

19-6292 ORIGINAL
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

1025895
MALCOLM MUHAMMAD — PETITIONER
(Your Name)

vs.

J. TAYLOR et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

1025895
MALCOLM MUHAMMAD
(Your Name)
Sussex I State Prison
24414 Musselwhite Drive
(Address)

Waverly, Virginia 23891
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

1. Did the Fourth Circuit err in deferring to the District Court's finding that since petitioner was not given the opportunity of a Notice or a hearing on his Disciplinary Conviction and because he has life without Parole and no good time credit for parole, he has no liberty interest of due process of law?
2. Did the Fourth circuit err in deferring to the District court's finding whether Defendant Taylor and other defendants' in support of defendant Taylor retaliated against the petitioner for filing / Complaints and lawsuits?
3. Whether there was Abuse of Discretion by the District Court on the jury verdict and did the Fourth Circuit err based on the evidence submitted?

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:

MALCOLM MUHAMMAD

Plaintiff - Petitioner

v.

Y. TAYLOR; C. S. ARMS; J. SYKES; J. D. HUET; HENRY PONTON

Defendants - Appellees

and

ROD WICKER; R. CLARY; R. MATHENA; T. LOWE; J. KISER; CAPTAIN LEE; M. KEGLEY;
G. K. WASHINGTON; E. LOCUST.

RELATED CASES

• MALCOLM MUHAMMAD V. Y. TAYLOR, NO. 17-16-CV-00500, U.S. District Court for the Western District of Virginia. Judgment entered September 17, 2018.

• MUHAMMAD V. TAYLOR, NO. 18-7255, U.S. Court of Appeals for the Fourth Circuit. Judgment entered August 15, 2019, and Petition for Rehearing and Petition for Rehearing En Banc entered September 16, 2019.

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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 6,
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 B to 41,
the petition and is

☒ reported at _____; or,
☒ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at
Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court
appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was August 15, 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: September 16, 2019, and a copy of the order denying rehearing appears at Appendix A.9.a.

☐ 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

U.S. CONST., AMEND. I : Congress shall make no law ... abridging ... the right of the people ... to petition the Government for a redress of grievances.

U.S. CONST. AMEND. XIV : Section 1. 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 protection of the laws.

42 U.S.C. § 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or Territory or the District of Columbia, subject or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

Va. Code § 53.1.40.01

The Parole Board shall consider for conditional release from incarceration any geriatric prisoner who is serving a sentence imposed upon a conviction for a felony offense, other than a class 1 felony, who has reached the age of sixty-five years of age or older, and who has served a minimum of five years of his or her sentence, or is sixty years of age or older, and who has served a minimum of ten years of his or her sentence.

STATEMENT OF THE CASE

The petitioner's complaint alleged that Defendant Taylor retaliated against him for filing grievances / lawsuits and prompting Taylor's threats about "throwing stones at her." Plaintiff alleges that other defendants in this case violated federal rights and retaliated against him in support of Taylor. Soon thereafter, Taylor ordered petitioner into segregation, kept him in segregation for alleged "inflammatory statements" for which he was never charged. Petitioner's assignment to segregation triggered a search of his property per prison policy. The ramifications of the search form the bases of this complaint against other defendants.

As a consequence of petitioner's move to segregation, two correctional officers "inventoried petitioner's personal property" and only confiscated "some Final calls newspapers and damaged coax cable". However, defendant Hurt, Keen Mountain Corr. Center - ("KMCC") property officer, searched the same property the above two C/O's searched. Approximately, three (3) days later defendant Hurt, supposedly discovered that petitioner made a "staff uniform shirt to escape prison", home made long-sleeve gray shirt, the alleged alteration was that the sleeves were not original to the shirt and had been re-sewn on the shirt. Appellant alleges that the shirt had never been altered since he had the gray shirt that is available to purchase from Virginia Department of Corrections - ("VDOC's") Commissary. Defendant Arms, (Investigator) charged petitioner with offense code 132, "possession / Construction of a Device designed to Deceive staff" because the gray shirt purportedly "resembled staff long-sleeve uniform shirt."

Petitioner sought discovery from defendants Lowe (hearing officer), Arms, (investigator), Assistant Warden clary, and captain lee (security) before the disciplinary hearing on March 3, 2015. Plaintiff make request

for them to review the gym video footage on February 9, 12, 2015, showing petitioner wearing the shirt in Full View of Security staff while playing basketball, all defendants denied the request to review the video, and defendant Lowe also denied petitioner's pre-hearing request for three (3) witnesses. Petitioner also filed a grievance per VROC op. 86661 to hold/view the video that was denied. Defendant Lowe conducted petitioner's disciplinary hearing on March 3, 2015, petitioner argued that the shirt had been modified while in Hurt's or Arm possession, altered the shirt after it was confiscated by cutting off the sleeves and resewing them with "fresh double pure white machined stitches." Defendant Lowe, found petitioner guilty of Code 132 and penalized him with ninety days loss of good-conduct time, Lowe based his decision on the reporting officer testimony.

Petitioner appealed the conviction to defendant warden Kiser, who upheld Lowe's decision. Petitioner next appealed the conviction to defendant Porter, who is a VROC Regional Administrator, it would take three (3) months to adjudicate the appeal, during that time, staff allegedly continued to retaliate against petitioner and violated federal law. Because of the conviction, petitioner needed a "New classification Report," defendant Kegley, who was petitioner's counselor handed petitioner an allegedly "erroneous classification report on March 4, 2015," petitioner argued that the report erroneously added two (2) 200 series charges that would ensure his transfer to Red Onion State Prison - ("ROSP"), Kegley said, that he merely delivered the report that defendant Taylor had prepared. Petitioner filed a grievance on the two 200 series charges, instead of recognizing the charges that been erroneously added, defendant Sykes, who was the unit manager allegedly conspired to cover-up the error by adding three extra points notably Kegleys and

Sykes modifications did not matter because it was Taylor's allegedly erroneous report that was sent to VDEC's central classification Service - ("CCS") for approval despite Petitioner's objections. See (Exhibit* A (6) (2), 1 of 2), Defendant Taylor ultimately recommended that Petitioner security level be increased two levels from level-4, to level-S, long term segregation and be transferred to ROSP, and defendant Sykes also recommended the same due to the serious nature of the recent 132 infraction stating, "the shirt, could have been used to deceive and gain access to the outer perimeter, petitioner was transferred on April 2, 2015.

On June 18, 2015, defendant Ponten, concluded his review of the conviction for the gray shirt, Ponten "reduced the conviction from 132, "Possession/ construction of a Device Designed to Deceive staff," to offense code III, "Intentionally Destroying, Altering, Damaging or Defacing state or any Person's Property," in his Memorandum to warden Kiser, Ponten explain, See (Exhibit* A. (6) (6) (1) at back page, Ponten did not order another hearing, Petitioner objected to not having a hearing on the new charge before being convicted of it, However, warden Kiser stated, "There was no need for another hearing to support Ponten decision, See (Ex* A. (7) (2), 1 of 1), Petitioner filed a grievance on not having a hearing, he received response, "Non-Grievable." See (Ex. * A. (7) (3), 2 of 6).

After reviewing the record, the senior United States District Judge Kiser, Presented Memorandum opinion 'Dismiss and Grant in part and deny in part the motion for Summary judgment, the claims remaining are about Ponten finding petitioner guilty of Code III, and the alleged retaliation by Taylor, Sykes, Arms and Hurt. App. 40 b.

Petitioner had a three (3) day jury trial on September 12-14, 2018, defendant Arms, testified that no charges was pursue on the "inflamatory

statements that first, place the petitioner in segregation, because it was taken out of context on petitioner stating, "we'll keep our own list now, that way we'll know what we're dealing with," See (2nd Tr. at pgs. 38-39). Defendant Taylor, testified that, "it was a MISTAKE that she just notice, on petitioner's first day of trial, from three (3), years later from being approved on March 9, 2015, that transferred the petitioner to ROSP long-term segregation for Approx. 1 year. See (2nd day Tr. at pg. 122).

Defendant Kegley made several Contradictory statements at trial on the "Created erroneous classification report," However, when petitioner presented facts, he stated, "it was a Typo, MISTAKE, the court question Kegley, "well, it's wrong correct?" witness stated, "that's correct," the court stated, "And no body caught it," the witnesses stated, "that's correct," the court stated, "And no body caught it," the witness stated, "that's correct," the court stated, "And in fact, it went up through THREE LAYERS OF REVIEW?" the witness stated, "Right that's correct," the court stated, "wrong, wrong correct?" the witness stated, "correct," See (1st day Tr. at pg. 188, Nos. 2-16),

Defendants' Lowe, Arms, Hurt, Ponton and Sykes all stated, the alleged shirt, WAS NOT a staff shirt, stating it did not have a collar, badge, pockets on the sleeves like the staff, but it clearly resemble a staff shirt of it color gray when there was over 500 offenders at KMEC, wearing gray color shirts. See (1st day Tr. at pg. 86) and (2nd day Tr. at pgs. 11-14), However, this was largely ignored.

At trial, the court question defendant Hurt, "But you could look at it and tell it WAS NOT A STAFF SHIRT?" Hurt stated, "yeah," See (1st day Tr. at pg. 223, nos. 3-9). Defendant Sykes, testified, "it was a MISTAKE, typo, However," if there was a typo as stated, here, defendant Sykes

made recommendation for petitioner be assigned at ROSP, security level-S₁, See (2nd day Tr. at pg. 175, no. 25 and pg. 176, nos. 1-2), Defendant Pontan, as explain above stated, "it was not a staff shirt See (2nd, day Tr. at pgs. 190-92), Defendant Arms made several Contradictory statements on reviewing the video to petitioner and the court: See (2nd, day tr. at pgs. 19-25), Defendant Arms, testified that he took the photographs of the shirt and when ask, "why didnt he take the pictures of the stitches on the shirt, who stated, "the stitches was not necessarily, but he could have. See (2nd day Tr. at pgs. 56-58),

Defendant Arms made response to petitioner's Motion to Sanction on pg. - 2, NO. 9., (DKT. NO. 117), stating "the fact the video was not preserved because it was plaintiff's fault, he did not follow VDOC procedure for request for preservation of the video, See (2nd, day Tr. at pgs. 47-55), Defendant Arms, testified that he "destroyed" the evidence against VDOC policy, who first stated, "it was routinely destroyed in compliance with VDOC policy within one (1) year in February 2016, The Court, ask Defendant Arms, "what policy states the shirt must be destroyed within one (1) year? Arms stated, "it wasn't kept per policy. See (2nd, day Tr. at pgs. 47-55), pgs. 71-73, and pg. 97, nos. 9-11), Here, defendant Arms contradictory statements was largely ignored by the Fourth Circuit Court of Appeals.

The District court Senior Judge Kiser, opinion that petitioner "clearly established substantive due process claim. See (App 26b.) on defendant Pontan's rationale for finding the plaintiff guilty of Code 111. At the end of presenting evidence by both sides, defendant's request to enter judgment as a matter of law in favor of defendants. The Court ask defendant's Counsel, can they cite a "specific case law," that says the fact that a decision may affect a discretionary early release or a parole

defendants' counsel cited, "Sandin and Greenholtz cases", the Court stated, its findings on Sandin case, See (2nd day Tr. at pgs. 303-04), Petitioner argued his case and the Court agreed, See (2nd day Tr. at pgs. 309-11). On the third (3rd) day of trial before the beginning of the jury deliberations the Court "Dismissed" petitioner due process claim against defendant Ponten, App. 1b. The Court reasons that, Senior Judge Kiser did not address this issue, so the Court was going to dismiss the claim and the petitioner could appeal the Court's decision. The Court also stated, "the Sandin and Greenholtz cases" make it "clear that a possibility that a disciplinary hearing or disciplinary release as clemency or parole is not sufficient liberty interest," See (3rd day Tr. at pg. 4, Nos. 18-25).

Petitioner appeal the district Court's decision to the United States Court of Appeals for the Fourth Circuit on March 6, 2019, the Court of Appeals "ordered Transcript order Acknowledgment" that the court reporter make preparation of a Transcript of the entire trial of petitioner Trial held in the District Court September 12-14, 2018, and ordered the original transcript be filed with the district court, and send prose. Appellant's copy that he later received and send the invoice to the Fourth Circuit for payment, See App. 5a. On August 15, 2019, the court of Appeals final order or judgment stating, "that they have reviewed the record and find no reversible error," See App. 3a. Petitioner filed a Rehearing and Rehearing en banc and no judge requested a poll under Fed. R. App. App. 1a.

All exhibits and TTr. are in order as presented in this "Statement of Facts" of this Petition.

REASONS FOR GRANTING THE PETITION

1. THE FOURTH CIRCUIT'S MISAPPLICATION OF THE STANDARDS OF WOLFF, SUPERINTENDENT MASS CORR. INST. AND THEIR OWN BOOKER WARRANTS THIS COURT ATTENTION

The Fourth circuit order or judgment misapplied the Wolff v. McDonnell, 418 U.S. 539, 566, 94 S.Ct. 2963 (1974), two components, and the satisfying decision based upon "some evidence" in Superintendent, Mass. Corr. Inst. v. Hill, 472 U.S. 445, 455 (1985) and their holding of the Fourth Circuit's Booker v. S.C. Dept of Corr., 855 F.3d 533-544-45 (4th Cir. 2017). First, the court flagrantly misstated the record, it stated, in their review of the record and find no reversible error.

This case presents several fundamental questions of the interpretation of this court's decision. The questions presented is of great public importance because it affects the operations of the prison system in all 50 states, the District of Columbia, and hundreds of city and county jails. In view of the large amount of litigation over prison disciplinary proceedings, guidance on the question is also great importance to prisoners, because it affect their ability to receive fair decisions in proceedings that may result in months or years of added incarceration or harsh punitive confinement.

This court held in Wolff, that prisoners have a minimum requirements of procedural due process to advance written notice of the charges, a hearing, the right to call witnesses and present evidence. The Hill, court standard that substantive due process is satisfied based upon "some evidence", and the holding in Booker, of the Fourth Circuit "retaliation against an inmate because of that inmate's Administrative grievance would violate the First Amendment to the U.S. Constitution.

This Court reiterated these points in "Washington v. Texas, 388 U.S. 14, 19, 87 S.Ct. 1920, 1923, 18 L.Ed 2d 199 (1967); Morrissey v. Brewer, 408 U.S. 471, 489, 92 S.Ct. 2593, 2604, 33 L.Ed. 2d 484 (1972); in due process of law and Crawford-El v. Britten, 523 U.S. 574, 588 n. 10 118 S.Ct. - 1584 (1998) in Retaliation,

The Senior District court judge Memorandum clearly stated that petitioner had established a violation of his retaliation and due process claims. The judge stated, when petitioner was denied a disciplinary hearing before convicting him of the lesser included offense, does not constitute "some evidence". App 20b. The court by the Magistrate judge dismiss petitioner's due process claim based it reasons from Defendants' motion for judgment as a matter of law, the court relied on the cited defendants case laws from "Greenholtz v. Inmate Neb. Penal Corr. Complex, 442 U.S. - 1, 7, 99 S.Ct. 2100 (1979); and Sandin v. Conner, 515 U.S. 472 S.Ct. 2293 (1995)." Stating, "since petitioner has life without parole and do not have good time credit, he was not deprived of a protected liberty interest of due process by not receiving a Notice, or hearing on a Disciplinary conviction because he is not 'eligible for parole'."

In the Greenholtz holding, this court examined Nebraska's statute and found that a prisoner being considered for parole is "entitled to some measure of Constitutional protection," since the statute created an "expectation of release on parole," "Unless," the statutory reasons for parole denial are found. The court emphasized that "this statute has unique structure and language and thus whether any other state provides a protectible entitlement must be decided on a case-by-case basis, Greenholtz, 442 U.S. at 12,

The Virginia Parole Board, also created expectation for "Geriatric Conditional Parole release" for the petitioner "At some point." See Va.

Code § 53.1.40.01 statutory requirements, also see (Exhibit⁺A.), this was testified by defendant witness, MS. Donna M. Shiflett, who is the manager of Court + Legal Service Section for VDOC, see (Exhibit⁺B.), Parole Practices and procedures that are not set out in statutes or regulations do not create liberty interest, see Jago v. Van Curen, 454 U.S. 14, 19-21, 102 S.Ct. 31 (1981). In the court holding of Cooper v. South Carolina Dept of Probation Parole and Pardon Service, 661 S.E. 2d 106 111-12 (S.C. 2008), and this court holding, Board of Pardon v. Allen, 482 U.S. 369, 376 80+n, 10, 107 S.Ct. 2414 (1987) decided its decision based on the factor dictated by the State Parole statute.

This court's holding in Sandin, "which substantially limited prisoners due process rights affects cases pertaining to treatment in prison", "Sandin has or should have, no application to due process requirements in determining whether someone should be released from prison entirely."

For example, it is well-established that prisoners have no liberty interest in clemency proceedings because the decision to grant or deny clemency rest wholly in the discretion of the executive, see Olim v. Wakinekona, 461 U.S. 238, 249, 103 S.Ct. 1741, 75 L.Ed. 2d 813 (1993). But a majority of the justices of this Supreme Court nonetheless believe that "some minimal procedural safeguards apply to clemency proceedings", see holding in Woodard, 523 U.S. at — 118 S.Ct. at 1254 (O'Connor J. judgment). And the concept that once the state conducts a hearing it must be a fair one is not limited to the clemency context. In his opinion in Woodard, Justice Stevens notes, "that even if a state has no constitutional obligation to grant criminal defendants a right to appeal, when it does establish appellate courts, the procedures

employed by the courts must satisfy Due Process clause," See Id. at —, 118 S.Ct. at 1255 (Citing Evitts v. Lucey, 469 U.S. 387 (1985), "Even if a state has no duty to authorize Parole or probation, if it does exercise its discretion to grant Conditional liberty to convicted felons, any decision to deprive a Parole or a probationer of such Conditional liberty must accord that person due process," See Id. (Stevens, J. concurring in part and dissenting in part) (Citing Morrissey v. Brewer, 408 U.S. 471 (1972); and also See Gagnon v. Scarpelli, 411 U.S. 778 (1973).

However, Justice O'Connor's opinion was joined by Justices Souter, Ginsburg, and Breyer, Justice dissented in part in Woodard holding agreed that due process imposed a Constitutional minimum standard of fairness. See Woodard, 523 U.S. at — — — 118 S.Ct. 1254-55.

In the Fourth Circuit holding in Booker, "retaliation against an inmate because of that inmate's administrative grievances would violate the First Amendment. In the District Court Memorandum opinion it stated, "petitioner has stated a violation of clearly established law. Plaintiff has repeatedly filed grievances / lawsuits about Taylor prompting Taylor's threats about "throwing stones" (grievances), soon thereafter, ordered petitioner in segregation, kept him in segregation for alleged "inflammatory statements" for which he was never charged, created an erroneous classification report to cause a transfer to ROSP, long term segregation and falsified an LCA report to ensure petitioner could not challenge the transfer. App, 341 b.

The opinion of the Fourth circuit ignores the trial court testimonies by all defendants and witnesses who "admitted to their misconduct of convicting petitioner with a charge that he did not commit," fail to review

the documentary evidence of the video, call witnesses, making contradictory statements and the court addressed these statements and stated defendants actions was "wrong". However, defendants at trial admitted, "it was a MISTAKE, TYPO that was just discovered the "first day of petitioner trial," yet, three (3) years later from the petitioner conviction.

In this court's holding in Green, the Green Court made this distinction crystal clear that due process does not permit a conviction based on no evidence. See California v. Green, 399 U.S. 149 (1970); and in the city of Louisville court, states, (just as conviction upon a charge not made would be sheer denial of due process; so is it a violation of due process to convict and punish a man without evidence of his guilt. See Thompson v. City of Louisville, 362 U.S. 199 (1960).

where a verdict is contrary to the law or the evidence, or without evidence to support, as evidence in this case presented, it's the duty of the Fourth Circuit to set the verdict aside when the District Court confronted contradictory statements of evidence presented to the facts by defendants. See Jacobs v. College of William + Mary, 517 F. Supp. 791 (E.D. Va. 1980) aff'd, 661 F.2d 922 (4th cir.) cert. denied, 454 U.S. 1033, 102 S.Ct. 572, 70 L.Ed. 2d 477 (1981).

These factual issues does not require the attention of this court, what does merit review is the emerging practice of the Fourth circuit. In the Fourth circuit reviewing of the jury verdict, they may not substitute their view of the facts for the jury's unless 'reasonable minds viewing the evidence in the light most favorable to the prevailing party, could only have found otherwise than the trier of fact. See Ikeazu v. - University of Nebraska, 775 F.2d 250, 255 (8th cir. 1985) (quoting - McIntyre v. Everest + Jennings, Inc., 575 F.2d 155, 158 (8th cir.) cert. denied 439 U.S. 864, 58 L.Ed. 2d 173, 99 S.Ct. 187 (1978). In the Fourth circuit holding, they are permitted to weight the evidence and consider

the credibility of witnesses and a new trial SHALL, be granted if "(1) the verdict is against the clear weight of the evidence or (2) is based upon evidence which is false, or (3) will result in a miscarriage of justice." see Paynter v. Rateliff, 874 F.2d 219, 223 (4th cir. 1989); also see Atlas Food Sys. & Servs. Inc. v. Grain Nat'l - Venders Inc., 99 F.3d 587, 594 (4th cir. 1996). Under these tests, it is inappropriate to consider the evidence in the light most favorable to the verdict, it is clear that the Fourth Circuit here, disregarded these principles as it has in several other cases, including their own.

In the closely analogous cases of Michael V. Ghee, 498 F.3d 372, 378 (6th cir. 2007), Cert. denied 128 S.Ct. 2067 (2008); also, see - McQuillian v. Duncan, 306 F.3d 895, 903 (9th cir. 2002) (holding Sandin deals with "internal prison disciplinary regulations" and not whether due process is required in parole release proceedings). In Ellis v. District of Columbia, 84 F.3d 1413, 1417-18 (D.C. cir. 1996) - (stating Sandin test is ill-fitted to parole eligibility determinations. As this Court recognized its footnote in Sandin, however, "prisoners ... retain other protection from arbitrary state action even within the expected Conditional of Confinement." see 515 U.S. at 487- n. 11, 115 S.Ct. 2293 (emphasis add). In the holding of Angelone case of the Fourth Circuit states, "At most ... Parole authorities must 'furnish to the prisoner a statement of its reasons for denial of Parole. See Vann v. Angelone, 73 F.3d 519, 522 (4th cir. 1996). This decision is in consistent with Greenholtz case.

In the closely analogous cases of Hudspeth v. Figgins, 584 F.2d - 1345 (4th cir. 1978), Cert. denied, 441 U.S. 913, 99 S.Ct. 2013, 60 LEd. 2d - 386 (1979); American civil liberties Union v. Wicomico County, 999 F.2d 780, 785 (4th cir. 1993), these cases clearly states "Prison officials

retaliation against an inmate establishes the basis for claiming a 1983 action as petitioner alleges that was acknowledge by the District Court of Appeals for the (7th Cir.) agreed, "Transfer in retaliation for filing lawsuits against prison officials was not barred by Sandin, See Bobcock v. White, 102 F.3d 267, 274-75 (7th Cir. 1996). These cases illustrate the fact the Fourth Circuit Court of Appeals is out of step with this court, other circuit's in its consideration of Wolff v. McDonnell, 418 U.S. 539, 546 (1974); Superintendent Mass. Corr. Inst. v. Hill, 472 U.S. 445, 455 (1985); and their own holding in Bocker v. S.C. Dept. of Corr., 855 F.3d 533 (4th Cir. 2017).

The Fourth circuit misapprehended the entire evidence and petitioner alleged that a definite and firm conviction that a mistake has been committed, See U.S. v. U.S. Gypsum Co., 333 U.S. 364, 395-68 S.Ct. 525 (1948) (quoted in Anderson v. City of Bessemer City, - North Carolina, 470 U.S. 564, 573, 105 S.Ct. 1504 (1985). Certiorari should be granted to correct this error.

CONCLUSION

For these reasons, a writ of certiorari should issue to review the judgment and opinion of the Fourth Circuit Court of Appeals.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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