previous institution (USP Marion, Illinois) by respondents, several defendant-prison officials who acted under the color of federal law. Before filing his combined civil rights (Bivens) and FTCA action as set forth in his Second Amended Complaint (Doc. 29), Regassa had fully and completely exhausted all of his administrative remedies in full compliance and consistent with the PLRA's exhaustion of administrative remedies requirements (42 USCS §1997e(a)) and the BOP's Administrative Remedy Program (28 C.F.R. §542.13 et seq.) with the exceptions of his administrative remedies that were lost or destroyed or tampered with by prison officials and those of his administrative remedies that the prison officials deliberately rejected and/or refused to accept and process when Regassa timely submitted to them.

Pursuant to 28 USCS §§1915(e)(2)(B)(ii) and Fed. R. Civ. P. 12(b)(6), the United States District Court for the Southern District of Illinois dismissed Regassa's Second Amended Complaint (Doc. 29) in its entirety with prejudice for failure to state a claim upon which relief may be granted. Regassa timely filed an appeal in the United States Court of Appeals for the Seventh Circuit which pursuant to 28 USCS §1291 shall have appellate jurisdiction over all final decisions and Orders and judgments of the United States District Court for the Southern District of Illinois. Sitting in a three-judge panel, the United States Court of Appeals for the Seventh Circuit denied Regassa's appeal and improperly affirmed the district court's erroneous decisions and Order and final judgment. Regassa timely filed a petition for rehearing of his appeal en banc and by panel. However, the same exact three-judge panel that denied Regassa's appeal also denied his petition for rehearing.

Regassa's appeal nor petition for rehearing was never reviewed by the full circuit even though Regassa strongly requested for rehearing en banc.

WHEREFORE, pursuant to Article III, Section 2 and Clause 1 and Clause 2 of the United States Constitution, the Supreme Court shall have the judicial power and appellate jurisdiction to execute its supervisory role and to review the lower courts' decisions and Orders and final judgments and to grant Regassa's petition for a writ of certiorari.

## STATEMENT OF THE CASE

Petitioner, Plaintiff-Appellant Admassu Regassa #09303-007, a DC inmate and an indigent pro se litigant currently confined in a federal facility at FCC Petersburg, Virginia, hereby respectfully submits his petition for a writ of certiorari pursuant to Supreme Court Rules: Rule 33.2(b). In support of his petition, Regassa avers the following.

Respondents, several defendant prison officials (Total: 60 Defendants) at his previous institution (USP Marion, Illinois) who acted under the color of federal law conspired and retaliated and discriminated against Regassa for exercising his Constitutionally protected rights to use the BOP grievance system and to petition the government for redress of grievances and to access the courts and showed ordinary negligence or deliberate indifference towards him and imposed severe undue restrictions and sanctions upon him and completely and simultaneously deprived him of certain basic services and privileges (telephone, TRULINCS/e-mail/ mailing labels, commissary, and visitation) without a due process and repeatedly waged a campaign of harassment and psychological torture against him and falsely accused him (L.Owings, K. Sanders, J. Novotney, Ms. Dietrich, Jack Ullrich, Christian Lepe, C. Crouch, A. Absner, and B. Middleton) and filed numerous false incident reports against him (Emily Cimino, H. Rivas, J. Novotney, K. Sanders, and M. Emery) and falsely imprisoned him in the SHU and placed him on solitary confinement (Rahsaan Baskerville, K. Sanders, Chad Krawczyk, Emily Cimino, H. Rivas, J. Novotney, M. Emery, J. McMilon, T. Schumer, C. Brooks, D. Prater, B. May, K. Lampley, D. Lockridge, C. Scott-Davis, L. Sample, R. Blair, Christian Lepe, J. Wadas, C. McColm, D. Huggins, John David, Maureen P. Baird, William B. True III, Todd Sloop, J.M. Powers, and M. Puckett) and denied him fair and impartial investigations and UDC hearings and DHO

hearings and found him guilty of false incident reports that he never committed (Rahsann Baskerville, K. Sanders, Chad Krawczyk, J. McMilon, T. Schumer, K. Lampley, D. Prater, C. Scott-Davis, R. Blair, and M. Puckett) and used threats and hearsay and gossip and rumors and falsehood and verbally and physically abused him (Rahsaan Baskerville, K. Sanders, Chad Krawczyk, H. Rivas, K. Bartruff, B. Hall, A. Absner, B. Middleton, Ms. Dietrich, and E. Edmister) and lost or destroyed or tampered with and/or refused to accept and process some of his administrative remedies (Chad Krawczyk, E. Edmister, C. Hanbaum, J. Dooley, William B. True III, L. Owings, and Ms. Cochran) and showed ordinary negligence or deliberate indifference and/or medical malpractice/negligence towards him (Randall Pass, Leslee Brooks, Caleb Meyers, Ms. Bagwell, Paul Harvey, Rahsaan Baskerville, Chad Krawczyk, K. Sanders A. Figurido, William B. True III, Todd Sloop, J.M. Powers, Richard M. Winter, Sara M. Revell, Ian Connors, General Counsel of the FBOP, and Charles E. Samuels, Jr.) and refused to provide him a certificate of merit (COM) and denied all of his requests for complete medical evaluation and to investigate and verify that his medical records from July 8, 2013 through May 27, 2015 were completely falsified by the medical staff at his previous institution (USP Lewisburg, Pennsylvania) and refused to give him a referral to the outside hospital so as to obtain a certificate of merit (COM) and a thorough medical examination and accurate medical data from a certified/licensed independent health care practitioner in support of his pending civil rights action in the United States District Court for the Middle District of Pennsylvania, and through their repeated and continued and deliberate acts of conspiracy and retaliation and discrimination and false accusations/false incident reports/false imprisonment and a campaign of harassment

and psychological torture against Regassa and ordinary negligence or deliberate indifference towards him, the respondents, several defendant prison officials (Total: 60 Defendants) at his previous institution (USP Marion, Illinois) subjected Regassa to "atypical and significant hardship" and cruel and unusual punishment conditions of confinement and seriously violated his First, Fifth, Eighth, and Fourteenth Amendment Constitutional rights for an extended period of time.

Regassa initiated his combined civil rights (Bivens) and Federal Tort Claims Act (FTCA) action and filed his original Complaint (Doc. 1) on September 12, 2017 and addressed the conditions of his confinement and asserted clear and legitimate and viable Constitutional claims against the Bivens Defendants and clear and legitimate and viable FTCA claims against the United States. Regassa's Bivens claims against the Bivens Defendants are authorized by 28 USCS §1331 and §1343(a)(3) and Regassa's FTCA claims against the United States are authorized by 28 USCS §1346(b). The United States District Court for the Southern District of Illinois is an appropriate venue under 28 USCS §1331(b)(2) because multiple violations of Regassa's Constitutional rights that gave rise to his claims occurred at his previous institution (USP Marion, Illinois). In a Memorandum and Order dated November 15, 2017 (Doc. 14), the district court dismissed Regassa's original Complaint (Doc. 1) without prejudice and granted Regassa leave to file an amended complaint.

On November 30, 2017, Regassa timely filed his First Amended Complaint (Docs. 16 & 16-1). On April 26, 2018, the district court issued a Memorandum and Order (Doc. 27) and dismissed Regassa's First Amended Complaint (Docs. 16 & 16-1) without prejudice and granted Regassa leave to file a second amended complaint. On April 30, 2018, Regassa timely filed his Second Amended Complaint (Doc. 29) and asserted clear

and legitimate and viable Constitutional claims against the Bivens Defendants and clear and legitimate and viable FTCA claims against the United States. In a Memorandum and Order dated August 23, 2018, the district court entered final judgment in favor of the Defendants and dismissed Regassa's Second Amended Complaint (Doc. 29) in its entirety with prejudice for failure to state a claim upon which relief may be granted. On Agust 28, 2018, Regassa timely filed a Notice of Appeal in the United States Court of Appeals for the Seventh Circuit.

Pursuant to 28 USCS §1291, the United States Court of Appeals for the Seventh Circuit shall have jurusdiction of appeals from all final decisions of the United States District Court for the Southern District of Illinois.

The Defendants used corrupt and malicious and manipulative and abusive and immoral and illegal and unconstitutional bureaucratic tactics and practices and procedures and overtures and actions and behaviors and repeated and continued and deliberate acts of conspiracy and retaliation and discrimination and false accusations/false disciplinary reports/false imprisonment and a campaign of harassment and psychological torture agaisnt Regassa the overall combined effect of which imposed "atypical and significant hardship" and cruel and unusual punishment conditions of confinement upon him and as such, all these adverse actions of prison officials (respondents, several federal federal employees of the BOP at his previous institution (USP Marion, Illinois) resulted in multiple deprivations of his fundamental Constitutional rights: (i) his First Amendment rights to freedom of speech and to use the BOP grievance system and the BOP Program Statements and the BOP's Inmate Disciplinary Process and to petition the government for the redress of grievances (ii) his Eighth Amendment Constitutional rights to be free from cruel and unusual punishment (iii) his Fifth and Fourteenth Amendment

Constitutional rights to due process and equal protection of the law and access to the courts and to be free from arbitrary discrimination.

Prior to filing his instant civil rights action, Petitioner [Regassa] used the BOP grievance system and raised several highly important issues related to the conditions of his confinement and requested high level prison officials to formally review his complaints and to grant him relief. However, Petitioner's administrative remedies for his Bivens claims and administrative claims for his FTCA claims were unsuccessful: All of his informal complaints (BP-8s) and formal requests for administrative remedy (BP-9s) and Regional Appeals (BP-10s) and Central Appeals (BP-11s) and his FTCA administrative claims (SF-95s) were denied or rejected or without response: mishandled or lost or destroyed and/or tampered with by some of the Defendants. Regassa has submitted copies of his administrative remedies to court with his Second Amended Complaint (Doc. 29) as concrete factual evidentiary materials in support of his claims. Regassa sufficiently alleged causes of action for his claims and provided plenty of relevant facts and specific details and vast amounts of pertinent information paragraph by paragraph in chronological order from which plausible inferences can be made in regards to repeated and continued and deliberate acts of conspiracy and retaliation and discrimination and false accusations/false disciplinary reports/false imprisonment and a campaign of harassment and psychological torture against him. Moreover, Regassa submitted copies of relevant court documents from the United States District Court for the Middle District of Pennsylvania as strong and compelling evidneces to demonstrate the adverse actions that he suffered as a consequence of the Defendant prison officials' (respondents') refusal to provide him a certificate of merit (COM) and complete medical evaluation and to investigate and verify his falsified medical records and to give him a referral to the outside

hospital.

By falsely accusing him and filing numerous false disciplinary reports against him and falsely imprisoning him in the SHU and placing him on solitary confinement and waging a campaign of harassment and psychological torture (Regassa was placed on solitary confinement for 77 days out of the total of 130 days he was placed in the SHU on three different occasions for false incident reports that he never committed) and by using highly disturbing and very degrading and very dehumanizing and very humiliating derogatory and sexually inflammatory language towards him and verbally and physically abusing him and using threats and hearsay and gossip and rumors and falsehood to endanger his safety imposing severe undue restrictions and sanctions upon him and completely and simultaneously depriving him of certain basic services and privileges (telephone, TRULINCS/e-mail mailing labels for legal and personal mail, commissary, and visitaion), the Defendants subjected Regassa to "atypical and significant hardship" and cruel and unusual punishment conditions of confinement and substantially violated his Eighth Amendment right to be free from cruel and unsusal punishment and effectively prevented him from having access to reading materials and the mass media and legal support groups and legitimate private businesses and human rights organizations and nonjudicial branches of government and seriously violated his First Amendment rights to freedom of speech and to petition the government for redress of grievances and his Fifth and Fourteenth Amendment rights to have due process and equal protection of the law and access to the courts.

The Defendants discriminated against Regassa because of his race and national origin and ehnic background and gender and sexual orientation and his prisoner status and his past criminal convictions and past incident reports and, without a due process, deprived him of certain

basic services and privileges (telephone, TRULINCS/e-mail/mailing labels for legal and personal mail, commissary, and visitation) that were available to other inmates within the BOP in the General Population and in the SOTP-R Program, and in retaliation for his exercise of his First Amendment rights to use the BOP grievance system and for filing his previous and instant civil rights actions against prison officials, the Defendants expelled him from the SOTP-R Program and transferred him to another prison without any legitimate or compelling penological or government interest and seriously violated his Fourteenth Amendment rights to have equal protection of the law and to be free from arbitrary discrimination.

It should be noted that Regassa is a heterosexual Christian black male who came from his native country of Ethiopia, on August 10, 1994, to the United States, which he proudly calls his second homeland, as a distinguished scholar and bona fide scientist with golden goals and wild dreams and a burning desire and tremendous curiosity and deep ambitions and aspirations to pursue his doctoral studies for his Ph. D. degree in chemistry at Georgetown University in Washington, DC, and to achieve professional excellence and tremendous success and miraculous glorious victories in his personal and social and professional and financial life and to be part of the American Dream and the American success story and to work and to make some positive contributions to the society and to live, peaceably and harmoniously as an exemplary citizen, among the great men and women of America, among the freedom-loving and God-fearing and hard working and honest and honorable people of America under the judicious and fair and just, equitable leadership of tenacious democratic government of the United States.

Regassa never committed any crimes against anyone and still fully and completely maintains his innocence. Regassa was convicted of petty crimes that he never committed by a jury trial in the Superior Court of the District of Columbia in 1997 because certain individuals including his own girlfriend, who aptly qualify as "dark forces of evil" and who have great penchant and high propensity for abusing and misusing and defiling the purity and sanctity of the law and for corrupting the fine structures of the law and for abducting and imprisoning and victimizing innocent citizens whom the very spirit of law was meant to protect, lied on him and presented false evidences against him and falsely testified against him at his trial and misled the judge and the jury.

Yet the respondents (defendant prison officials) heavily capitalized on Regassa's past criminal convictions and past incident reports and used his sex offender status as a pretext to pile restrictions after restrictions upon him and to wage a campaign of harassment and psychological torture against him and to completely and simultaneously deprive him of certain basic services and privileges that were available to other inmates within the BOP without a due process and to discriminate against him and to trample upon his basic human rights and dignity and fundamental Constitutional rights without impunity under the guise of the so called Correctional Management Plan (CMP) and false disciplinary reports.

It should be noted that on July 8, 2013, while Regassa was in the Special Management Unit (SMU) Program in G-Block, several defendant federal employees of the BOP at his previous institution (USP Lewisburg, Pennsylvania) used excessive force and assault and battery and torture (extremely tight ambulatory restraints) against him and brutally and violently assaulted him and severely beat him up and inflicted severe multiple internal and external injuries and damage to his body.

multiple internal and external injuries and the most agonizing physical and psychological pain and deep traumatic emotional distress upon him and then placed him in extremely tight ambulatory restraints and mercilessly and sadistically tortured for three days (July 8 to July 10, 2013) and several lieutenants and correctional officers and medical staff who came into his restraint cell#G-126 or stopped at his celldoor for restraints checks showed ordinary negligence or deliberate indifference towards him and repeatedly ignored his urgent pleas and requests for help and completely denied him medical treatment and refused to loosen his extremely tight ambulatory restraints and subjected him to torture in its worst form for three days (July 8 to July 10, 2013) and inflicted additional ~~severe~~ multiple internal and external injuries and the most agonizing physical and psychological pain and deep traumatic emotional distress and unnecessary and wanton suffering upon him; and the medical staff at USP Lewisburg completely denied him medical treatment for his severe multiple injuries and pain and falsified Regassa's medical records in his central health file from July 8, 2013 through May 27, 2015. Regassa initiated his combined civil rights (Bivens) and FTCA action in the United States District Court for the Middle District of Pennsylvania (Case Caption: Regassa v. Brininger; Case No. 4:14-cv-1122; case status: still pending). However, ~~on August~~ ~~on~~ ~~26,~~ 2016, the district court granted partial summary judgment to the United States and dismissed Regassa's medical malpractice/negligence FTCA claims without prejudice for failure to submit a proper certificate of merit (COM), which was a requirement under Pennsylvania law; M.D. Pa. R. Civ. P. 1042.3. Subsequently, Regassa filed a motion for reconsideration and in the meantime, filed administrative remedies and addressed several issues related to his falsified medical records and

requested his health care providers at his previous institution USP Marion, Illinois) and institutional senior executive staff and high level prison officials at the North Central Regional Office and at the Central Office to provide him a COM and to investigate and verify that his medical records from July 8, 2013 through May 27, 2015 were falsified by the medical staff at USP Lewisburg, Pennsylvania, and Regassa also requested his health care providers at USP Marion and high level prison officials to give him complete medical evaluation or a referral to the outside hospital so as to obtain a thorough medical examination and to obtain a COM from a certified/licensed independent health care practitioner. However, all of Regassa's numerous verbal and written requests and administrative remedies were denied; and because of the refusal of his health care providers and senior executive staff at USP Marion (Randall Pass, Leslee Brooks, Caleb Meyer, Ms. Bagwell, William B. True III, Todd Sloop, and J.M. Powers) and high level prison officials at the North Central Regional Office (Paul Harvey, Richard M. Winter, and Sara M. Revell) and at the Central Office (Ian Connors, General Counsel of the FBOP, and Charles E. Samuels, Jr.), the district court issued a Memorandum and Order dated December 20, 2016 and granted partial summary judgment to several Bivens Defendants and dismissed Regassa's multiple Bivens claims related to (i) the use of excessive force and assault and torture against him (his placement in extremely tight ambulatory restraints for three days) (ii) ordinary negligence or deliberate indifference towards him for three days (July 8 to July 10, 2013) (iii) ordinary negligence or deliberate indifference and/or medical malpractice/negligence towards him by the medical staff while he was in ambulatory restraints and after he came off restraints (iv) his Bivens claims against DHO B. Chambers; and on September 27, 2018, the district court also dismissed Regassa's FTCA claims related to

the use of excessive force and assault and torture (his placement in extremely tight ambulatory restraints) and ordinary negligence or deliberate indifference towards him.

Finally, in summary of his statement of case, Regassa respectfully requests the Supreme Court of the United States to pay full attention and to give careful consideration to the following multiple substantial deprivations of Regassa's basic human rights and dignity and fundamental Constitutional rights because of the respondents' repeated and continued and deliberate acts of conspiracy and retaliation and discrimination and false accusations/false disciplinary reports/false imprisonment and threats and verbal and physical abuse and a campaign of harassment and psychological torture against him for an extended period of time and because of his health care providers' and high level prison officials' refusal or denial to provide him a COM and complete medical evaluation and relevant information and accurate medical data and to investigate and verify his falsified medical records and to give him a referral to the outside hospital for a thorough medical examination by a certified/licensed health care practitioner so as to obtain a COM or accurate medical data and to submit them as strong and compelling factual evidentiary materials in support of his pending civil rights action in the United States District Court for the Middle District of Pennsylvania; and also because of complete and simultaneous deprivation of certain basic services and privileges (telephone, TRULINCS/e-mail mailing labels for legal and personal mail, commissary, and visitation) that were available to other inmates within the BOP in the General Population and in the SOTP-R Program. It should be noted that because of severe undue restrictions that were placed upon him, Regassa never used the telephone for more than fifteen years, and never received visitations for more than twenty years.

WHEREFORE, Regassa respectfully brings the following Constitutional (Bivens) claims against the Bivens Defendants and FTCA claims against the United States to the attention of the Supreme Court of the United States and most reverently asks the Highest Court of the land to vacate the lower courts' decisions and to grant his petition for a writ of certiorari and to revive and to survive all of his Bivens claims and FTCA claims in his Second Amended Complaint (Doc. 29) that was erroneously dismissed by the district court in its entirety with prejudice for failure to state a claim upon which relief may be granted and was improperly affirmed by the appellate court.

(a) his First Amendment retaliation and access to the court claims: serious violations of his First Amendment Constitutional rights to freedom of speech and to use the BOP grievance system and to petition the government for redress of grievances and to have access to the courts (b) his Fifth and Fourteenth Amendment Constitutional rights: serious violations of his fundamental Constitutional rights to due process and equal protection of the law and access to the courts and to be free from arbitrary discrimination (c) his ordinary negligence or deliberate indifference claims: serious violations of his Eighth Amendment rights to be free from cruel and unusual punishment.

## REASONS FOR GRANTING THE PETITION

The Supreme Court of the United States should grant Regassa's petition for a writ of certiorari based on the following strong and compelling reasons and questions of exceptional importance. In his Second Amended Complaint (Doc. 29), Regassa has stated clear and legitimate and viable [actionable] Constitutional claims against the respondents (Total: 60 Bivens Defendants) and clear and legitimate and viable [actionable] FTCA claims against the United States. The district court abused its discretion and highly discriminated against Regassa and expressed gross judicial bias towards him and applied a wrong standard and was obsessively fixated on excessive minimization of Regassa's each and every claim and erroneously dismissed his Second Amended Complaint (Doc. 29) in its entirety with prejudice for failure to state a claim upon which relief may be granted and the appellate court improperly affirmed the district court's erroneous decisions and Order and final judgment.

The decisions of the district court and the panel sharply conflict with (i) the decisions of the U.S. Supreme Court (ii) the decisions of the U.S. Court of Appeals for the Seventh Circuit (iii) the decisions of other U.S. Courts of Appeals that addressed these issues.

The respondents, several defendant prison officials, seriously violated Regassa's basic human rights and dignity and fundamental Constitutional rights (his First, Fifth, Eighth, and Fourteenth Amendment rights) by engaging in repeated and continued and deliberate acts of conspiracy and retaliation and discrimination and false accusations/false disciplinary reports/false imprisonment and ordinary negligence or deliberate indifference and a campaign of

harassment and psychological torture against him over an extended period of time, subjecting him to complete and simultaneous deprivations of certain basic services and privileges (telephone, TRULINCS/e-mail/ mailing labels for legal and personal mail, commissary, and visitation) that were available to other inmates within the BOP in the General Population and the SOTP-R Program and by imposing "atypical and significant hardship" and cruel and unusual punishment conditions of confinement upon him and by refusing to provide him a certificate of merit (COM) and complete medical evaluation and to investigate and verify that his medical records from July 8, 2013 through May 27, 2015 were completely falsified by the medical staff at his previous institution (USP Lewisburg, Pennsylvania) and by denying all of his requests for a referral to the outside hospital so as to obtain a thorough medical examination, a COM, and accurate medical data from a certified/licensed independent health care practitioner for his pending civil rights action in the U.S. District Court for the Middle District of Pennsylvania. The Defendants used corrupt and malicious and manipulative and abusive bureaucratic tactics and practices and maneuvers and overtures and machinations and meticulously calculated longterm strategies and overt and covert conspiratorial and retaliatory and discriminatory tactics to direct the multiplicity of adverse actions towards him and infringe upon his basic human rights and dignity and fundamental Constitutional rights.

Therefore, as a matter of law and fairness and justice and most sacred fundamental golden guiding principles enshrined in the United States Constitution, it is highly important and absolutely necessary for the U.S. Supreme Court to exercise its mandate and discretion and jurisdiction and supervisory power and judicial authority and

Constitutional prerogatives to reveal the truth and to render justice to grant Regassa's petition for a writ of certiorari and to review and to reverse the lower court's erroneous decisions and Orders and final judgments and to revive and to survive all of Regassa's Bivens claims and FTCA claims in his Second Amended Complaint (Doc.29).

Regassa has adequately stated First, Fifth, Eighth, and Fourteenth Amendment Constitutional claims agaisnt the Bivens Defendants and FTCA claims against the United States. Specifically, Regassa asserted (1) First Amendment retaliation and access to the courts claims (2) Fifth and Fourteenth Amendment denial of due process and equal protection of the law and access to the courts (3) ordinary negligence or deliberate indifference and/or medical malpractice/negligence Eighth Amendment claims against the respondents, several defendant prison officials; and (4) ordihary negligence or deliberate indifference FTCA claims (5) Intentional Infliction of Emotional Distress FTCA claims (6) False Imprisonment FTCA claims (7) Intentional Tort of Assault FTCA claims against the United States.

However, the district court abused its discretion and highly discriminated and expressed gross judicial bias agaist Regassa and applied a wrong standard and obssesively attacked and excessively minimized his each and every claim and erroneously dismissed his Second Amended Complaint (Doc. 29) in its entirety with prejudice for failure to state a claim upon which relief may be granted; and the panel improperly affirmed the district court's erroneous decisions and Order and final judgment.

The decisions of the district court and the panel conflict with the decisions of the U.S. Supreme Court and with the decisions of the U.S. court of Appeals for the Seventh Circuit and with the decisions of other U.S. Courts of Appeals and the lower Federal Courts.

of other U.S. Courts of Appeals that addressed these issues.

The Supreme Court of the United States repeatedly affirmed that one of the fundamental rights within the due process clause of the Fourteenth Amendment is the right of access to the courts. Bounds v. Smith (1977) 430 U.S. 817. It appears well established by the decisions of the Supreme Court that prisoners have a Constitutional right of access to the courts. Davis, Russell J., 52 L. Ed. 2d 779; Ex parte Hull (1941) 312 U.S. 546; Cochran v. Kansas (1942) 316 U.S. 255; Cruz v. Hauck (1971) 404 U.S. 59; Cruz v. Beto (1972) 405 U.S. 319; Procunier v. Martinez (1974) 416 U.S. 396; Wolf v. McDonnell (1974) 418 U.S. 539; Johnson v. Avery (1969) 393 U.S. 483; Younger v. Gilmore (1971) 404 U.S. 15; Lewis v. Casey (1996) 518 U.S. 343.

In Cruz v. Beto, the court remarked that the First amendment right to petition the government for redress of grievances includes the right of prisoners to the access of the courts. The court stated that persons in prison, like other individuals, have the right to petition the government for redress of grievances, which includes "access of prisoners to the courts for the purpose of presenting their complaints." It was stated that "the reason why ... retaliation offends the Constitution is that it threatens to inhibit exercise of the protected right." Crawford-El v. Britton (1998) 523 U.S. 534. In Lewis v. Casey, it was held that prison law libraries and legal assistance programs are not ends in themselves, but only means for insuring reasonably adequate opportunities to present claimed violations of fundamental Constitutional rights to court.

It is well settled that prison officials may not retaliate against or harass an inmate because of the inmate's exercise of his right of access to the courts. Gee v. Pacheco, 627 F.3d 1178 (10th Cir. 2010); Smith v. Maschner, 899 F.2d 940 (10th Cir. 1990); Williams v. Meese, 922 F.2d 344 (10th Cir. 1991).

926 F.2d 994 (10th Cir. 1997); The U.S. Court of Appeals for the Seventh Circuit stated that submitting grievances is a protected activity. Pearson v. Welborn, 471 F.3d 732 (7th Cir. 2006); Hasan v. DOL, 400 F.3d 1001 (7th Cir. 2005); Watkins v. Karper, 599 F.3d 791 (7th Cir. 2010).

Courts have held that, despite the deference owing to the decisions of prison officials, retaliation against a prisoner's exercise of Constitutional rights is actionable. Prison officials may not retaliate against an inmate because of the inmate's exercise of First Amendment rights. Retaliation against an inmate is forbidden even if the act, taken for a different purpose, would have been proper. Metzker v. Herr, 748 F.2d 1142 (7th Cir. 1984); David v. Travisono, 495 F.2d 562 (1st Cir. 1974); Thadeus-X v. Blatter, 175 F.3d 541 (6th Cir. 1999); Bridges v. Gilbert, 557 F.3d 541 (9th Cir. 2009). Constitutional right of access to the courts applies to civil as well as Constitutional claims and "ensures that all citizens have the right to sue and defend in courts" and has a "particular application" for prisoners ... "raising civil rights claims about the conditions of their confinement." Jackson v. Procunier, 789 F.2d 307 (5th Cir. 1986); Phillips v. Hust, 477 F.3d 1171 (9th Cir. 2007); Morello v. James, 810 F.2d 344 (2d Cir. 1987).

Most often, retaliation is a distinct and independent form of discrimination, motivated by a discrete intention, to punish a person who has rocked the boat by complaining about an unlawful activity. Ruffino v. State St. Bank & Trust Co., 908 F. Supp. 1019 (D. Mass. 1995); Tinkham v. Flatley, 2004 WL 1746070 at \*12; Walker v. Bertrand, et al., 40 Fed. Appx. 988 (7th Cir. 2002).

Vast majority of courts now recognize that a prisoner has the right to petition the court not only for his or her conviction but also to challenge the Constitutionality of the conditions of his or her confinement. Souza v. Travisono, 498 F.2d 1120 (1st Cir. 1974); Nolan v. Scafati, 430 F.2d 548 (1st Cir. 1970); Wright v. McMann, 378 F.2d 519 (2d Cir. 1967); Bourdon v. Loughren, 386 F.3d 88 (2d Cir. 2004); Ramos v. Lamm, 639 F.2d 559 (10th Cir. 1980).

Some courts have also held that prison officials' refusal to mail a prisoner's legal mail or tampering with his legal mail would constitute actionable violations of the prisoner's right to access the courts. McCray v. Sullivan, 509 F.2d 1332 (5th Cir. 1975); Coleman v. Crisp, 444 F. Supp. 2d 31 (WD Okla. 1997); Jensen v. Klecker, 648 F.2d 559 (8th Cir. 1981); Johnson v. Texas Dept. of Corr., in §9.2; Jones v. Diamond, 594 F.2d 462 (5th Cir. 1979); Taylor v. Sterrett, 532 F.2d 462 (5th Cir. 1976); Hart v. Hairston, 343 F.3d 762 (5th Cir. 2003). In Hart v. Hairston, 42 USCS §1997e states: "No person reporting the conditions which may constitute violation under this Act shall be subjected to retaliation for so reporting."

Accordingly, Regassa had stated legitimate actionable Constitutional violations of his fundamental rights to access the courts because some of the defendants, prison officials, at his previous institution (USP Marion, Illinois) refused to accept and process and/or lost or destroyed or tampered with his administrative remedy legal mails.

The right of access to the courts must be "adequate, effective, and meaningful," and must be freely exercisable without hindrance or fear of retaliation. Ferranti v. Moran, 618 F.2d 888 (1st Cir. 1980); Hudspeth v. Figgins, 584 F.2d 134 (4th Cir. 1978); Garland v. Polley, 594 F.2d 1220 (8th Cir. 1979).

In Booker v. S.C. Dept. of Corr., 855 F.3d 533 (4th Cir. 2016), the court issued a decision, "holding that prisoners have clearly established right under First Amendment" to file a prison grievance free from retaliation; Martin v. Duffy, 858 F.3d 239 (4th Cir. 2017) "explaining that the right identified in Booker was clearly established at least as far back in time as 2010." Also see Thompson, Jr. v. Common Wealth of Virginia, 878 F.3d 89 (4th Cir. 2008); Haynes v. Stephenson, 588 F.3d 1152 (8th Cir. 2009); Bibbs v. Early, 541 F.3d 267 (5th Cir. 2008).

A plaintiff may state a First Amendment retaliation claim where he alleges facts establishing that (1) he engaged in a protected conduct (2) the defendant took adverse action against him; and (3) the adverse action was motivated by the protected conduct. Thomas v. Eby, 481 F.3d 434 (6th Cir. 2007); Rhodes v. Robinson, 408 F.3d 559 (9th Cir. 2005); Waterman v. Batton, 393 F.3d 471 (4th Cir. 2005); Graham v. Henderson, 89 F.3d 75 (2d Cir. 1996).

It was held that although a prisoner does not have a Constitutional right to remain at a particular prison, prison officials do not have "unbridled discretion" to transfer inmates in retaliation for exercising their Constitutional rights. Frazier v. Dubois, 922 F.2d 560 (10th Cir. 1990); Howland v. Kilquist, 833 F.2d 629 (7th Cir. 1987); An inmate's allegations that he was transferred to another prison in retaliation for having earlier filed an action against prison officials suffices to state a cause of action. Oropallo v. Parrish, 23 F.3d 394 (1st Cir. 1994); McDonald v. Hall, 610 F.2d 16 (1st Cir. 1979). In Hill v. Lappin, 630 F.3d 468 (6th Cir. 2010), the court held that a complaint based on his placement in segregated housing and threats to transfer him to a lock-down unit in retaliation for filing grievance stated a non frivolous retaliation claim. Also see Bragg v. Ann Klein Forensic Center, 30 F.3d 832 (8th Cir. 1994).

2010 U.S. dist. LEXIS 11520 (DC NJ 2010).

Courts held that plaintiff's allegations that prison officials transferred him in retaliation for filing grievances, if taken as true, satisfied the pleading requirements of a retaliation claim and were the very archetype of cognizable First Amendment retaliation claim. Silva v. Di Vittorio, 658 F.3d 1090 (9th Cir. 2011); Cornell v. Woods, 69 F.3d 1383 (8th Cir. 1995); Adams v. James, 784 F.2d 1077 (11th Cir. 1986); Bridges v. Russell, 757 F.2d 1155 (11th Cir. 1985). In Plummer v. Riley, 720 F. Appx. 144 (4th Cir. 2018), the court vacated the district court's judgment on the retaliation claim holding that because plaintiff had a clearly established right to file a grievance without being subjected to retaliation the defendant is not entitled to qualified immunity on the retaliation claim. Also see Nicholas v. Montello, 1996 U.S. App. LEXIS 30190 (2d Cir. 1996); Jermosen v. Coughlin, 745 F. Supp. 128 (WD NY 1990); Ziemba v. Thomas, 390 F. Supp. 2d 136 (DC Conn. 2005); Hall v. Sutton, 755 F.2d 786 (11th Cir. 1985); Sheffield v. Twaddle, 145 F. Appx. 44 (5th Cir. 2005).

Courts recognize that "filing a grievance is a protected activity" and "filing disciplinary charge is actionable under §1983 if done in retaliation. Dixon v. Brown, 38 F.3d 379 (8th Cir. 1994); Sprouse v. Babcock, 870 F.2d 450 (8th Cir. 1989).

Although prison officials may not retaliate against inmates for exercising their Constitutional rights, the courts consider such claims with skepticism and require that they be supported by specific and detailed facts because claims of retaliation are easily fabricated; conclusory statements are not sufficient. Dawes v. Walker, 239 F.3d 489 (2d Cir. 2001); Riddick v. Amone, 2012 U.S. Dist. LEXIS 94718 (DC Conn. July 9, 2012); Adams v. Rice, 40 F.3d 72 (4th Cir. 1994);

Harron v. Harrison, 203 F.3d 410 (6th Cir. 2000); In Wolf v. McDonnell, and Conner v. Sakai, 15 F.3d 1463 (9th Cir. 1993), plaintiff is entitled to call witnesses at a disciplinary hearing.

In order to plead a claim under §1983, the plaintiff must allege that the defendant (1) acted under the color of state law (2) deprived him of a Constitutionally protected right (3) his Constitutionally protected conduct was a substantial or motivating factor in the decision to discipline him. Washington v. James, 782 F.2d 1134 (2d Cir. 1986); Carter v. McGrady, 292 F.3d 157 (3d Cir. 2001); Townsend v. Muckle, et al., 2018 U.S. Dist. LEXIS 188741 (D. Conn. 2018). The U.S. Court of Appeals for the Sixth Circuit recently observed that the "egregious abuse of governmental power" in the form of retaliation [against a prisoner by prison officials] for exercising his First Amendment right to register a complaint about inadequate prison policies was sufficient to state a claim for deprivation of First Amendment rights in violation of 42 USCS §1983. Cale v. Johnson, 861 F.2d 943 (6th Cir. 1988). Courts held that a cognizable First Amendment retaliation claim was stated where the inmate alleged he had been kept in segregation in retaliation for his involvement in prior suits and his use of prison grievance system since retaliation for pursuing a grievance violated right to petition for redress of Constitutionally guaranteed grievances. Ebron v. Huria, 2000 U.S. App. LEXIS 1863 (2d Cir. 2000); Garcia v. Smith, 666 Fed. Appx. 581 (9th Cir. 2016); Manning v. Bolden, 25 Fed. Appx. 269 (6th Cir. 2001).

The U.S. Court of Appeals for the Second Circuit has previously instructed district courts to "approach prisoner retaliation claims with skepticism because virtually any adverse action taken against a prisoner by a prison official - even those otherwise not rising to the level of

a Constitutional violation - can be characterized as a Constitutionally proscribed retaliatory act. An adverse action is a "conduct that would deter a similarly situated individual of ordinary firmness from exercising his or her Constitutional rights." Davis v. Goord, 320 F.3d 346 (2d Cir. 2003); In Flaherty v. Coughlin, 713 F.2d 10 (2d Cir. 1983), the court required that retaliation claims be "supported by specific and detailed factual allegations," not stated "in wholly conclusory terms." A prisoner may establish a First Amendment retaliation claim by showing that prison officials retaliated against him for exercising his right to free speech. O'Bryant v Finch, 537 F.3d 1207 (11th Cir. 2011); Smith v. Mosley, 532 F.3d 1170 (11th Cir. 2008).

The U.S. Court of Appeals for the Ninth Circuit observed that a retaliation claim may assert an injury no more than a chilling effect on First Amendment rights (noting that "this court has reaffirmed that prisoners may still base retaliation claims on harms that would not raise due process concerns.") Hines v. Gomez, 108 F.3d 265 (9th Cir. 1997). It was established that a six-month gap was not too long to establish a causal relationship between the existence of a ... right and allegedly retaliatory action. Espinal v. Goord, 558 F.3d 119 (2d Cir. 2009); Allegation that inmate was transferred to a harsher prison in retaliation for filing grievances met de minimis threshold of actionable retaliation claim that should have survived summary judgment, as transfer to a more dangerous prison as penalty for exercise of First Amendment right had potential to deter inmate from future exercise of those rights. Morris v. Powell, 449 F.3d 682 (5th Cir. 2006).

In Watson v. Rozum, 834 F.3d 417 (3d Cir. 2016), the court held that for purposes of the plaintiff's retaliation claim, we cannot discern

a substantive distinction between retaliation for informing prison officials of an intent to file a grievance or requesting the necessary forms to do so on the one hand, and actually filing such a grievance on the other. Accordingly, the record is sufficient to establish the first prong of plaintiff's *prima facie* case of retaliation.

Also see Mitchell v. Horn, 318 F.3d 523 (3d Cir. 2003); Raub v. Campbell, 785 F.3d 875 (4th Cir. 2015).

Courts held that pro se pleadings must be construed liberally.

King v. Rubenstein, 825 F.3d 206 (4th Cir. 2016); Houseknecht v. Doe, 653 F. Supp. 2d 547 (ED Pa. 1974); Yang v. Archuleta, 525 F.3d 925 (10th Cir. 2008); Fogle v. Pierson, 435 F.3d 1252 (10th Cir. 2006).

The U.S. Court of Appeals for the Seventh Circuit consistently affirmed that prison officials may not retaliate against inmates for filing nonfrivilous grievances or otherwise complaining about their conditions of confinement. Gomez v. Randle, 680 F.3d 859 (7th Cir. 2012); Walker v. Thompson, 288 F.3d 1005 (7th Cir. 2012); Hoskins v. Lenear, 395 F.3d 372 (7th Cir. 2002); Cain v. Lane, 857 F.3d 1139 (7th Cir. 1988); Babcock v. White, 102 F.3d 267 (7th Cir. 1996); Malone v. Heidemann, 2016 U.S. Dist. LEXIS 95422 (SD Ill. 2016); Novoselsky v. Brown, 822 F.3d 342 (7th Cir. 2016).

The U.S. Court of Appeals for the Seventh Circuit held that prisoner stated claim under §1983, where prisoner claimed false disciplinary proceedings were brought in retaliation for filing grievances, because such action would violate substantive due process. Geder v. Godinez, 875 F. Supp. 1334 (ND Ill. 1997); Eglin v. Peters III, et al., 1994 U.S. App. LEXIS 5433 (7th Cir. 1994); Williams v. Snyder, 150 Fed. Appx. 549 (7th Cir. 2005). Also see Dewalt v. Carter, 224 F.3d 607 (7th Cir. 2000).

The U.S. Court of Appeals for the Second Circuit held that the district court erroneously granted corrections officers' motion for judgment on a prisoner's 42 USCS §1983 claims of retaliation and deprivation of due process at disciplinary hearings because the district court improperly applied summary judgment standards and placed the burden of proof on the prisoner. Chavis v. Zodlow, 128 Fed. Appx. 800 (2d Cir. 2005).

A prisoner has a cause of action when the prisoner alleges that prison officials filed disciplinary charges based on false allegations against a prisoner in retaliation for the prisoner's participation in grievance against prison officials. Henderson v. Baird, 29 F.3d 464 (8th Cir. 1994); Gibbs v. King, 779 F.2d 1040 (5th Cir. 1986); Wildberger v. Bracknell, 869 F.2d 1467 (11th Cir. 1989).

A prisoner alleging that he was subjected to a series of conspiratorially planned disciplinary actions in retaliation for filing a pro se civil rights suits against prison officials states a cause of action for the infringement of the prisoner's First Amendment right of access to the courts. Milhouse v. Carlson, 652 F.2d 371 (3d Cir. 1981); Allah v. Seiverling, 229 F.3d 220 (3d Cir. 2000); Prison officials may not impose a disciplinary sanction against a prisoner in retaliation for the prisoner's exercise of his Constitutional rights. Goff v. Burton, 91 F.3d 1188 (8th Cir. 1996). On appeal, an inmate's First Amendment retaliation claim survived dismissal under 28 USCS §1915(e)(2)(B)(ii) because the complaint alleged, *inter alia*, his supervisor filed a false incident report against him in retaliation for filing grievances. Bonaparte v. Beck, 374 F. Appx. 351 (3d Cir. 2010). Also see Giano v. Goord, 380 F.3d 670 (2d Cir. 2004); Mitchell v. Farcass, 112 F.3d 1483 (11th Cir. 1994); Long v. Norris 929 F.3d 1111 (6th Cir. 1991); Pastor-Mitchell v. Farcass.

Deen-Mitchell v. Lappin, 514 Fed. Appx. 81 (3d Cir. 2013);

Thompson v. Pitkins, 514 Fed. Appx. 88 (3d Cir. 2013).

Courts held that the prisoner had articulated a First Amendment retaliation claim where the retaliation allegedly took the form of the corrections officers, *inter alia*, submitting false misbehavior reports that resulted in the prisoner's placement in prison "keeplock." Gill v. Pidlypchack, 389 F.3d 379 (2d Cir. 2004); Scott v. Coughlin, 344 F.3d 282 (2d Cir. 2003); Remeidio v. Woodford, 173 Fed. Appx. 173 Fed. Appx. 636 (9th Cir. 2006); Nei v. Dooley, 372 F.3d 1003 (8th Cir. 2004); Patterson v. Godward, 370 Fed. Appx. 608 (6th Cir. 2010) (wherin he complained that he was the victim of false misconduct reports, and retaliation for complaining about those reports, which led to the imposition of various restrictions and other adverse actions).

It was held that a prisoner stated a First Amendment retaliation claim by claiming that numerous actions were directed at him in retaliation for filing grievances. Also see Dawes v. Selsky, 1999 U.S. App. LEXIS 14009 (2d Cir. 1999); Davidson v. Bennis, 1998 U.S. App. LEXIS 14710 (2d Cir. 1998).

If a prisoner makes a prima facie case, the burden of proof shifts to the prison officials to show that "they would have made the same decision absent the protected conduct for reasons reasonably related to a legitimate penological interest." Rauser v. Horn, 241 F.3d 330 (3d Cir. 2001); Mack v. Loretto, 839 F.3d 286 (3d Cir. 2016); Gayle v. Gonyea, 313 F.3d 677 (2d Cir. 2002); Rodriguez v. McClenning, 399 F. Supp. 2d 228 (S.D. N.Y.).

In the following cases, the courts reversed the district court's grant of motion for summary judgment or dismissal of prisoner's 42 USCS §1983 suits against prison officials pursuant to 28 USCS §1915

(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted. The court concluded that pleading and attached grievances sufficiently pled denial of access to the courts. Montana v Hargett, 151 Fed. Appx. 633 (10th Cir. 2005); Thompson v. Washington, 362 F.3d 969 (7th Cir. 2004); Tuttle v. Semple, 2018 U.S. Dist. LEXIS 35842 (D. Conn. 2017); Burns v. Swensen, 430 F.2d 271 (8th Cir. 1970); Dace v. Solem, 858 F.2d 385 (8th Cir. 1998); Higgs v. Carver, 286 F.3d 4737 (7th Cir. 2002); Snider v. Dylag, 180 F.3d 51 (2d Cir. 1999); Jacobs v. Beard, 172 Fed Appx. 452 (3d Cir. 2006); Washington-El v. Duguglielmo, 419 Fed. Appx. 275 (2d Cir. 2011); Kennedy v. Boneville, 413 Fed. Appx. 836 (6th Cir. 2011); Wright v. Newsome, 795 F.2d 964 (11th Cir. 1986).

It was held that a prisoner can state a claim for retaliatory treatment by alleging the chronology of events and circumstantial evidences from which retaliation can be plausibly inferred including naming defendants and providing the place and time of the events and temporal proximity between the protected activity and the adverse action. Johnson v. Stovall, 233 F.3d 486 (7th Cir. 2000); Colon v. Coughlin, 58 F.3d 865 (2d Cir. 1995); Bennett v Goord, 343 F.3d 133 (2d Cir. 2003); Jemison v. Mitchell, 380 Fed. Appx. 904 (11th Cir. 2010); Mullane v. Central Hanover Tr. Corp. (1950) 339 U.S. 306.

Where the inmate alleged that officials of the state department of criminal justice conducted disciplinary proceedings in a manner that violated the inmate's Constitutional rights, the court held that the district court's sua sponte dismissal of the inmate's 42 USCS §1983 complaint as frivolous pursuant to 28 USCS §1915(d) constituted abuse of discretion. Gartrell v. Gaylor, 981 F.2d 254 (5th Cir. 1993).

In Franco v. Kelly, 854 F.2d 584 (2d Cir. 1988), appellant inmate alleged that appellees' disciplinary report was part of a pattern of

false disciplinary actions against him in retaliation for his cooperation with an investigation into reported incidents of inmate abuse. The court reversed the decision of the district court and held that his complaint did implicate his broader right to petition the government for redress of grievances under U.S. Const. Amend. I, XIV and that appellant was not any less entitled to relief under §1983 because he complaining to a state administrative agency rather than to a court of law. Also see Moore v. Plaster, 266 F.3d 928 (8th Cir. 2001); Wood v. Smith, 60 F.3d 1161 (5th Cir. 1995); Dolan v. Connolly, 794 F.3d 290 (2d Cir. 2015); Haley v. Dormire, 845 F.2d 1488 (8th Cir. 1988).

In Woods v. Peters III, 980 F.2d 733 (7th Cir. 1992), it was held that "because the Constitution protects an inmate's access to the courts, prison officials may not retaliate against those who seek or obtain such access ... whether the retaliation takes the form of withholding property or privileges does not matter. It was also stated that "although an inmate need not support his claim of retaliation with direct evidence of prison officials' intent, the inmate must allege a chronology of events from which retaliation may be inferred." Also see Zimmerman v. Tribble, 226 F.3d 568 (7th Cir. 2000); Baltoski v. Pretorius, 291F. Supp. 2d 807 (ND Ind. 2003).

In the following cases, the district courts' judgments were vacated and prisoners' U.S. Const. Amend. I retaliation claims were remanded back for further proceedings. Johnson v. Burge, 506 Fed. Appx.10 (2d Cir. 2012); Gill v. Calescibetta, 157 Fed. Appx. 395 (2d Cir. 2005); Robles v. Evans, 480 Fed. Appx. 86 (2d Cir. 2012); Green v. Black, 755 F.2d 687 (8th Cir. 1985); Rollie v. Kemna, 124 Fed. Appx. 471 (8th Cir. 2005); Watison v. Carter, 668 F.3d 1108 (9th Cir. 2012); Jones v. williams, 791 F.3d 1023 (9th Cir. 2015); Wilson v. Silcox,

150 F. Supp. 2d 1345 (ND Fla. 2001).

Also see Bell v. Johnson, 308 F.3d 594 (6th Cir. 2002); Bruce v. Ylst, 351 F.3d 1283 (9th Cir. 2003); Brown v. Croak, 312 F.3d 109 (3d Cir. 2002); Macias v. Zenk, 495 F.3d 37 (2d Cir. 2007); Spies v. Voinovich, et al., 173 F.3d 398 (6th Cir. 1999); Tuckel v. Grover, 660 F.3d 1249 (10th Cir. 2011); Breierle v. Zavares, 2000 U.S. App. LEXIS 13916 (10th Cir. 2000).

In Siggers-El v. Barlow, 433 F. Supp. 2d 16 (ED Mich. 2006), it was held that a prisoner's mental and emotional damages may proceed even in the absence of physical injury - based on the prison officials' flagrant violations of his First Amendment rights. "Actual injury requirement of the PLRA does not apply to First Amendment rights."

The Eighth Amendment imposes a duty of prison officials to take reasonable measures to guarantee an inmate's safety and to ensure that inmates receive adequate medical care. Farmer v. Brennan (1994) 511 U.S. 825.

A prisoner in a Texas state prison intituted a civil rights action under 42 USCS §1983 agaisnt certain prison officials, alleging that the defendants had violated the cruel and unusual punishment clause of the Eighth Amendment by failing to provide adequate medical treatment after the prisoner sustained a back injury while performing prison work. The district court dismissed the complaint for failure to state a claim upon which relief may be granted, but the U.S. Court of Appeals for the Fifth Circuit reversed and remanded. On certiorari, the United States Supreme Court reversed and remanded. IN an opinion, it was held that "deliberate indifference to a prisoner's serious medical needs .. constituted cruel and unusual punishment under the Eighth Amendment and gave rise to civil rights cause of action under USCS §1983, regardless of whether the indifference was manifested by the prison doctors in their

their response to the prisoner's needs or by prison guards in intentionally delaying access to medical care or intentionally interfering with treatment once prescribed. Estelle v. Gamble (1976) 429 U.S. 97; Morales v. Dr. Mackalm, 278 F.3d 126 (2d Cir. 2002).

In Kaba v. Stepp, 458 F.3d 678 (7th Cir. 2006), appellant prisoner sought review of a judgment from the United States District Court for the Southern District of Illinois, which dismissed his action alleging that prison officials, including his case manager, violated his Eighth Amendment Constitutional rights. The prisoner contended that during his incarceration, his case manager denied him grievance forms, threatened him, and solicited other inmates to attack him for filing grievances. On review, the United States Court of Appeals for the Seventh Circuit reversed and remanded. Also see Harris v. Flameing, 839 F.2d 1232 (7th Cir. 1999); Glick v. Walker, 272 Fed. Appx. 514 (7th Cir. 2008); Reed v. McBride, 178 F.3d 849 (7th Cir. 1999).

To state a claim under §1983 based on alleged violations of the equal protection clause, plaintiff "must allege facts indicating that compared with others similarly situated, plaintiff was selectively treated ... based on impermissible considerations such as race, religion, intent to inhibit or punish the exercise of Constitutional rights or malicious or bad faith to injure a person." Barrington Cove Ltd. P'ship v. R.I. Hous. & Mrtg. Finz. Corp., 246 F.3d 1 (1st Cir., 2001).

It was held that "conditions of confinement of inhuman and barbaric proportions which shock the conscience of the court constitute cruel and unusual punishment and are actionable under Civil Rights Act." Newsome v. Sielaff, 375 F. Supp. 1189 (ED Pa. 1974).

Eighth Amendment permits use of force to subdue violent prisoner but does not allow infliction of pain in retaliation for previous episode of violence. Mitchell v. Keane, 974 F. Supp. 332 (2d Cir. (1197).

In Campise v. Hamilton, 382 F. Supp. 172 (5ht Cir. 1974), the court entered judgment in favor of the inmate and held that inmate's placement in solitary confinement jail cell ... constituted cruel and unusual punishment. In Hernandez v. Lattimore, 612 F.2d 61 (2d Cir. 1979), regarding Federal Tort Claims Act (FTCA) action, it was noted that "assault" is an intentional placing of another person in fear of imminent harmful or offensive contact", whereas "battery" is an intentional wrongful physical contact with another person without consent. In Rivera v. Senkowski, 62 F.3d 80 (2d Cir. 1995), it was held that prison officials did not have qualified immunity from damages liability in 42 USCS §1983 action by prisoner who alleged that prison officials discriminated against him for filing grievances by reclassifying him, where at the time of the complaint law was clearly established that prisoner had right to be free from retaliation for filing grievances.

Courts have held that compensatory damages are available to plaintiffs asserting claims of intentional discrimination. Williams v. Hayman, 657 F. Supp. 2d 488 (DC NJ 2008).

In Martin v. Wainwright, 525 F.2d 983 (5th Cir. 1976), plaintiff filed racial discrimination claim under 42 USCS §1983 and the district court dismissed the complaint without hearing on the ground that the internal operations of a prison was a state function to be interfered with only in exceptional circumstances and plaintiff sought review. The U.S. court of Appeals for the Fifth Circuit reversed and remanded the matter because, although the plaintiff's allegations were bare, they were not so insufficient to require dismissal of the complaint ... because the issue referenced in the complaint would constitute racial discrimination.

In Johnson v. California, 207 F.3d 650 (9th Cir. 2000), the District Court for the Southern District of California dismissed plaintiff inmate's racial discrimination claims. The defendant asserted action was time-barred and failed to state a claim. The U.S. Court of Appeals for the Ninth held that the allegations of discrimination was sufficient to state a claim of racial discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

In Farver v. Schwartz, 255 F.3d 473 (8th Cir. 2001), the United States District Court for the Eastern District of Arkansas dismissed the case pursuant to Fed. R. Civ. P. 12(b)(6) for failure to state a claim. The prisoner stated §1983 claim that correctional officer wrote false disciplinary report against him in retaliation for grievances filed against the corrections officer. The district court erred in dismissing the inmate's §1983 claim, and the appellate court reversed in part and remanded the case.

In Lee v. Washington(1986) 390 U.S. 333, the United States District Court for the Middle District of Alabama, sitting in a three-judge panel, entered a decree and declared that certain Alabama statutes violated the Fourteenth Amendment to the extent that they required segregation of races in prisons and jails. On direct appeal, the Supreme Court of the United States affirmed.

As can be seen from the extensive list of case laws from authoritative legal citations, Petitioner, Plaintiff-appellant Admassu Regassa, has adequately stated actionable Constitutional claims against the Bivens Defendants . However, the district court erroneously dismissed his Second Amended Complaint (Doc. 29) in its entirety with prejudice for failure to state a claim upon which relief may be granted , and the panel improperly affirmed the district court's erroneous decisions and

Order and final judgment. The decisions of the district court and the panel highly conflict with the decisions of the U.S. Supreme Court and with the decisions of the U.S. Court of Appeals for the Seventh Circuit and with the decisions of other U.S. Courts of Appeals that addressed these issues. Regassa has sufficiently asserted First Amendment retaliation and access to the courts claims because he provided the three prongs of retaliation claim: (1) he was engaged in a protected activity - filing grievances against prison officials in regards to multiple aspects of the conditions of his confinement (2) he suffered adverse actions as a consequence of his exercise of his Constitutionally protected rights - prison officials filed numerous false incident reports against him in retaliation for his exercise of a protected conduct and placed him on solitary confinement and directed other adverse actions towards him (3) there is a causal connection between Regassa's Constitutionally protected rights (filing grievances) and the defendants' adverse actions - Regassa has provided specific and detailed factual information and a chronology of events and circumstantial evidences and names of defendants who filed false incident reports against him and the place and time of the incidents and temporal proximity between his filing of grievances and the adverse actions and also submitted copies of grievances and relevant facts as exhibits from which retaliation can be plausibly inferred.

Regassa has sufficiently alleged serious violations of his Fifth and Fourteenth Amendment rights to due process and equal protection of the law and access to the courts because compared with others similarly situated, the defendants selectively treated him based on his race and national origin and ethnic background and gender and sexual orientation and his status as a prisoner (his past criminal convictions and his past incident reports) and conspired and retaliated and discriminated

and waged a campaign of harassment and psychological torture against him and without a due process completely and simultaneously deprived him of certain basic services and privileges (telephone, TRULINCS/e-mail mailing labels for legal and personal mail, commissary, and visitation) that were available to other inmates within the BOP in the General Population and in the SOTP-R Program. Some of the defendants also violated Regassa's due process rights because they denied him fair and impartial investigations and UDC hearings and DHO hearings and denied his requests to call some of his witnesses, to provide evidences in his defense; and some of the defendants refused to accept and process some of his administrative remedies and/or lost or destroyed or tampered with his administrative legal mails.

Regassa also sufficiently pled serious violations of his First, Fifth, Eighth, and Fourteenth Amendment Constitutional rights wherein he alleged and provided concrete factual evidentiary information that the Defendants conspired and retaliated and discriminated and waged a campaign of harassment and psychological torture against him and falsely accused him/filed numerous false incident reports against him and found him guilty of false incident reports that he never committed and falsely imprisoned him in the SHU and placed him on solitary confinement and, without a due process, completely and simultaneously deprived him of certain basic services and privileges (telephone, TRRULINCS/e-mail mailing labels for legal and personal mail, commissary, and visitation) that were available to other inmates within the BOP in the General Population and in the SOTP-R Program and subjected him to "atypical and significant hardship" and cruel and unusual punishment conditions of confinement and effectively prevented him from having access to reading materials and the mass media and

legal support groups and legitimate private businesses and human rights organizations and nonjudicial branches of government.

Finally, Regassa has sufficiently stated ordinary negligence or deliberate indifference and/or medical malpractice/negligence claims under the Eighth Amendment of the United States Constitution because he provided specific and detailed facts wherein his health care providers and institutional senior executive staff and high level prison officials in the North Central Regional Office and in the Central Office denied all of his numerous verbal and written requests and administrative remedies and refused to provide him a certificate of merit (COM) and complete medical evaluation and to investigate and verify that his medical records from July 8, 2013 through May 27, 2015 were completely falsified by the medical staff at his previous institution (USP Lewisburg, Pennsylvania) and refused to give him a referral to the outside hospital for a thorough medical examination and to obtain a COM from a certified/licensed independent health care practitioner.

WHEREFORE, Regassa respectfully requests the Supreme Court of the United States to review and to reverse the decisions and Orders and final judgments of the district court and the panel and to grant his petition for a writ of certiorari because he has sufficiently stated clear and legitimate and viable [actionable] Constitutional claims against the Bivens Defendants and clear and legitimate and viable [actionable] FTCA claims against the United States and the district court erroneously dismissed his Second Amended Complaint (Doc. 29) in its entirety with prejudice for failure to state a claim upon which relief may be granted and the panel improperly affirmed the district court's erroneous decisions and Order and final judgment and the application of the statute of limitations.

the decisions of the district court and the panel conflict with the decisions of (i) the U.S. Supreme Court (ii) the U.S. Court of Appeals for the Seventh Circuit (iii) other U.S. Courts of Appeals that addressed these issues.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Admassu Regassa

Admassu Regassa

Date: May 21, 2019