

19-6449

No.

ORIGINIAL

IN THE
SUPREME COURT OF THE UNITED STATES

MR. ANTWOINE BEALER-PETITIONER

VS.

KERN VALLEY STATE PRISON-RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

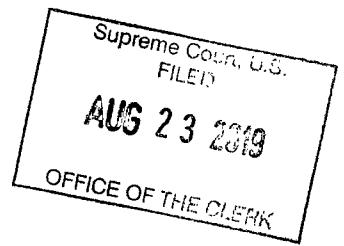
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

MR. ANTWOINE BEALER

P.O. BOX 3030

SUSANVILLE, CA 96127



QUESTION(S) PRESENTED

DOES THE PLRA REQUIRE THE COURT TO LOOK BEYOND AN PRIMA FACIE SHOWING WHEN SCREENING PRISONER IN FORMA PAUPERIS COMPLAINTS.

DOES DOUBLE JEOPARDY PROTECTIONS APPLY TO ADMINISTRATIVE DECISIONS BY PRISON OFFICIALS TO SEGREGATE INMATES.

DOES CRUEL AND UNUSUAL PUNISHMENT APPLY STRICTLY TO HEALTH AND SAFETY.

DID THE DISTRICT COURT ABUSE ITS DISCRETION BY REQUIRING THAT MORE FACT BE RAISED FOR A REASONABLE EXPECTATION THAT DISCOVERY WILL REVEAL EVIDENCE OF PLEADED CONSTITUTIONAL VIOLATIONS.

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IN THE
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OPINIONS BELOW

THE OPINION OF THE UNITED STATES COURT OF APPEALS APPEARS AT APPENDIX A TO THE PETITION AND IS UNPUBLISHED, AS FAR AS THE UNDERSTANDING AND BELIEF OF PETITIONER IS CONCERNED.

THE OPINION OF THE UNITED STATES DISTRICT COURT APPEARS AT APPENDIX B TO THE PETITION AND IS UNPUBLISHED, AS FAR AS THE UNDERSTANDING AND BELIEF OF PETITIONER IS CONCERNED.

JURISDICTION

THE DATE ON WHICH THE UNITED STATES COURT OF APPEALS DECIDED
MY CASE WAS APRIL 3rd, 2019

AN PETITION FOR REHEARING WAS TIMELY FILED AND DENIED BY THE
UNITED STATES COURT OF APPEALS ON THE FOLLOWING DATE: DO NOT
FILE DATE, AND AN COPY OF THE ORDER DENYING REHEARING
APPEARS AT APPENDIX C

AN EXTENSION OF TIME TO FILE THE PETITION FOR WRIT OF CERTIO-
RARI WAS GRANTED TO AND INCLUDING AUGUST 8th, 2019
ON June 19th, 2019 IN APPLICATION No. 18A1341

THE JURISDICTION OF THIS COURT IS INVOKED UNDER 28 U.S.C. §
1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

PRISON LITIGATION REFORM ACT
28 U.S.C. §1915A
RULE 8(a) OF THE FEDERAL RULES OF CIVIL PROCEDURE
42 U.S.C. §1983

VTH AMENDMENT OF THE UNITED STATES CONSTITUTION
VIIITH AMENDMENT OF THE UNITED STATES CONSTITUTION
XIVTH AMENDMENT OF THE UNITED STATES CONSTITUTION

STATEMENT OF THE CASE

On May 9th, 2014, MR. ANTWOINE BEALER, PETITIONER, Was Placed Into The administrative Segregation Unit(ASU) For Refusing Assigned Housing.

On November Of 2010, Petitioner Was Placed Into The (ASU) For Refusing Assigned Housing(Which petitioner ,also filed suit on).

Petitioner Was Released From The (ASU) In Approximately September Of 2011 back, To General Population-Single Celled(see APPENDIX).

Petitioner Was Subjected To An More Restrictive housing Assignment, With No Prior Warning Or Opportunity To Defend Against The punitive Decision.

The Placement Into The (ASU) Subjected Petitioner To Punitive Treatment For No Legitimate Penological Reason. Petitioner Had Been Single Celled Approximately Four(4) Years before May 9th, 2014, And Approx. Three(3) Years In General Population.

The Institution Was Fully Aware The Petitioner Was Single Celled Before Any Inmates Were Approved For Transfer To Kern Valley From Any Other Prison.

If, The Institution Approved An Transfer Of An Inmate From Another Prison With Knowing That There Was Not Any Room For The Inmate, The Institution Was Jeopardizing The Safety Of The Inmate And The Petitioner.

REASONS FOR GRANTING THE PETITION

I. DOES THE PLRA REQUIRE THE COURT TO LOOK BEYOND AN PRIMA FACIE SHOWING WHEN SCREENING PRISONER IN FORMA PAUPERIS COMPLAINTS

The Court Is Required To Screen Complaints Brought By Prisoners Seeking Relief Against A Governmental Entity Or An Officer Or Employee Of A Governmental Entity (28 U.S.C. §1915A(2)).

The Court Must Dismiss A Complaint Or Portion Thereof If The Petitioner Has Raised Claims That Are Legally "frivolous or malicious", That Fail To State A Claim Upon Which Relief May Be Granted, Or That Seek Monetary Relief From A Defendant Who Is Immune From Such Relief (28 U.S.C. §1915A(b)(1), (2)).

"Notwithstanding any filing fee, or any petition thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that...the action or appeal...fails to state a claim, upon which relief may be granted" (28 U.S.C. §1915(e)(2)(B)(ii)).

Petitioner Brought Suit Against Kern Valley State Prison For Placing Him Into The Administrative Segregation Unit(ASU) On May 9th, 2014, For No Legitimate Reason (see APPENDICES).

The Complaint Sought Relief For The Violations To Petitioners VII, VIII, IX And X Amendment Rights.

The District Court Issued The Findings And Recommendations On May 15th, 2018 And The Findings And Recommendations Were Adopted On June 12th, 2018 (see APPENDICES).

The District Court Stated That "Plaintiff erroneously argues that his placement in administrative segregation states cognizable claims for violations of his rights to due process" (see adop. find. & Rec.).

A. WAS THE JUDGES DISCRETION ABUSED BY CONSIDERING ARGUMENTS AT THE SCREENING STAGE.

Rule 8 Of The Federal Rules Of Civil Procedure (Fed.R.Civ.P.) States That, A Complaint Must Contain:

"a short and plain statement of the claim showing that the pleader is entitled to relief"

Detailed Factual Allegations Are Not Required (see Ashcroft V. Iqbal, 556 U.S. 602, 678 (2009); Bell Atlantic Corp. V. Twombly, 550 U.S. 544, 555 (2007)).

Factual Allegations Are Accepted As True, But Legal Conclusions Are Not (Iqbal at 678; see also Moss V. Secret Service, 572 F.3d 962, 969 (9th cir. 2009); Twombly, 550 U.S. at 556-567).

The District Court Exceeded The Scope Of The Pleading Requirements-By

Litigating The Arguments Set Forth At,The Screening Stage.

The Lower Court Did Not Explain How The Petitioner Stating:

"On 5/09/2014, At Approximately 10:00 o'Clock AM, I Was Preparing For An Job Assignment That Started At 12:00 o'Clock PM-In A5/A6 Dining In Kern Valley State Prison. The Floor Officer Came To The Door And Said That The Counselor Wanted Me To Compact Cells With An Inmate Down The Tier Due To An Bus That Came In With "59" Inmates, And If I Did Not Compact, The Counselor Would Give Me An 115 Rule Violation Report(RVR). I Told Him That I Would Not Compact. He Left And Then Came Back With The Other Floor Officer And Said That The sergeant Wanted To Talk To Me In The Program Office. After Approximately Three(3) Or Four(4) Hours, I Was Taken To The Administrative Segregation Unit(ASU) Without Talking To The Sergeant(see amended complaint/ memorandum)." (see Find. & Rec.).

Failed To State An Cognizable Claim.

The Lower Court Stated That:

"Plaintiff has not shown that any finding against him which resulted in his placement in ad-seg has been favorably terminated and thus cannot pursue any claims under §1983 On The Underlying events." (see Find. & Rec.).

The Lower Court Did Not Set An Discovery Schedule, Therefor, It Was Not Possible For The Petitioner To Show That The Finding Against Him, Which Resulted In Ad-Seg Placement, Was Favorably Terminated. The Petitioner Was Released From The (ASU) In Approx. December of 2014, Without An Cellmate. (see APPENDICES(128 G)).

The Lower Court Stated That Petitioner Failed To State An Cognizable Claim due To Administrative Segregation Placement, Not Being Actionable(see Adop.Find.Rec.). The District Court Abused Its Discretion By Exceeding The Scope Of The Screening Process.

The District Court Ruling Is In Direct Contradiction To The Ruling In (Toussaint V. McCarthy, 801 F.2d 1080, (9th cir. 1986)), That The Court Cites.

The Court Ruled In Toussaint That An Inmate Was Entitled To Be Heard On His Objections To Segregation Decisions (Toussaint V. McCarthy, 926 F.2d 800). A Ruling That An Inmate Is Entitled To Be Heard On Objections To Segregation Decisions And Stating That Segregation Placement, Is not Actionable, Is Contradictory.

B. LINKAGE AND CAUSATION

Does More Than An Prima Facie Showing Need To Be Presented To Infer An

Link And Causation.

The Petitioner Stated That He Was Previously(To May 9th,2014),Placed Into Ad-Seg For The Same Offense. Does More Than This Need To Be Pleaded To Infer That The Warden Was Aware Of The Violation Of Petitioners Rights And Failed To Properly Supervise Employees (see Wright V. Smith,21 F.3d 496,502(2d cir. 1994);Smith V. Rowe, 761 F.2d 360,369(7th cir. 1985);Bell Atlantic Corp. V. Twombly, 550 U.S. 544,545,127 S.ct 1955(2007)).

II. DOES DOUBLE JEOPARDY PROTECTIONS
APPLY TO ADMINISTRATIVE DECISIONS
BY PRISON OFFICIALS TO SEGREGATE
INMATES

Is An Inmate Being Prosecuted Twice For The Same Offense If They Are Placed Into Administrative Segregation For Refusing An Cellmate. The Inmate Is Released Back To The Yard They Were Taken From,And Placed In An Cell,Single Celled,And The Inmate Has No Cellmate For Two(2) To Three(3) Years,Given An Job And Then One Day "Out Of The Blue" The Inmate Is placed Into Segregation,Again,For Not Having An Cellmate.

Why Would This Decision Not Be Considered Double Jeopardy. Like State And Federal Court Proceedings,Administrative Decisions Can Have Punitive Consequences. Also, Prison Disciplinary Decisions,Are State Proceedings,In Essence.

Because No Authority Exists For The Proposition That The Double Jeopardy Protections Apply To Administrative Decisions By Prison Officials To Segregate Inmates Does This Mean That Inmates Have No Protections Against Being Segregated For The Same Offense.

This Court States In (Wolff V. McDonnell),418 U.S. 539 (1974) That "We granted the petition for writ of certiorari in this case,414 U.S. 1156, 39 L.Ed 108,94 S.ct 913(1974),because it raises important questions concerning the administration of a state prison."

Considering There Is No State Or Federal Authority That Exists Concerning Double Jeopardy Protections To Administrative Decisions By Prison Officials To Segregate Inmates,Petitioner Believes This Case raises Important Questions.

III. DOES CRUEL AND UNUSUAL PUNISHMENT
APPLY STRICTLY TO HEALTH AND SAFETY

Can Being Placed Into Segregation For No Legitimate Penological Reason Be Considered Cruel And Unusual Punishment,If The Prison Officials Placed An Inmate Into Segregation,Strictly Because The Person Was An Inmate And They Are Guards,And Believed They Could Do To An Inmate What They Wanted Without Any Legitimate Reason,Would That Be Considered Cruel And Unusual Punishment.

Is Being Placed Into (ASU) And Subjected To Punitive Housing For No Legitimate Penological Reasons,Inhumane Conditions Of Confinement,And Unnecessary And Wanton Infliction Of Pain(see Rhodes V. Chapman,452 U.S. 337,347,101 S.ct 2392 (1981)).

IV. DID THE DISTRICT COURT ABUSE ITS
DISCRETION BY REQUIRING THAT MORE
FACT BE RAISED FOR AN EXPECTATION
THAT DISCOVERY WILL REVEAL EVIDENCE
OF THE PLEADED CONSTITUTIONAL VIOLATIONS

The Petitioner Stating In The Complaint That The Petitioner Was Placed In The (ASU) For No Legitimate Penological Reason Satisfies The Pleading Standard. At The Pleading Stage It Is Only Required That Sufficient Factual Matter Accepted As True Be Provided(see Ashcroft V. Iqbal, 556 U.S. 662(2009); Bell Atlantic Corp. V. Twombly, 550 U.S. 544(2007)).

Does The Pleader Have To Provide More Than What happened-To Present An Prima Facie Showing.

DUE PROCESS

The Essence Of The Writ Is The Pleading And The Standard Applied To The Screening Process. The Review Concerns Stating An Claim Upon Which Relief May Be Sought And If That Was Accomplished. Petitioner Was Placed Into The (ASU). According To Rule 8 Of The Fed.R. Civ.P. And The PLRA Statute, An Claim For Relief Was Stated. Prima Facie, Being Placed Into The (ASU) Creates Constitutional Review. Petitioner Was Placed Into The (ASU) Without Recieving Any Witten Notice Of The Reasons Why, Or Any Hearing To Evaluate If Being Placed Into An More Restrictive Housing Was Warranted.

The District Court Erred By Dismissing The Case At Screening And Not Providing The Opportunity For Discovery To Potentially Obtain Documents To Show That No Security Threat Existed And There Was No Legitimate Reason To Remove Petitioner From His Housing And Place Him Into An More Restrictive Housing Unit. The Appellate Court Also Erred By Affirming. did Petitioner Recieve An Fair Opportunity To Show Why He Should Not Be Placed Into An More Restrictive Housing Unit.

In The District Court Proceedings The Petitioner Stated That Toussaint Did Not Mention That Administrative Segregation "Is The Sort Of Confinement That Inmates Should Reasonably Anticipate Recieving At Some Point In Their Incarceration", And That It Was (Hewitt V. Helms, 459 U.S. 460(1983)) That Stated This Petitioner, Although, Was Not Able To Read The Toussaint That The Court Cited, Realizes That It Was An Toussaint Case From 1990 That The Petitioner Was Referring To In The District Court And Not The 1986 Case That The Court Cited.

Does More Than Stating That Petitioner Was Placed Into Ad-Seg For No Legitimate Reason And Prosecuted For The Same Offense, Twice, Need To Be Pleaded To Invoke The Protections Of The XIVH Amendment(see Wolff V. McDonnell, 418 U.S. 539, 556 (1974)).

CRUEL AND UNUSUAL PUNISHMENT

Does Cruel And Unusual Punishment Apply Strictly To Health And Safety.

Petitioner Was Placed Into The (ASU) On May 9th, 2014, For No Legitimate Penological Interest(see APPENDICES).

Placement Into (ASU) Is An Form Of Punishment.

Being Placed Into Administrative Segregation May Not Always Produce Physical Injuries, Nor Does It Always -

Produce Conditions Of Inadequate Sanitation, Personal Hygiene Or Laundry Privileges, But It Can Produce Mental Issues As Well.

Being That (ASU) Placement Can Produce Mental Issues, Would Placement Into The (ASU) For No Legitimate Penological Interest Create An Cruel And Unusual Punishment Violation.

Can An Liberty Interest Be An Cruel And Unusual Punishment Violation-As Well.

DOUBLE JEOPARDY

The Petitioner Was Prosecuted For The Same Offense.

In 2010, The Petitioner Was Placed Into The (ASU) For Refusing Assigned Housing. Petitioner Was Exonerated Of The Charges, Placed On Single Cell And Released From The (ASU) (see APPENDICES).

On May 9th, 2014, Petitioner Was Placed Into The (ASU), Again, And Prosecuted For The Same Offense.

EQUAL PROTECTION

The District Court Abused Its Discretion By Dismissing The Case And Not Allowing Discovery. The District Court Denied The Petitioner The Ability To Submit Admissions And Interrogatories Interrogatory Requests To Show That The Petitioner Was Discriminated Against due To Him Being An Single Celled Inmate.

CONCLUSION

The Petition For Certiorari Should Be Granted.

DATE: AUGUST 22nd, 2019

Respectfully Submitted

MR. ANTOINE BEALER

REASONS FOR GRANTING THE PETITIONS

I. DOES THE PLRA REQUIRE THE COURT TO LOOK BEYOND AN PRIMA FACIE SHOWING WHEN SCREENING PRISONER IN FORMA PAUPERIS COMPLAINTS

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The Complaint Sought Relief for The Violations To Petitioners VTH, VIIITH And XIVTH Amendment Rights.

~~The Lower Court Did Not Explain How Petitioner Stating:~~

~~"On 5/9/2014~~

The District Court Issued The Findings And Recommendations On May 15th, 2018 And The Findings and Recommendations Were adopted On June 12th, 2018(see APPENDICES).

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