

ORIGINAL

19-6440

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES



Mitchell Ludy — PETITIONER
(Your Name)

James W. Mills, et al. VS.
RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals Eleventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Mitchell Ludy #1234896
(Your Name)

Autry State Prison
(Address)

Pelham, GA 31779
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

Whether Georgia prisoners would have a liberty interest in parole if the Georgia parole board would, as mandated by state law, include an eligibility requirement for parole in its rules and regulations?

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:

Terry E. Barnes
Jacquelene Bunn
Braxton Cotton
James Mills
Brian Owens

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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 is unpublished.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 B 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 is unpublished.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 _____ 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 is unpublished.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 is unpublished.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 25, 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: _____, 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

O.C.G.A. § 42-9-45(a) — "The rules and regulations [of the Georgia State Board of Pardons and Paroles] shall contain an eligibility requirement for parole."

U.S. Constitution, Amendment 14 -
"No State shall... deprive any person of life, liberty, or property, without due process of law."

STATEMENT OF THE CASE

In excess of thirty (30) years ago, the Georgia Legislature mandated by statute, O.C.G.A. 42-9-45(a), that the Georgia Board of Pardons and Paroles shall include an eligibility requirement for parole in their rules and regulations. As of today's late date, the appellees have not complied with said legislative mandate. As a result, the appellant is suffering irreparable harm and being denied due process of law because he does not know what is required of him to make parole. Without knowing what is required of him to make parole, Appellant will never be able to leave prison on parole, which effectively transforms and upgrades the appellant's parolable life sentence to a sentence of life imprisonment without possibility of parole. Only by the appellees including an eligibility requirement for parole in their rules and regulations will this egregious and unconstitutional situation be rectified.

Specifically, the appellant alleges that if the appellees do not include an eligibility requirement for parole in their rules and regulations, Appellant will never possess a liberty interest in parole, and the appellees will continue to have unfettered discretion to deny parole for any reason or no reason at all. The inclusion of an eligibility requirement for parole in the rules and regulations of the Georgia parole board by the appellees would create the same type of protected liberty interest in parole as found in *Greenholtz v. Inmates of Nebraska Penal and Correctional Complex*, 442 U.S. 1 (1979); and *Board of Pardons v. Allen*, 482 U.S. 369 (1987). See, also, *Sultenfuss v. Snow, 35 F.3d 1494 (11th Cir. 1994) (dissenting opinion by Circuit Judge CARNES).*

As such, the Georgia Board of Pardons and Paroles (the appellees) would have a set criteria for obtaining parole and, thus, their parole decisions would not be arbitrary and discretionary by law. In summation, Appellant submits that an eligibility requirement for parole would demand and require that a prisoner, such as Appellant, accomplish something to merit parole and, that if he does so accomplish that something, he would then possess a reasonable expectation of being granted parole, to wit: a liberty interest in parole protected by the Due Process Clause.

REASONS FOR GRANTING THE PETITION

Certiorari review should be granted in this case because of the state and national importance of granting a liberty interest in parole to all of Georgia's prisoners, save those with death sentences or life without parole sentence, as such will create a fair and objective mechanism for parole, a mechanism which heretofore never existed in the State of Georgia.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Mitchell Ludy
Date: September 18, 2019