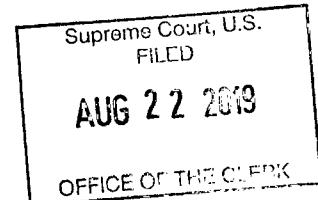


19-5708

No.

ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES



RELONZO PHILLIPS,

Petitioner

.VS

OFFICE OF THE DEKALB

COUNTY PUBLIC DEFENDER:

ASSISTANT PUBLIC DEFENDERS

BETHANY LINDSTOM AND TIM COOK;

DEKALB COUNTY SHERIFF'S OFFICE:

DEKALB COUNTY SHERIFF JEFFERY MANN,

Respondents

On Petition for a Writ of Certiorari to the Supreme Court of Georgia

PETITION FOR A WRIT OF CERTIORARI

Relonzo Phillips, Pro Se

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Relonzo Phillips

TABLE OF CONTENTS

1. QUESTIONS PRESENTED.....	PAGE 2
2. JURISDICTION.....	PAGE 3
3. CONSTITUTIONAL PREVISIONS.....	PAGES 4-5
4. INTRODUCTION.....	PAGES 5-6
5. STATEMENT OF FACTS AND PROCEEDINGS BELOW.....	PAGES 6-7
6. ARGUMENT AND CITATIONS OF AUTHORITY.....	PAGES 8-10
7. CONCLUSION.....	PAGE 11

INDEX TO APPENDICES

APPENDIX A: ORDER OF STATE SUPREME COURT DENYING WRIT OF
CERTIORARI

APPENDIX B: ORDER OF STATE COURT OF APPEALS DENYING DIRECT
APPEAL

QUESTIONS PRESENTED

COMES NOW Petitioner Relonzo Phillips, Pro Se, ("Petitioner") and files this Petition for Writ of Certiorari requesting that this Honorable Court grant Certiorari to consider two questions of "great importance": 1) Jurisdiction rendered or the lack thereof by the Prison Litigation Reform Act of 1996 ("PLRA") and 2) Clarification as to whether the Plaintiff who was in custody at the time of initial initiation of his suit, filing being DENIED, then released from custody and subsequently amended and filed his complaint ("Operative Complaint") still is or is not considered a "Prisoner" for the purposes of the Prison Litigation Reform Act of 1996 ("PLRA") subject to the jurisdictional discretionary appeals procedure: a) whether, as a matter of first impression in any court, the Court of Appeals properly obligated the Plaintiff to the requirements imposed by the Prison Litigation Reform Act of 1996 ("PLRA") whereas, an appeal in a civil action filed by a "Prisoner" must be initiated by filing an application for discretionary review rather than a direct appeal pursuant to O.C.G.A. 5-6-33(a)(1) of the lower court's judgement, the decision of the Court of Appeals to dismiss said Appeal based

upon O.C.G.A. 42-12-8, referencing O.C.G.A. 5-6-35; Jones v Townsend, 267 Ga. 489, 490 (480 S.E. 2d 24)(1997); O.C.G.A. 42-12-3(4); Smoak v Dept. Human Resources, 221 Ga. App. 257 (471 S.E. 2d 60)(1996).

JURISDICTION

FEDERAL QUESTION JURISDICTION

The Supreme Court of Georgia denied the Petitioner's Writ of Certiorari on August 5, 2019. In United States law, federal question jurisdiction is subject matter jurisdiction of the United States Federal Courts to hear a civil case because the plaintiff has alleged a violation of the United States Constitution, federal law, or a treaty to which the United States is a party. (28 U.S.C. Section 1331)

Supreme Court Rule 10: Review on a Writ of Certiorari is not a matter of right, but of judicial discretion. A petition for writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the court's discretion, indicate the character of the reasons the court considers:

b) a State Court of last resort has decided an important federal

question in a way that conflicts with the decision of another State Court of last resort or of a United States Court of Appeals.

CONSTITUTIONAL AND STATUTORY PROVISIONS

4th Amendment of the U.S. Constitution: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation and particularly describing the place to be searched, and the persons or things to be seized.

14th Amendment of the U.S. Constitution: All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protections of the law.

Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property. (Carey v Piphus, 435 U.S 247, 260, 98 S. Ct. 1042, 1050 L. Ed 2d 252 (1978)

Federal Rules of Criminal Procedure Rule 4: 1) Warrant. A warrant must: b) describe the offense charged in the complaint.

Rule 9: 1) Warrant. The warrant must conform to rule 4(b)(1) except that it must be signed by the clerk and must describe the offense charged in the indictment or information.

INTRODUCTION

This is a case whereas a civil claim of false imprisonment and violation of 42 U.S.C. section 1983 has been made by the petitioner in the State Court of DeKalb County Georgia stemming from an arrest for a misdemeanor offense, stalking, (misdemeanor warrant obtained) made by DeKalb County in October of 2014. The

October 2014 DeKalb County misdemeanor case was closed in November of 2014 and transferred from the DeKalb County Solicitor General's Office to the DeKalb County District Attorney's Office for felony prosecution based upon alleged non-existent prior convictions the Petitioner was said to have had. In seeking felony prosecution, no felony warrant was obtained for continued arrest and/or confinement. The Petitioner remained incarcerated 23 months following the closure of the DeKalb County case in November of 2014 and was indicted with the use of the initial misdemeanor warrant from the case that was closed in November of 2014.

STATEMENT OF FACTS AND PROCEEDINGS BELOW

In the instant petition for Writ of Certiorari with the Supreme Court of the United States, the Petitioner states that he initially attempted to file a civil complaint while incarcerated in the DeKalb County Jail on March 24, 2016, that Affidavit of indigence was summarily denied, ultimately denying the filing of the Petitioner's complaint. (See Exhibit B included with the writ of certiorari to the Supreme Court of Georgia) The Petitioner did not appeal the denial of the

Affidavit of Indigence to the Court of Appeals of Georgia. The Petitioner was released from the DeKalb County Jail on May 5, 2016 and furthermore, released from the Georgia Department of Corrections in October of 2016. The Petitioner followed up with his civil complaint after his release and filed his complaint on April 5, 2017 paying the required court filing fee of \$222.00 in cash. (See Exhibit C included with the writ of certiorari to the Supreme Court of Georgia) Following the release of the Petitioner, the Petitioner amended his complaint on two separate occasions, first on February 13, 2018 and second, March 6, 2018. Both amendments rendered a DeKalb County residential address: 2394 Boulder Chase Dr. Ellenwood Georgia, 30294. (See Exhibits D & E included with the writ of certiorari to the Supreme Court of Georgia) On May 29, 2018, the State Court of DeKalb County granted a Motion to Dismiss submitted by the Respondents. On June 4, 2018 the Petitioner filed his Notice to Appeal with DeKalb County State Court Clerk of Court. The Court of Appeals of Georgia dismissed the appeal on October 17, 2018. The Petitioner then submitted his Motion for Reconsideration on October 29, 2018 and it was denied on November 28, 2018. The Petitioner filed his Intent to apply for Writ of Certiorari to the Supreme Court of Georgia with the Court of Appeals of Georgia on November 29, 2018.

ARGUMENT AND CITATION OF AUTHORITY

1) The Supreme Court of Georgia Erred in denying the Petitioner's Writ of Certiorari because, IN A MATTER OF FIRST IMPRESSION AND CURRENT DECISIONS MADE BY THE UNITED STATES COURT OF APPEALS 9TH CIRCUIT, the requirement of the Petitioner to be subject to requirements listed in the Prison Litigation Reform Act of 1996 ("PLRA") whereas a "Prisoner" must initiate a civil appeal by filing for discretionary review rather than direct appeal of a lower court's ruling, discretionary review being jurisdictional which render jurisdiction to the Prison Litigation Reform Act of 1996 was error.

The Petitioner did indeed initiate his civil complaint while incarcerated at the DeKalb County Jail, listing the requisite address for the detention center on March 24, 2016. Included with the Petitioner's complaint was the simultaneous filing of an Affidavit of Indigence which was summarily denied on March 28, 2016, denying the filing of the complaint. The Petitioner never contested the ruling by appealing to the Court of

Appeals and applying for discretionary review at that time. Instead the Petitioner waited until his release to pay the required filing fee of \$222.00 in cash to file his complaint on April 5, 2017. After the release of the Petitioner, the Petitioner amended said civil complaint (“OPERATIVE COMPLAINT”), on two separated occasions dating February 13, 2018 and March 6, 2018. Both amendments reflected a DeKalb County residential address: 2394 Boulder Chase Dr. Ellenwood Georgia, 30294. The Petitioner only initiated an attempt to file a complaint while incarcerated. At no time was the Petitioner incarcerated during any time of the actual filing of his complaint and/or appeal process of this case, therefore the Petitioner retains the right to appeal pursuant to O.C.G.A. 5-6-33(a)(1). The Supreme Court of Georgia’s denial of the Petitioner’s Writ of Certiorari was error and in conflict with prior decisions made by the United States Court of Appeals 9th Circuit decision rendered in Jackson v Fong, 2017/08/31, No: 15-5547, U.S. 9TH Circuit whereas the United States Court of Appeals held that a “Plaintiff” who was in custody at the time he initiated his suit but was released from custody when he

filed his amended complaint (OPERATIVE COMPLAINT) is **NOT** a “Prisoner” subject to a Prison Litigation Reform Act’s exhaustion defense. Other citations of authority that support the Petitioner’s argument are as follow: Michau v Charleston County, 434 F. 3d 725, 727 (4th Cir. 2006); Mabry v Freeman, 489 F. Supp. 2d 782, 785-786(E.d. Mich. 2007); Nerness v Johnson, 401 F. 3d 874, 876 (8th Cir. 2005); Norton v City of Marietta, 432 F. 3d 1145, 1150 (10th Cir. 2005); Ahmed v Dragovich, 297 F. 3d 201, 210 (3rd Cir. 2002); Janes v Hernandez, 215 F. 3d 541, 543 (5th Cir. 2000); and Page v Torrey, 201 F. 3d 1136, 1140(9th Cir. 2000).

REASON FOR GRANTING WRIT OF CERTIORARI AND CONCLUSION

Respectfully, this Court is charged with ensuring the American people the promise of equal justice and/or protection under law and thereby, also functions as guardian and interpreter of the Constitution. The Court's power in "judicial review" has given the Court a crucial responsibility in assuring individual rights. The Petitioner does not bring his Writ of Certiorari merely for correction of judicial error but to shed light on the Constitutional deprivation and civil rights disparities encountered while being illegally confined/detained and maliciously prosecuted by the DeKalb County judicial system. This within itself is an issue of importance to the people of the United States. If these acts of deliberate disregard for Constitutional/civil rights, rights guaranteed to the people and/or citizens of the United States go overlooked, these experiences would not only effect the Petitioner but potentially anyone promised the equal protections of Due Process of Law. Wherefore, for the above and foregoing reasons, the Petitioner Relonzo Phillips, Pro Se, Respectfully request that this Court grant this Petition and issue Writ of Certiorari to review the decision rendered by the Supreme Court of Georgia and remand this case with direction.

Respectfully submitted this the 21st day of August, 2019.

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