

19-5495

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

Supreme Court, U.S.  
FILED

JUL 31 2019

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

David Gray — PETITIONER  
(Your Name)

vs.

Phil Bryant, et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

"Fifth Circuit Court of Appeals"

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

PETITION FOR WRIT OF CERTIORARI

David Gray, #01440  
(Your Name)

S.M.C.I.-2, A-1, A-23, P.O. Box 1419  
(Address)

Leakesville, Mississippi 39451-1419  
(City, State, Zip Code)

N/A  
(Phone Number)

**ORIGINAL**

RECEIVED

AUG - 6 2019

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

Petitioner has had three (3) plus two 42 U.S.C. §1983 Civil Actions dismissed under the 3 strikes provision of 28 U.S.C. §1915(g), latest 42 U.S.C. §1983 was not dismissed for failure to state a claim nor civil Action held no merit, civil Action was dismissed because Petitioner could not pay a \$400.00 filing fee in the U.S. District Court, petitioner appealed this denial to the 5<sup>th</sup> Circuit Court of Appeals, they wanted petitioner to pay a \$505.00 Appellate fee. Petitioner was brutally assaulted and suffered a broken nose, a fractured lower left eye socket, a huge laceration above his left eye, extreme swelling and bruising of the face, (this was an assault ordered by a Correctional staff member because petitioner reported this Correctional staff member smuggling huge amounts of drugs, tobacco, cell phones, cell phone chargers - among other contraband, ) petitioner has been brutally assaulted due to his sexual orientation (Bi-sexual), petitioner has filed an affidavit stating his life is in imminent danger as long as he is housed at this prison facility, 5<sup>th</sup> Cir. Ct. of Appeals has denied petitioner's in forma pauperis due to his inability to pay filing fee, appellate fee, Can the 5<sup>th</sup> Cir. legally do this?

## LIST OF PARTIES

- [ ] All parties appear in the caption of the case on the cover page.
- [X] 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:

( See exhibit A attached, page 3 )

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Appendix E .....	Motion For I.F.P. - "Restricted"
Appendix F .....	42 U.S.C. § 1983 - <u>Complaint</u> .

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 <sup>Exhibit</sup> ~~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 <sup>Exhibit</sup> ~~Appendix~~ E 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 N/A to the petition and is

☐ reported at N/A; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the 5<sup>th</sup> Cir. See exhibit - A - court appears at Appendix X to the petition and is

☐ reported at N/A; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

1.

## JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was May 20, 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: N/A, 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 N/A (date) on N/A (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 N/A.  
A copy of that decision appears at Appendix N/A.

[ ] A timely petition for rehearing was thereafter denied on the following date: N/A, and a copy of the order denying rehearing appears at Appendix N/A.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. N/A A N/A.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Fifth Amendment, Due Process of law
2. Eighth Amendment, Protection Against Cruel, and intentional, infliction of brutal, and unusual harm, aggravated assault.
3. Fourteenth Amendment, "Equal Protection of any and all applicable laws, e.g., "Due Process of Law!""
4. Mississippi Code Ann. Section 97-3-7 (2) (a) (i), and (ii). (See attached in support.)

## STATEMENT OF THE CASE

Petitioner notified the Prison Authorities that a staff member was smuggling huge amounts of illicit Contraband into the prison facility on the breakfast shift through the back of the dining hall on the food truck. Somehow this information got back to this staff Member (Captain Sheneice Evans) and she put the organization members to beat petitioner up but they did not want the heat on them due to the Contraband they was holding, so she gave inmate Roy Lee Spice to assault petitioner, woke petitioner up out of a deep sleep and before petitioner could sit up, clear his mind, inmate Roy Lee hit petitioner in his face so hard it broke his nose, inmate Roy Lee continued to assault petitioner by striking petitioner multiple times in his face fracturing petitioner's lower left eye socket, causing a huge 2 to 2½ inch long, ¼ inch deep laceration above petitioner's left eye, caused severe swelling and bruising, scraps and scrotches all over petitioner's face. Petitioner's left eye swelled to the point he could not see out of his left eye for weeks. Petitioner's left eye ball turned blood red. Captain Sheneice Evans was in the Unit Guard Tower when this assault occurred. To this very day and date none of the M.D.O.C. S.M.C.I.-2 Staff, or inmate Roy Lee has been held accountable for this brutal assault. Petitioner has also been brutally assaulted due to his Sexuality (Bi-Sexual). Appellant/Petitioner is also a Ex-death row inmate serving a life w/o parole sentence. Petitioner



did receive medical attention. Everything is documented in the medical Department Computer. Petitioner also had to have a Cat Scan to determine whether or not he suffered other life threatening damage to his head. Medical Records will verify all of the above as far as the brutal assault on petitioner by inmate Roy Lee.

Petitioner wrote to multiple Law Enforcement Agencies, the Mississippi State Governor, the Attorney General of the State of Mississippi, F.B.I., D.O.J., Congressmen, Senators, M.D.C. Prison Officials, the U.S. District Court via 42 USC §1983, nothing has been done by anyone, and because petitioner is a prisoner, is not allowed to work, would not get paid for any work performed anyway, and cannot just up and cough up a \$400.00 U.S. District Court Filing Fee, petitioner appealed this denial to the 5<sup>th</sup> Circuit Court of Appeals, they want a \$505.00 Appellant Fee. Petitioner cannot come up with such a sum. Just because petitioner cannot pay such a high priced filing fee, or Appellant Fee the Court Room door should not be slammed shut in his face. Petitioner's 42 U.S.C. §1983 does hold merit and petitioner should be allowed to proceed in forma pauperis, and counsel be appointed to represent him in his 42 U.S.C. §1983.

## REASONS FOR GRANTING THE PETITION

Petitioner, through the appropriate Court pray that those involved in this brutal assault on petition for him doing the right thing by bringing it to the Prison Officials attention that a Corrupt Prison Staff member was Smuggling huge amounts of drugs, cell phones, cell phone chargers, Blue Tattoos, Ice, Meth, free world alcohol, huge amounts of tobacco into this prison facility, all involved be held accountable. Petitioner suffered Severe bodily injuries to include a broken nose, Fractured lower left eye socket, Severe Swelling and bruising, Scabs, Scratches, huge deep laceration above his left eye. Petitioner pray that this Hon. Court will grant this petition and allow petitioner to proceed in forma pauperis. Just because petitioner Cannot pay such a filing fee (\$400.00), or a appellant filing fee (\$505.<sup>00</sup>), this should not be grounds to deny petitioner due process of law. The very ones tasked with providing petitioner reasonable protection of physical assaults at the hands of fellow prisoners - are the very ones<sup>(1)</sup> that had petitioner brutally, and heinously assaulted because petitioner did the right thing by reporting this incident (2 different times) to the appropriate Prison Authorities, for doing so petitioner could have been killed. At the time of this brutal assault petitioner was 63 years old. Petitioner will be 65 yrs. old tomorrow, 5/29/2019."

To allow all involved to escape the wrath of the judicial system and the laws of this state, and of the United States would be a travesty of justice. Just because they are acting under color of state law does not exempt them from being held accountable. If the shoe was on the other foot and it was Petitioner committing such illegal acts he would be prosecuted to the fullest extent of the law, they are no different.

#### CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

David Gray, Pro Se

Date: July 31<sup>st</sup>, 2019.