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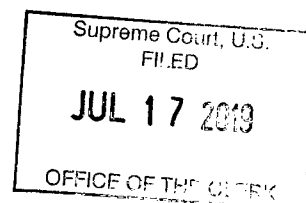
No. _____

LEGAL MAIL

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IN THE

SUPREME COURT OF THE UNITED STATES



Tyrone Murray — PETITIONER
(Your Name)

vs.

Wanda Collins, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States Court of Appeals for the ELEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

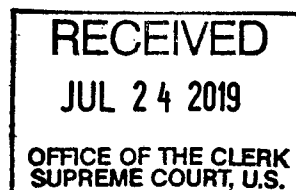
PETITION FOR WRIT OF CERTIORARI

Tyrone Murray DC# U34405
(Your Name)

Florida State Prison; Main Unit, P.O. Box 800
(Address)

Raiford, FL 32083
(City, State, Zip Code)

N/A
(Phone Number)



QUESTION(S) PRESENTED

- I. Whether a pro se inmate complaint in a "Conspiracy to Commit Murder" lawsuit must contain "Specific facts" and/or is subjected to a "Heightened Pleading Standard" in the light of Fed. R. Civ. P. 8(a)(2), at the Complaint stage?
- II. Whether free speech protects a prison inmate from retaliation from prison officials via a disciplinary report (DR) as a consequence for filing grievances and/or prison grievances against prison officials and/or complaining about prison conditions?
- III. Whether the Eleventh Circuit abused its discretion by failing to give me a chance to file an initial brief?

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:

Asst. Warden P. Allen

Major R. Hester

Capt. M. Kelly

Capt. T. Sanders

Lt. D. Phillips

Sgt. B. Turner

Sgt. C. Roebuck

Sgt. J. Kramer

Mailroom Staff B. Anderson

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STATUTES AND RULES

Fed. R. Civ. P. 8(a)(2)

OTHER

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 Not Sure; 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 B to the petition and is

☐ reported at Not Sure; 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 June 18, 2014.

☒ 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. 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

Eighth Amendment failure to protect violation; founded on "Conspiracy to Commit Murder."

First Amendment free speech violation; founded on retaliation.

Fourteenth Amendment violation; deprivation of personal property.
Fed. R. Civ. P. 8(a)(2)

STATEMENT OF THE CASE

All of my problems came when I was transferred to Taylor Correctional Institution on January 26, 2018. I filed multiple grievances due to the treatment I was receiving from prison officials. Some of those grievances were forwarded to the Office of the Inspector General for investigation. The Office of the Inspector General is the Office that inspects the Florida Department of Corrections as a whole. Prison officials responded by placing a "Contract Hit" on my life through gang members in which ultimately became a "Conspiracy to Murder" me. Prison officials refused me protection when I requested it in which led to a use of force being applied to me on February 22, 2018. Prison officials got dismissed and/or suspended because they applied excessive force to me. This could have amplified this conspiracy against me and it surely explains why this conspiracy has followed me to four different camps/prisons after transferring from Taylor, It's following me by air waves and is currently active at my present prison - Florida State Prison. Due to prison officials failure to reasonably protect me, thereby, acting with deliberate indifference to my safety and/or well being, I filed suit alleging violations of my First, Eighth, and Fourteenth Amendment rights. All three claims are intertwined and rooted from my failure to protect (Eighth Amendment) claim, therefore, the pendent jurisdiction should have applied to my Fourteenth Amendment claim. On November 13, 2018, I initiated this case by filing a pro se Civil Rights Complaint pursuant to 42 U.S.C. subsection 1983 in which I was allowed to proceed in forma pauperis, See (M.D. Fla. case #: 13-18-CV-1365-J-32JBT). On or about December 6, 2018, the District Court directed me to file an amended complaint. On December 13, 2018, I filed an amended complaint. However, six days later, on December 19, 2018, I filed a second amended complaint. On January 2, 2019, I filed a motion to direct the clerk to make appropriate copies/motion for a preliminary injunction order. The District Court dismissed my second amended complaint sua sponte and denied the foregoing motion on January 7, 2019. I filed a notice of appeal on January 15, 2019. See (Eleventh Circuit case #: 19-10247-H). On February 4, 2019, I filed a motion to proceed in forma pauperis in the District Court so that I could proceed on appeal in said status. On February 4, 2019, I filed a motion for an extension of time/motion for appointment of counsel. The District Court denied my motion sua sponte. On February 19, 2019, I then filed a motion for leave to proceed (LTP) in the Eleventh Circuit on March 4, 2019. The Eleventh Circuit dismissed my appeal sua sponte, denied my motion for LTP, denied my motion for access to the courts, and denied my motion for appointment of counsel which I sought additional time to submit my initial brief. "Nor did the Eleventh Circuit permit me to file an initial brief." I now submit this petition for writ of certiorari. Note: I filed the motion to order appellee to afford appellant access to the courts/motion for a certiorari review in the Eleventh Circuit on March 4, 2019.

REASONS FOR GRANTING THE PETITION

Claim one: 8th Amendment violation for failure to protect in which is founded on "conspiracy to commit murder."

- (1) In the light of Farmer v. Brennan, 511 U.S. 835, 845, 114 S.Ct. 1470, 138 L. Ed. 2d 811 (1994), I presented a valid failure to protect claim in my second amended complaint that should have never been dismissed sua sponte. My second amended complaint is a arsenal that's filled with direct evidence to include but not limited to - Audio & video references, dates, location, names that were known, witnesses on my behalf, and etc...
- (2) I clearly through direct evidence, sufficient facts, in which a strong inference can be made at the least, put the defendants on notice that conspiracy to commit murder was the nature of the conspiracy.
- (3) The District Court and the Eleventh Circuit erred by applying a "Heightened Pleading Standard" where both courts sua sponte dismissed this claim for failure to include "specific facts." This departure conflicts with Fed. R. Civ. P. 8(a) (2), and long settled precedent of this court - Swierkiewicz v. Sormo N.A., 534 U.S. 506, 132 S.Ct. 492, 152 L. Ed. 2d 1 (2002); Jones v. Bock, 544 U.S. 149, 127 S.Ct. 910, 166 L. Ed. 2d 748 (2007); Bell ATL Corp. v. Twombly, 550 U.S. 544, 127 S.Ct. 1955, 167 L. Ed. 2d 929 (2007); Erickson v. Pardus, 551 U.S. 89, 127 S.Ct. 2197, 167 L. Ed. 2d 1081 (2007).
- (4) I filed various motions and attached documents in relation to this claim that bolstered it; Erickson, supra.

Claim two: 1st Amendment violation by retaliating against me as a consequence for filing grievances.

- (1) In the light of O'Bryant v. Finch, 637 F.3d 1307 (11th Cir. 2011), and Smith v. Mosley, 532 F.3d 1210 (11th Cir. 2008), I presented a valid retaliation claim in my second amended complaint that include but not limited to - Audio & video references, dates, location, names, and etc...
- (2) It was error to subject me to a "Heightened Pleading Standard," Erickson, Twombly, Jones, Swierkiewicz, supra.
- (3) From the direct evidence, it can be "inferred" at the least that retaliating against me for exercising my free speech right would deter me from filing future grievances.
- (4) Addressing this retaliation claim would be a matter of "first impression for this court," and will have a major effect and/or impact on the prison setting in our nation.
- Claim three: 14th Amendment violation by depriving me of my personal property.

- (1) This claim is intertwined with the foregoing claims that all rooted from the conspiracy claim, therefore, the pendent jurisdiction should have applied - United Mine Workers v. Gibbs, 383 U.S. 715, 16 L. Ed. 2d 218, 86 S.Ct. 1130 (1966); Rosado v. Wyman, 397 U.S. 397, 25 L. Ed. 2d 442, 90 S.Ct. 1207 (1970).

5.

In addition to due process,

- (1) The Eleventh Circuit never gave me a chance to file an initial brief nor did it address my extension of time motion regarding said brief.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Tyrone Murray DC# U34405

Date: July 17, 2014