

19-7959
NO. _____

ORIGINAL

Supreme Court, U.S.
FILED

MAR 09 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

JOHN TEDESCO ,PETITIONER /ML8942

V.

CYNTHIA LINK ,PENNSYLVANIA DEPARTMENT CORRECTIONS etc,al RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI TO UNITED STATES COURT OF APPEALS FOR THE

THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

JOHN TEDESCO /PRO SE

660 STATE ROUTE 11 HUNLOCK CREEK P.A. 18621

STATEMENT OF QUESTIONS PRESENTED 14.1 (a)

(A) WAS THE PLAINTIFF ENTITLED TO INJUNCTIVE RELIEF ?

(B) WAS THE PLAINTIFF PROVIDED WITH DUE PROCESS ?.

(C) WAS THE PLAINTIFF ALLEGEDLY RETALIATED AGAINST ?.

(D) WAS THE PLAINTIFF IMPEDED FROM PRESENTING COGNIZABLE CLAIMS TO THE COURT?.

(E) DID THE PLAINTIFF HAVE ADEQUATE ACCESS TO THE COURTS ?.

(F) IS THE DEPARTMENT OF CORRECTIONS GRIEVANCE PROCESS MEANINGFUL UNDER PLAINTIFF'S CIRCUMSTANCES .

(G) DID THE DEFENDANTS HAVE PERSONAL INVOLVEMENT IN THE PLAINTIFF'S CLAIMS ?.

(H) DID THE DISTRICT COURT ALLEGEDLY ABUSE IT'S DISCRETION IN DISMISSING ALL OF PLAINTIFF'S CLAIMS ?.

LIST OF PARTIES

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT.

BASIS OF JURISDICTION

THIS APPEAL COMES FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF PENNSYLVANIA ORDER DATED MARCH 28, 2019. # ^{NO} 3:17-0997

THIS APPEAL COMES FROM THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT ORDER DATED JANUARY 7, 2020. # No 19-1813

THIS APPEAL COMES FROM THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT ORDER DATED JANUARY 31, 2020 PETITION FOR REHEARING EN BANC. # No 19-1813

STATUATORY PROVISION OF JURISDICTION

28 U.S.C.S. § 1254 (1) FROM THE UNITED STATES COURT OF APPEALS

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CONCISE STATEMENT 14.1 (g)

PETITIONER WAS TRANSFERRED FROM MONROE COUNTY CORRECTIONAL FACILITY TO S.C.I. GRATERFORD IN APRIL OF 2016 , PETITIONER WAS HOUSED AT MONROE COUNTY CORRECTIONAL FACILITY FROM THE TIME OF HIS ARREST ON JULY 9 ,2013 UP UNTIL HIS TRANSFER TO S.C.I. GRATERFORD IN APRIL OF 2016 , PLAINTIFF VOICED HIS CONCERNS OVER AN ALLEGED ILLEGAL AMENDMENT TO THE CRIMINAL INFORMATION THAT WAS FILED AGAINST HIM BY THE ASSISTANT DISTRICT ATTORNEY , WHICH COULD OF ALLEGEDLY HAD PLAINTIFF CONVICTED , SENTENCED AND THEN INCARCERATED FOR CRIMES NOT CHARGED , PLAINTIFF WAS TOLD TO BRING THESE ISSUES UPON APPEAL , PLAINTIFF ACCUMULATED THE NEXT EIGHT MONTHS OF HIS TIME ON FILING A DIRECT APPEAL , PLAINTIFFS APPEAL CONSISTED OF MULTIPLE WRITTEN OUT DOCUMENTS ON LEGAL YELLOW PAPER THE APPEAL CONSISTED OF QUESTIONS PRESENTED FOR REVIEW , A CONCISE STATEMENT , ARGUMENT AND THE RELIEF REQUESTED , WHILE PLAINTIFF WAS PREPAIRING HIS DIRECT APPEAL WHILE HE WAS STILL INCARCERATED AT MONROE COUNTY CORRECTIONAL FACILITY , HE STARTED TO NOTICE DOCUMENTS MIXED IN WITH THE THOUSANDS OF PAGES OF HIS DISCOVERY , THE DOCUMENTS HAD TO DO WITH A MISSING PERSONS REPORT , INITIALLY PLAINTIFF THOUGHT THE DOCUMENTS HAD TO DO WITH HIS CASE , AND BEING THAT THE PLAINTIFF WAS CONVICTED , SENTENCED AND THEN INCARCERATED FOR CRIMES NOT COMMITTED , HE THOUGHT HE WAS BEING INVESTIGATED FOR ADDITIONAL CRIMES NOT COMMITTED ALSO , UPON FURTHER REVIEW PLAINTIFF REALIZED THE DOCUMENTS HAD NOTHING TO DO WITH HIS

CASE , AND HAD TO DO WITH A MISSING PERSONS / INSURANCE FRAUD CASE THERE WERE ABOUT TWO HUNDRED DOCUMENTS OR MORE ? MIXED IN WITH PLAINTIFF'S LEGAL PAPERS , PLAINTIFF CAME ACROSS THE NAME WILLIAM HOUSER FROM THE UNITED STATES ATTORNEY GENERAL'S OFFICES IN SCRANTON , WHILE PLAINTIFF WAS WORKING ON HIS APPEAL AT THE LAW LIBRARY HE ASKED ONE OF THE STAFF FOR THE ADDRESS TO THE UNITED STATES ATTORNEY GENERALS OFFICES IN SCRANTON . PLAINTIFF THEN WROTE A LETTER TO THE UNITED STATES ATTORNEY GENERAL'S OFFICES IN SCRANTON AND INFORMED THEM THAT SOME HOW THERE ARE HUNDREDS OF PAGES OF THEIR MISSING PERSONS/ INSURANCE FRAUD CASE DOCUMENTS MIXED IN WITH HIS , PLAINTIFF STATED SHOULD HE GIVE TO STAFF AT GRATERFORD SO THEY COULD PAY THE POSTAGE TO HAVE THE DOCUMENTS SENT BACK TO THEIR OFFICE IN SCRANTON , A FEW DAYS AFTER MAILING THE LETTER ,PLAINTIFF WAS CALLED DOWN TO THE SECURITY OFFICE AT S.C.I. GRATERFORD , HE WAS MET BY TWO PENNSYLVANIA STATE POLICE DETECTIVES TROOPER SEBASTIANELLI AND JOHN DOE STATE POLICE DETECTIVE # 2 , HE WAS ASKED MULTIPLE QUESTIONS ABOUT THE DOCUMENTS , ABOUT THEIR CASE WHICH PLAINTIFF EXPLAINED HE KNEW NOTHING ABOUT EXCEPT FROM WHAT HE READ IN THE DOCUMENTS , IT WAS EXPLAINED TO THE PLAINTIFF THAT THIS " MISSING PERSON " MR HEWSON IS MORE THEN LIKELY DEAD , THE DEFENDANTS EXPLAINED THAT THEY COULD HELP THE PLAINTIFF GET OUT OF JAIL IF HE KNEW ANYTHING ABOUT THEIR CASE , PLAINTIFF SAID HE WOULD LOVE TO GET OUT OF JAIL BUT DOES NOT KNOW ANY OF THE PEOPLE OR EVEN HEARD OF ANY OF THE PEOPLE IN THEIR REPORT , AND KNOWS ONLY WHAT INFORMATION HE KNOWS FROM READING THE DOCUMENTS ,JOHN DOE STATE POLICE DETECTIVE # 2 LEFT THE ROOM FOR ABOUT ONE HOUR AS PLAINTIFF WAS ASKED MORE QUESTIONS ABOUT THEIR CASE

BY TROOPER SEBASTIANELLI , PLAINTIFF WAS ASKED QUESTIONS ABOUT HIS CRIMINAL CASE WHEN JOHN DOE STATE POLICE DETECTIVE # 2 RETURNED TO THE INTERVIEW ROOM , PLAINTIFF STATED THAT HE INTENDS TO FILE A SUIT AGAINST MONROE COUNTY FOR MALICIOUSLY PROSECUTING HIM FOR CRIMES NOT CHARGED , PLAINTIFF WAS THEN ASKED IF HE COULD GIVE THE DOCUMENTS THAT HE HAD IN REGARDS TO THEIR CASE TO THE CORRECTIONAL OFFICERS THAT WILL BE ESCORTING HIM BACK TO HIS CELL , AS PLAINTIFF WAS BEING ESCORTED TO HIS CELL IT WAS STATED BY ONE OF THE CORRECTIONAL OFFICERS I AM GOING TO BE IN A " WORLD OF PAIN " IF I DONT RETURN ALL OF THE DOCUMENTS THAT I HAVE RELATED TO THE UNITED STATES ATTORNEY GENERAL'S OFFICES IN SCRANTON MISSING PERSONS CASE , PLAINTIFF STATED HE DOES NOT WANT ANY TROUBLE AND HANDED THE DOCUMENTS HE DID HAVE IN REGARDS TO THE UNITED STATES ATTORNEY GENERALS OFFICES IN SCRANTON'S MISSING PERSONS REPORT TO CORRECTIONAL OFFICERS .

ON JUNE 14 , 2016 PLAINTIFF PACKED UP ALL OF HIS PROPERTY TO BE TRANSFERRED TO S.C.I. CAMP HILL ON JUNE 15, 2016 , ON JUNE 15,2016 PLAINTIFF ARRIVED AT CAMP HILL AND WAS THE ONLY INMATE OUT OF HUNDREDS THAT HAD ARRIVED THAT DAY NOT TO RECEIVE ANY OF HIS LEGAL PAPERS OR PROPERTY , PLAINTIFF FILED GRIEVANCES AND REQUESTS TO STAFF AT CAMP HILL AND GRATERFORD SEE **EXHIBITS J1-J26** , THERE WAS NO RESOLUTUION AFTER SPENDING MONTHS TRYING TO RETAIIN ALL OF PLAINTIFFS'S LEGAL DOCUMENTATION BACK , PLAINTIFF WAS TRANSFERRED TO S.C.I. RETREAT AND TRIED FOR A COUPLE OF MORE MONTHS TO RETAIN HIS PROPERTY BACK , TO NO AVAIL PLAINTIFF HAD TO FILE A FEDERAL **§1983** CLAIM WHICH AFTER WAITING TWO AND HALF YEARS FOR ANY TYPE OF ADEQUATE RESOLUTION ALL OF PLAINTIFF'S CLAIMS WERE DISMISSED PLAINTIFF WAS TOLD TO FILE A

STATE TORT CLAIM, PLASE SEE **EXHIBITS A1-A24,EXHIBITS B1-B3** THE MIDDLE DISTRCT FOR THE STATE OF PENNSYLVANIAS'S DECISIONS , PLAINTIFF THEN FILED AN APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUT AND SENT IN HIS ARGUMENT IN SUPPORT OF HIS APPEAL AFTER WAITING SEVEN MONTHS FOR A BRIEFING SCHEDULE TO BE ISSUED PLAINTIFF RECEIVED A NOTICE STATINHG THAT HIS APPEAL IS DIMISSED PLAEASE SEE **EXHIBITS C1-C2 , D1-D3 AND E1-E2** FROM THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUT PLAINTIFF BASED HIS APPEAL ON THE SAME FACTS AS HIS COMPLAINT TO THE DISTRICT COURT THAT THE PLAINTIFF WAS ENTITLED TO **INJUNCTIVE RELIEF , PAGES 1-4**, AND THAT HIS **DUE PROCESS RIGHTS** ALLEGEDLY COULD OF BEEN VIOLATED **PAGES 5-8** PLAINTIFF ALSO STATED A CLAIM FOR **RETALIATION , PAGES 9-14**, AND THAT THE WAS PREVENTED FROM PRESENTING **COGNIZABLE CLAIMS** TO THE COURT **PAGES 15-19**, PLAINTIFF ALSO PRESENTED FACTS THAT HE DID NOT HAVE **ADQUATE ACCESS TO THE COURTS,PAGES 19-23**, PLAINTIFF ALSO STATED THAT THE **GRIEVANCE PROCESS IS NOT MEANINGFUL** UNDER PLAINTIFF'S CIRCUMSTANCE **PAGES 24-25**, PLAINTIFF ALSO STATEDI,IN HIS COMPLAINT THAT THE DEFENDANT'S DID HAVE **PERSONAL INVOLVEMENT** IN PLAINTIFF'S CLAIMS ,**PAGES 26-27** AND THAT THE TRIAL COURT ALLEGEDLY COULD OF ABUSED IT'S **DISCRETION ,PAGES 28-30** , PLEASE SEE **EXHIBITS F1-F3** PLAINTIFF'S MOTION FOR AN **INJUNCTION** , PLAINTIFF ALSO PROVIDED HIS MOTION FOR **EQUITABLE TOLLING ,EXHIBITS G1-G2**, PLAINTIFF ALSO PROVIDED HIS MOTION HE FILED FOR **RECONSIDERATION , EXHIBITS H1-H3**, PLAINTIFF ALSO BELIEVED THAT HE WAS ENTITLED **APPOINTMENT OF COUNSEL ,EXHIBITS I-1-I-2**, PLAINTIFF ALSO INLUDED HIS PETITION FOR **REHEARING EN BANC ,EXHIBITS K1-K2**.

CONCISE ARGUMENT 14.1(h)

THE DEPARTMENT OF CORRECTIONS FOR THE STATE OF PENNSYLVANIA , SEIZED AND OR DESTROYED ALL OF PLAINTIFF'S LEGAL DOCUMENTATION, ALLEGEDLY FOR HAVING DOCUMENTS THAT WERE NOT EVEN RELATED TO THE PLAINTIFF'S CASE , THE DOCUMENTS HAD TO DO WITH A MISSING PERSONS REPORT FROM THE UNITED STATES ATTORNEY GENERAL'S OFFICE IN SCRANTON PENNSYLVANIA , PLAINTIFF WAS ASKED MUTIPLE QUESTIONS ABOUT THE MISSSING PERSONS REPORT , PLAINTIFF STATED HE STARTED TO NOTICE THE DOCUMENTS AS HE WAS PREPAIRING FOR HIS CRIMINAL TRIAL WHILE HE WAS INCACARCARATED AT MONROE COUNTY CORRECRTIONAL FACILITY IN STROUDSBURG PENNSYLVANIA , ALL QUESTIONS PERTAINING TO THE MISSING PERSONS REPORT WERE ASKED BY STATE POLICE DETECTIVES WHILE PLAINTIFF WAS INCARCARATED AT S.C.I. GRATERFORD IN MAY OF 2016 , ALL OF PLAINTIF'FS LEGAL DOCUMENTS , TRAIL TRANSCRIPTS , SENTENCING TRANSCRIPTS , PRELIMINARY HEARING TRANSCRIPTS , DISCOVERY , EVIDENCE TO SUPPORT A MALICIOUS PROSECUTION CLAIM , AS WELL AS PRE TRIAL MOTIONS AND POST TRIAL MOTIONS , INEFFECTIVE ASSISTANCE OF COUNSEL LETTERS , MOTIONS, GRAND JURY TRANSCRIPTS, LEGAL DOCUMENTATION FROM FOUR SEPARATE ATTORNEYS DATING BACK TO 2011 , AFTER MONTHS OF BEING LIED TO FROM PENNSYLVANIA DEPARTMENT OF CORRECTIONS EMPLOYEES , PLAINTIFF FILED A FEDERAL **\$1983** IN THE DISTRICT COURT WHEN THAT WAS DENIED AFTER WAITING TWO AND HALF YEARS , PLAINTIFF THEN APPEALED THE DISTRCT COURTS DECISION TO THE APPEALS COURT , AND THEN TO THIS COURT.

ARGUMENT

A. FIRST QUESTION

WAS THE PLAINTIFF ENTITLED TO INJUNCTIVE RELIEF ?.

AS STATED IN THE PLAINTIFF'S COMPLAINT TO THE DISTRICT COURT , AS WELL AS THE THIRD CIRCUIT COURT OF APPEALS , TO STATE AN INJUNCTION CLAIM THERE MUST BE A RELATIONSHIP BETWEEN THE INJURY CLAIMED IN THE PARTY'S MOTION AND THE CONDUCT ASSERTED IN THE COMPLAINT , BALL V . FAMIGLIO 396 FED APPX 836,837, (3d CIR 2000) (PER CURIAM) , THUS A COURT SHOULD NOT GRANT AN INJUNCTION WHEN THE ISSUES RAISED IN THE MOTION ARE ENTIRELY DIFFERENT FROM THOSE IN THE COMPLAINT JONES V . TAYLOR NO . 3:12 CV 887, 2013,US DISTRICT LEXIS 64642 2013 WL 1899 852 AT * 2 (MDP.A. 2013 CITING BEERS CONSOL MINES V . UNITED STATES 325 US AT 212-220,2365S.C.T. ,1130,89 LEd 1566 (1945) SEE ALSO KAIMOWITZ V . ORLANDO FLA 122 F.3d 41,43, (11TH CIR 1997) , A DISTRICT COURT SHOULD NOT ISSUE AN INJUNCTION WHEN THE INJUNCTION IN QUESTION IS NOT OF THE SAME CHARACTER AND DEALS WITH A MATTER LYING WHOLLY OUTSIDE THE ISSUES IN THE SUIT (CITING DEBEERS325 US AT 220 DOPP V . JONES NO CIV-12-703 11e 2012 US DISTRICT LEXIS 186,828,2012WL,719,2503AT * 1CWD OKLA SEPT 19 TH , PLAINTIFF FILED TWICE FOR AN INJUNCTION OVER THE COURSE OF A TWO YEAR PERIOD AND NEVER RECEIVED ANY TYPE OF RESPONSE OR RULING IN REGARDS TO HIS INJUNCTION MOTIONS , UP UNTIL HIS COMPLAINT WAS DISMISSED BY THE DISTRICT COURT , THE RELIEF THAT THE PLAINTIFF HAD

ASKED FOR WAS THE SAME TYPE OF RELIEF HE REQUESTED IN HIS ORIGINAL COMPLAINT , THAT HIS LEGAL DOCUMENTS BE RETURNED MINUS ALLEGED CONSTITUTIONAL VIOLATONS THAT MIGHT HAVE OCCURED TO THE PLAINTIFF , ALL OF PLAINTIFF'S REQUESTS WERE PROPERLY ASSERTED IN HIS ORIGINAL COMPLAINT , AND ALSO ASSERTED IN HIS MOTION FOR AN INJUNCTION , PRELIMINARY INJUNCTIVE RELIEF IS AN EXTRA ORDINARY IN NATURE AND SHOULD ONLY BE ISSUED IN LIMITED CIRCUMSTANCES SEE AM TEL AND CO V . WINBACK CONSERVE PROGRAM INC 42F.3d 1421,1426-27 (3d CIR 1997) IN DETERMINING WHETHER TO GRANT A MOTION SEEKING INJUNCTIVE PRELIMINARY RELIEF , COURTS IN THE THIRD CIRCUT CONSIDER THE FOLLOWING FACTORS (1) THE LIKELY HOOD OF SUCCESS ON THE MERITS (2) IRREPARABLE HARM RESULTING FROM THE DENIAL OF THE GRANTED RELIEF (3) HARM TO THE NON MOVING PARTY IF THE RELIEF IS GRANTED AND (4) THE PUBLIC INTEREST , CLEARLY ALL PLAINTIFF WAS ASKING FOR WAS THE RETURN OF HIS LEGAL DOCUMENTS , SO HE COULD SUBMIT HIS DIRECT APPEAL AS WELL AS TO PRESENT DATE CHALLANGE HIS POST CONVICTION RELIEF ACT , THE DEPARTMENT OF CORRECTIONS WERE ACTUALLY IN TOUCH WITH PLAINTIFF'S CRIMINAL ATTORNEY ON THE REPLACEMENT COST OF PLAINTIFF'S LEGAL DOCUMENTS , BUT THEN STOPED CONTACT WITH PLAINTIFF'S CRIMINAL ATTORNEY , NO HARM WOULD OF RESULTED TO THE NON MOVING PARTY BY REPLACING THE PLAINTIFF'S LEGAL DOCUMENTS , IT IS ALSO APPARENT THAT THE PLAINTIFF HAS SUFFERED IRREPARABLE HARM BY NOW GOING ON THE FOURTH YEAR WITHOUT ANY OF HIS LEGAL DOCUMENTATION , PLAINTIFF WISHED TO FILE HIS OWN DIRECT APPEAL WITH THE SUPERIOR COURT , AS STATED PLAINTIFF'S P.C.R.A. IS NOW DUE AND PLAINTIFF DOES NOT HAVE ANY TRANSCRIPTS FROM ANY OF HIS CRIMINAL PROCEEDINGS , IT WOULD IMPOSSIBLE FOR THE PLAINTIFF TO

CHALLANGE ANY ALLEGED CONSTITUTIONAL VIOLATION WITHOUT LEGAL DOCUMENTATION TO SUPPORT HIS CLAIMS , SUBSEQUENTLY THERE WOULD OF BEEN NO HARM TO THE PUBLIC INTEREST IF THE PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF WAS GRANTED , IT IS THE MOVING PARTY WHO BEARS THE BURDEN OF SATISFYING THESE FOUR FACTORS ONLY IF THE MOVANT PRODUCES EVIDENCE SUFFICIENT CONVINCE THE TRIAL THAT ALL FOUR FACTORS FAVOR PRELIMINARY RELIEF , SHOULD THE INJUNCTION ISSUE SEE OPTICIANS ASSN OF AMERICA V.INDEP OTICIANS OF AM 920 F.2d 187,192 (3d CIR 1990) THE PLAINTIFF WAS JUST TRYING TO RETAIN HIS LEGAL DOCUMENTS BACK FROM THE DEPARTMENT OF CORRECTIONS THAT WERE EITHER COFISCATED AND OR DESTROYED , SO HE COULD PROPERLY CHALLANGE HIS ALLEGED ILLEGAL CONVICTION, IF AN INJUNCTION WERE ISSUED IN THE PLAINTIFF'S CASE IT WOULD OF ONLY REQUIRED THE DEPARTMENT OF CORRECTIONS TO RETAIN PLAINTIFF'S LEGAL DOCUMENTS FROM FOUR DIFFERENT ATTORNEY'S THAT NAMES PLAINTIFF PROVIDED TO THE COURT IN HIS INJUNCTION MOTION , ADDITIONALLY IF PLAINTIFF'S ALLEGATIONS ARE NOT TRUE WHY WOULD THE DEPARTMENT OF CORRECTIONS SPEND THOUSANDS OF DOLLARS LITIGATING PLAINTIFF'S COMPLAINT , INSTEAD THEY COULD OF USED THAT MONEY TO RETAIN HIS LEGAL DOCUMENTS BACK , AN ESSENTIAL PREREQUISITE TO GRANT A PRELIMINARY INJUNCTION IS THE SHOWING OF THE MOVANT OF IRREPARABLE INJURY PEDNT LITE IF THE RELIEF IS NOT GRANTED UNITED STATES V . PENNSYLVANIA 533F.2d 107,110(3d CIR 1976) , A PRELIMINARY INJUNCTION MAY NOT BE USED SIMPLY TO ELIMINATE A POSSIBILITY OF A REMOTE FUTURE INJURY HOLIDAY INNS OF AMERICA INC V . BB CORP 614,6187VI 45 (3d cir 1169).

ARGUMENT

B. SECOND QUESTION

WAS THE PLAINTIFF PROVIDED WITH DUE PROCESS ?.

PROCEDURAL DUE PROCESS CLAIMS ARE GOVERNED IN MATHEWS V . ELRIDGE 424U.S.

319,335,96S.C.T. 893 LEd 2d 18 (1976) UNDER THAT STANDARD A COURT IS TO WEIGH THREE FACTORS (1) THE PRIVATE INTEREST THAT WILL BE AFFECTED BY THE OFFICIAL ACTION (2)" THE RISK OF AN ERRONEOUS DEPRIVATION OF SUCH INTEREST THROUGH THE PROCEDURE USED " AND THE VALUE OF " ADDITIONAL OR SUBSTITUTE PROCEDURAL SAFEGAURDS " AND (3) GOVERNMENT INTEREST INCLUDING THE FUNCTION INVOLVED AND THE FISCAL AND ADMINISTRATIVE BURDENS THAT THE PROCEDURAL REQUIREMENTS WOULD ENTAIL , TO DATE FOUR YEARS AFTER PLAINTIFF'S DOCUMENTS WERE SEIZED , PLAINTIFF HAS NOT BEEN PROVIDED WITH ANY OF POST DEPRIVATION HEARING IN REGARDS TO WHY HIS LEGAL DOCUMENTS WERE CONFISCATED , AND IN ADDITION TO NOT BEING PROVIDED WITH ANY TYPE OF COMPENSATION OR RELIEF PLAINTIFF FILED MOTIONS WITH THE DISTRICT COURT TO HAVE THE DEPARTMENT OF CORRECTIONS PROVIDE HIM WITH SOME TYPE OF RELIEF , ALL OF PLAINTIFF'S REQUESTS WENT IGNORED , STATE PRISONERS ALSO HAVE A PROPERTY INTEREST IN THE FUNDS IN THEIR INMATE ACCOUNTS REYNOLDS 128F.3d AT 179 AS STATED IN PLAINTIFF'S ARGUMENT IN SUPPORT OF HIS APPEAL TO THE THIRD CIRCUT , THE PROCEDURAL ASPECT OF DUE PROCESS GUARANTEES THE AVAILABILITY OF CERTAIN PROCEDURAL MECHANISMS TYPICALLY THE RIGHT TO NOTICE AND A HEARING BEFORE THE GOVERNMENT

CAN DEPRIVE AN INDIVIDUAL OF LIFE, LIBERTY , OR INTEREST , ADDITIONALLY THE DEPARTMENT OF CORRECTIONS FOR THE STATE OF PENNSYLVANIA HAD REDUCED THE ECONOMIC VALUE OF PLAINTIFF'S ACCOUNT AS HE HAS HAD TO PAY THOUSANDS OF DOLLARS IN FILING FEES TO THE DISTRICT COURT AS WELL AS THE APPEALS COURT , AS WELL AS THOUSANDS OF DOLLARS IN POSTAGE AND COPY FEES , SO HE COULD AT LEAST HAVE A CHANCE TO RETAIN HIS LEGAL DOCUMENTATION AND PROPERLY LITIGATE HIS CRIMINAL PROCEEDINGS, AS WELL AS ANY CIVIL PROCEEDINGS , ADDITIONALLY IN SITUATIONS WHERE THE STATE FEASIBLY CAN PROVIDE A PRE DEPRIVATION HEARING BEFORE TAKING AN INMATES PROPERTY , IT MUST DO SO REGARDLESS OF THE ADEQUACY OF A POST DEPRIVATION TORT REMEDY TO COMPENSATE FOR THE TAKING OF PROPERTY ZINERMON V . BURCH 494,US,113,132,110S.C.T. 975,108 LEd 2d 100 (1990) TAKING TOGETHER WITH THE CASE ABOVE AND PLAINTIFF'S CASE IT IS CLEAR THAT WHEN A PRE DEPRIVATION PROCESS COULD BE EFFECTIVE IN PREVENTING ERRORS THAT PROCESS IS REQUIRED BURNS 642.F.3d 163, HIGGINS 293 F.3d AT 694-694, IN ADDITION A CONSTITUTIONALLY REQUIRED PRE DEPRIVATION HEARING SHOULD OF BEEN PROVIDED TO PLAINTIFF, AS STATED THE DEPARTMENT OF CORRECTIONS HAS DEDUCTED THOUSANDS OF DOLLARS FROM THE PLAINTIFFS ACCOUNT , THERE IS NOTHING ABOUT THE DEPARTMENT OF CORRECTIONS POLICY THAT REQUIRED THE DEPARTMENT OF CORRECTIONS TO TAKE IMMEDIATE FUNDS FROM THE PLAINTIFF'S ACCOUNT TO SATISFY FILING FEES ON LEGAL PAPERS , PROPERTY THAT THE DEPARTMENT OF CORRECTIONS , DESTROYED AND OR CONFISCATED .

PRISONERS ARE ALSO PROTECTED UNDER THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT FROM INDIVIOUS DISCRIMINATION BASED ON RACE LEE V.

WASHINGTON 390 U.S. 333 19LEd 2d 1212,88S.C.T 994(1968) PRISONERS MAY ALSO CLAIM THE PROTECTION OF THE DUE PROCESS CLAUSE , THEY MAY NOT BE DEPRIVED OF LIFE , LIBERTY, OR PROPERTY WITHOUT DUE PROCESS OF LAW HAINES V . KERNER 404 U.S. 519 30 LEd 2d 652,92 S.C.T. 594 (1972) THE DESTRUCTION ,CONFISCATION , OF ALL OF PLAINTIFF'S LEGAL PAPERS INTERFERED WITH THE UNDERLYING CLAIM TO FILE HIS OWN DIRECT APPEAL , P.C.R.A. AND ANY OTHER CLAIMS THAT COULD OF BEEN LITIGATED PROPERLY HAD PLAINTIFF HAD HIS LEGAL PAPERS IN HIS POSSESSION, PLAINTIFF ALSO GAVE ACTUAL DETAILS ON WHY AND WHAT PROCEEDINGS HE NEEDED HIS LEGAL PAPERS FOR , HOW COULD PLAINTIFF CHALLANGE ANY ALLEGED ERRORS THAT COULD OF HAPPENED TO HIM BEFORE, AFTER OR DURING ANY OF HIS CRIMIAL PROCEDURES , PLAINTIFF CLAIMED IN HIS COMPLAINT TO THE DISTRICT COURT , AS WELL AS IN HIS ARGUMENT IN SUPPORT OF HIS APPEAL TO THE THIRD CIRCUT , THAT THE NAMED DEFENDANT'S VIOLATED HIS DUE PROCESS RIGHT'S BY CONFISCATING HIS DIRECT APPEAL AND ALL OF HIS TRANSCRIPTS AND LEGAL PAPERS DATING BACK TO 2011, A PROCEDURAL DUE PROCESS CLAIM REQUIRES A TWO STEP INQUIRY (1) WHETHER THE COMPLAINING PARTY HAS A PROTECTED LIBERTY [2007 U.S. DISTRICT LEXIS 23] OR PROPERTY INTEREST AND (2) WHETHER THE PROCESS AFFORDED THE PRISONER COMPORTS WITH THE CONSTITUTIONAL REQUIREMENTS SHORTS V . HORN 213F.3d,140,143-44 (3d CIR 2000) UNDOUBTEDLY PLAINTIFF WAS ENTITLED TO FILE HIS OWN DIRECT APPEAL , AS WELL AS ANY OTHER POST CONVICTION RELIEF THAT HE WAS ENTITLED TO WITH HIS LEGAL DOCUMENTS IN HIS POSSESSION , ADDITIONALLY ALL OF PLAINTIFF'S LEGAL PAPERS WERE HIS PROPERTY PARATT V . TAYLOR 451 US 527-529,30,101,S.C.T. 1908,68,LEd 2d 420 (1981) . WHEN DEPRIVING PRISONERS OF THEIR PROPERTY , PRISON OFFICIALS MUST PROVIDE

PRISONERS AN OPPROTUNITY AT A MEANINGFUL TIME AND IN A MEANINGFUL MANNER , IN ORDER TO COMPORT WITH DUE PROCESS REQUIREMENTS , POST DEPRIVATION REMEDIES GRANT PRISONERS THAT OPPROTUNITY AND SATISFY DUE PROCESS REQUIREMENTS , CONSEQUENTLY THE PLAINTIFF HAS NOW GONE CLOSE TO FOUR YEARS WITHOUT ANY RESOLUTION ON THE RETURN OF HIS LEGAL DOCUMENTS AND TO SAY THAT THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS POST DEPRIVATION REMEDIES SATISFY DUE PROCESS UNDER PLAINTIFF'S CIRCUMSTANCES WOULD BE APPALLING , PLAINTIFF DID NOT MAINTAIN A DUE PROCESS CLAIM FOR THE DEPARTMENT OF CORRECTIONS INDOLENT AND TROUBLED GRIEVANCE PROCESS ITSELF BUT INSTEAD STATED ONLY TO THE EXTENT THAT THE PROCEDURES SHORTCOMINGS INJURED HIS DUE PROCESS RIGHTS TO CONTEST HIS DIRECT APPEAL AND TO DATE HIS P.C.R.A. IN AN ADEQUTE AMOUNT OF TIME AS SET FORTH IN THE PENNSYLVANIA RULES OF APPELLATE PROCEDURE .

ADDITIONALLY THE PLAINTIFF HAS SET FOURTH IN HIS COMPLAINT AND MOTIONS FOR RELIEF TO THE DISTRICT COURT THAT THERE ARE ENOUGH SUFFICIENT FACT'S TO PREVAIL ON A " CLASS OF ONE THEORY " , THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT GENERALLY REQUIRES THAT SIMILARILY SITUATED PERSOND BE TREATED ALIKE **CITY OF CLEBURNE V . CLEBURNE LIVING CENTER 473 US 432,105,S.C.T,3249,84 LEd 2d 313 (1985)** AN EQUAL PROTECTION CLAIM MAY BE BROUGHT BY A " CLASS OF ONE THEORY " WHERE PLAINTIFF ALLEGES THAT HE HAS BEEN INTENTIONALLY TREATED DIFFERENTLY FROM OTHER SIMILARILY SITUATED AND THAT THERE IS NO RATIONAL BASIS FOR THE DIFFERENCEIN TREATMENT**VILLAGE OF WILLOWBROOK V . OLECH 528 US 562,564,120 S.C.T. 1073,145 LEd 2d 1060 (2000) (PER CURIAM).**

ARGUMENT

C. THIRD QUESTION

WAS THE PLAINTIFF RETALIATED AGAINST ?.

PLAINTIFF NOTIFIED IN HIS INITIAL COMPLAINT TO THE DISTRICT COURT THAT HE ALLEGEDLY COULD OF BEEN RETALIATED AGAINST FOR HAVING DOCUMENTS , THAT WERE MIXED IN WITH HIS DISCOVERY THAT HAD TO DO WITH A MISSING PERSONS / INSURANCE FRAUD REPORT , PLAINTIFF STARTED TO NOTICE THESE DOCUMENTS WHILE HE WAS INCARCARATED AT MONROE COUNTY CORRECTIONAL FACILITY , WHILE PLAINTIFF WAS TRANSFERRED TO S.C.I. GRATERFORD HE STARTED TO NOTICE MORE DOCUMENTS RELATED TO THE UNITED STATES ATTORNEY GENERAL'S OFFICE IN SCRANTON PENNSYLVANIA'S MISSING PERSONS REPORT , PLAINTIFF WROTE TO THE UNITED STATES ATTORNEY GENERALS OFFICE IN SCRANTON AND TOLD THEM SOMEHOW THERE ARE HUNDREDS OF PAGES OF DOCUMENTS FROM THEIR REPORT MIXED IN WITH HIS DISCOVERY , PLAINTIFF WAS VISITED BY TWO PENNSYLVANIA STATE POLICE DETECTIVES , WAS ASKED MULTIPLE QUESTIONS ABOUT THEIR CASE , IT WAS ALSO STATED TO PLAINTIFF THAT THE PERSON IN THE MISSING PERSONS REPORT IS MORE THEN LIKELY DECEASED , PLAINTIFF STATED TO STATE POLICE THAT HE BELIEVES HIS PROSECUTION WAS ALLEGEDLY MALICIOUS , AND STATED THAT HE HAS DOCUMENTATION TO SUPPORT HIS CLAIMS , IT WAS STATED TO PLAINTIFF THAT THE PENNSYLVANIA STATE POLICE COULD HELP PLAINTIFF GET OUT OF JAIL IF HE HAD INFORMATION THAT COULD HELP THEM WITH THEIR MISSING PERSONS REPORT CASE, PLAINTIFF STATED HE WOULD LOVE TO GET OUT

OF JAIL , BUT THE ONLY INFORMATION AND KNOWLEDGE OF THE CASE THAT HE KNOWS IS THROUGH THE DOCUMENTATION FROM THEIR REPORT THAT PLAINTIFF READ, IN THE HUNDREDS OF DOCUMENTS THAT WERE RELATED TO THEIR CASE , PLAINTIFF WAS ESCORTED BACK TO HIS CELL BY THREE CORRECTIONAL OFFICERS , ONE OF THE CORRECTIONAL OFFICERS STATED TO PLAINTIFF THAT HE IS GOING TO BE IN A " WORLD OF PAIN " IF HE DOES NOT HAND OVER ALL OF THE DOCUMENTS HE HAD RELATED TO THE UNITED STATES ATTORNEY GENERALS OFFICE IN SCRANTONS MISSING PERSONS REPORT , PLAINTIFF HANDED OVER ALL THE DOCUMENTS THAT HE HAD RELATED TO MISSING PERSONS REPORT CASE TO CORRECTIONAL OFFICERS .

RETALIATION FOR THE EXERCISE OF A CONSTITUTIONALLY PROTECTED RIGHT IS ITSELF A VIOLATION OF RIGHT'S SECURED BY THE CONSTITUTION WHITE V. NAPOLEON 897 F.2d 102-111-112(3d CIR 1970) TO PLEAD A FIRST AMENDMENT RETALIATION CLAIM A PLAINTIFF MUST ALLEGE (A) A CONSTITUTIONALLY PROTECTED CONDUCT (B) RETALIATORY ACTION , SUFFICIENT TO DETER A PERSON OF ORDINARY FIRMNESS FROM EXERCISING HIS CONSTITUTIONAL RIGHT AND (C) A CASUAL LINK BETWEEN THE CONSTITUTIONALLY PROTECTED CONDUCT AND THE RETALIATORY ACTION THOMAS V . INDEPENDENCE TWP 463,F.3d 285,296, (3d CIR 2006) RAUSER V. HORN 241 F.3d 330 ,333 3d CIR 2001) ALLAH V. SEIVERLING 229,F.3d,220225(3d CIR 2000) 2011 U.S. PLAINTIFF MAY ESTABLISH CAUSATION BY ALLEGING EITHER (A) AN UNUSUALLY SUGGESTIVE TEMPORAL PROXIMITY BETWEEN THE PROTECTED CONDUCT ACTIVITY AND THE ALLEGED RETALIATORY ACTION (B) A PATTERN OF ANTAGONISM COUPLED WITH THE TIMING TO ESTABLISH A CASUAL LINK JEAN V. DEFLAMINIS 480 F.3d 1259,267.(3d CIR 2007), HERE PLAINTIFF ALLEGES THAT UPON

NOTIFYING THE UNITED STATES ATTORNEY GENERAL'S OFFICE IN SCRANTON ABOUT THE DOCUMENTS HE HAD RELATED TO THEIR MISSING PERSONS /INSURANCE FRAUD REPORT WHILE HE WAS INCARCARATED AT S.C.I. GRATERFORD IN MAY OF 2016 , PLAINTIFF WAS VISITED BY DETECTIVE SEBASTIANELLI AND JOHN DOE STATE POLICE DETECTIVE # 2 , THREE WEEKS LATER WHEN HE WAS TRANSFERRED FROM S.C.I. GRATERFORD TO S.C.I CAMP HILL IN JUNE OF 2016 ,ALL OF HIS LEGAL DOCUMENTATION AND PROPERTY WENT MISSING , BASED ON THE ALLEGATIONS SET FOURTH IN THE PLAINTIFF'S COMPLAINT TO THE DISTRICT COURT AS WELL AS THE PLAINTIFFS ARGUMENT IN SUPPORT OF HIS APPEAL TO THE APPEALS COURT , PLAINTIFF WAS ABLE TO SUPPORT A CLAIM OF RETALIATION , AFTER PLAINTIFF'S LEGAL DOCUMENTS WENT MISSING HE NOTIFIED BOTH INSTITUTIONS THAT IF HE DOES NOT RECEIVE HIS LEGAL PAPERS , APPEALS , BACK THAT HE IS GOING TO FILE A LAWSUIT , PLAINTIFF WAS THEN HELD BACK MONTHS FROM FILING A §1983 SUIT AGAINST THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS , AS HE WAS LED TO BELIEVE BY THE UNIT MANAGER OF " A " BLOCK AT CAMP HILL THAT THE DEPARTMENT OF CORRECTIONS WAS ACTUALLY WORKING ON A SOLUTION TO OBTAIN ALL OF PLINTIFF'S LEGAL DOCUMENTS BACK , AND THAT HE SHOULD NOT FILE ANY MORE GRIEVANCES , ADDITIONALLY WHEN PLAINTIFF WAS TRANSFERRED TO ANOTHER JAIL IN NOVEMBER OF 2016 S.C.I. RETREAT , THE DEPARTMENT OF CORRECTIONS WAS IN CONTACT WITH THE PLAINTIFF/ DEFENDANT'S ATTORNEY IN DECEMBER OF 2016 , AND THEN NO CONTACT WAS MADE AFTER THAT , THE DEFENDANTS ALSO OFFERED NO EVIDENCE JUSTIFYING THE ADVERSE ACTIONS OF DESTROYING , AND OR CONFISCATING ALL OF THE PLAINTIFF'S LEGAL DOCUMENTS , THE FAILURE OF THE DEFENDANTS TO EVEN ACKNOWLEDGE PLAINTIFF'S RETALIATION CLAIM LEFT MATERIAL ISSUES OF FACT IN DISPUTE AND WOULD

REQUIRE REVERSAL OF THOSE CLAIMS TO THOSE DEFENDANTS BITZAN V. BARTRUFF 916 F.3d

,716(8th cir 2019) IT IS ALSO APPARENT THAT THE PLAINTIFF CANNOT LEGITIMATELY

CHALLANGE HIS CONVICTION OR SENTENCE WITHOUT ANY OF HIS LEGAL DOCUMENTS ,

PAPERS ,TRANSCRIPTS, APPEALS BOYER V . CRAWFORD COUNTY CORRECTIONAL FACILITY

USDC(WD PENN CASE # 1:14-CV-00206SPB.

ADDITIONALLY THE DISTRICT COURT AS WELL AS THE APPEALS COURT NEVER TOOK INTO

CONSIDERATION THAT THE RETALIATION THAT WAS IMPLEMENTED BY THE DEFENDANT'S

AGAINST THE PLAINTIFF, THE PLAINTIFF FELL INTO THE WITNESS CATEGORY AS DEFINED BY

18 P.A. § 4951, THEN AFTER ALL OF HIS DOCUMENTS SEIZED/DESTROYED AND CONCEALED

FROM PLAINTIFF HE THEN BECAME A VICTIM , UNDER THIS STATUTE A VICTIM IS DEFINED " AS

ANY PERSON WHOM ANY CRIME AS DEFINED UNDER THE LAWS OF THIS STATE OR ANOTHER

STATE OF THE UNITED STATES AS BEING PERPETUAL OR ATTEMPTED , A " WITNESS IS

DEFINED AS ANY PERSON HAVING KNOWLEDGE OF THE EXISTENCE OR NON EXISTENCE OF

FACT'S OR INFORMATION RELATING TO ANY CRIME INCLUDING BUT NOT LIMITED TO THOSE

WHO HAVE REPRTED FACT'S OR INFORMATION TO ANY LAW ENFORCEMENT OFFICER ,

PROSECUTING OFFICIAL , ATTORNEY REPRESENTING A CRIMINAL DEFENDANT OR JUDGE ,

THOSE WHO HAVE BEEN SERVED WITH A SUBPOENA ISSUED UNDER THE AUTHORITY OF THIS

STATE OR ANY OTHER STATE AND THOSE WHO HAVE GIVEN WRITTEN OR ORAL TESTIMONY IN

ANY CRIMINAL MATTER ;OR WHO WOULD BE BELIEVED BY ANY REASONABLE INDIVIDUAL

DESCRIBED IN THE DEFINITION OF **18 P.A.C.S § 4951** , CLEARLY PLAINTIFF LEARNED OF

MULTIPLE FACTS FROM THE UNITED STATES ATTORNEY GENERAL'S OFFICE'S IN SCRANTON'S

MISSING PERSONS / INSURANCE FRAUD REPORT THAT NO PERSON SHOULD OF HAD ACCESS

TO,AS HE READ THE DOCUMENTS AND ORIGINALY THOUGHT THEY PERTAINED TO HIS CASE THE PERFORATION OF THE CASE WAS NOT THE PLAINTIFF'S FAULT , PLAINTIFF TRIED TO DO THE RIGHT THING AND RETURN THE MISSING PERSONS / INSURANCE FRAUD PAPERS , AND CONSEQUENTLY WAS RETALIATED AGAINST , ADDITIONALLY PLAINTIFF PROVIDED MORE THE ENOUGH EVIDENCE / INFORMATION TO PROVE THAT THEIR WAS A CONSPIRACY TO INTERFERE WITH HIS CIVIL RIGHT'S TO STATE AN ACTIONABLE CLAIM FOR RETALIATION A PRISONER MUST PROVE THAT (1) THE CONDUCT THAT LED TO THE ALEGED RETALIATION WAS A CONSTITUTIONALLY PROTECTED CONDUCT AND (2) THE CONSTITUTIONALLY PROTECTED CONDUCT WAS A SUBSTAINTIAL OR MOTIVATING FACTOR IN THE DECISION TO TAKE ADVERSE ACTION RAUSER V . HORN 241,F.3d 330,333 (3d CIR 2011) IN PLAINTIFF'S CASE HE HAD STATED TO THE PENNSYLVANIA STATE POLICE DETECTIVES WHEN HE WAS INTERVIEWED AT S.C.I. GRATERFORD IN REGARDS TO THE MISSING PERSONS REPORT DOCUMENTS , OF HIS INTENTIONS TO FILE A SUIT AGAINST THE MONROE COUNTY DISTRICT ATTORNEY'S OFFICE IN REGARDS TO HIS ALLEGED MALICIOUS PROSECUTION CLAIM , PLAINTIFF ALSO STATED HE HAD DOCUMENTS TO SUPPORT HIS CLAIM , IN ADDITION TO THE HUNDREDS OF OTHER DOCUMENTS RELATED TO THE UNITED STATES ATTORNEY GENERALS MISSING PERSONS REPORT, WHETEHER PLAINTIFF WAS ALLEGEDLY RETALIATED AGAINST OR NOT , ANY OF THE DEFENDANT'S WERE PROHIBITED FROM RETALIATING AGAINST HIM AFTER HE ANNOUNCED OF HIS INTENTIONS TO PURSUE LEGAL RE COURSE AGAINST THE MONROE COUNTY DISTRICT ATTORNEYS OFFICE FOR HIS ALLEGED MALICIOUS PROSECUTION CLAIM ANDERSON V . DAVILA F.3d ,148,163,37 VI496 (3d CIR 1997) HOLDING IN AN EMPLOYMENT RETALIATION CASE THAT PLAINTIFF WAS PROTECTED FROM RETALIATION WHEN HE NOTIFIED THE DEFENDANT'S OF HIS

INTENT TO SUE , " EVEN THOUGH HE HAD NOT YET FILED HIS LAWSUIT , ADDITIONALLY FOR THE PURPOSES OF ESTABLISHING CAUSATION , SUCH EVIDENCE OF " SUCH TEMPORAL PROXIMITY IS RELEVANT RAUSER 241,F.3d AT 334 , SEE ALSO MITCHELL V . HORN F.3d 523,530 3d CIR 2003 , CONCLUDING FOR A PRO SE PLAINTIFF " THE WORD RETALIATION IN PLAINTIFF'S COMPLAINT SUFFICIENTLY IMPLIES A CASUAL LINK " ADDITIONALLY §1985,§1986 , ARE RELATED TO PLAINTIFF'S CASE AS CONSEQUENTLY THE DEFENDANT'S DID CONSPIRE TO CVIOLATE PLAINTIFF'S CIVIL RIGHT'S AS PLAINTIFF HAS NOW GONE FOUR YEARS WITHOUT ANY RESOLUTION REGARDING ALL OF HIS LEGAL DOCUMENTS , THE SUPREME COURT EXPLAINED THAT REGARDLESS OF THE SIZE OF THE CLASS OF DISCRIMINATION , A PLAINTIFF EVEN AN INDIVIDUAL ALLEGES A VIOLATION OF THE EQUAL PROTECTION BY CLAIMING THAT HE HAS BEEN " INTENTIONALLY TREATED DIFFERENTLY FROM OTHER SIMILARILY SITUATED INDIVIDUALS AND THAT THERE IN NO RATIONAL BASIS FOR THE DIFFERENCE IN TREATMENT " IN THE THIRD CIRCUIT IT IS CLEAR THAT AT THE VERY LEAST TO STATE A CLAIM UNDER THAT THEORY A PLAINTIFF MUST ALLEGE THAT (1) THE DEFENDANT TREATED HIM DIFFERENTLY FROM OTHERS SIMILARILY SITUATED AND (2) THE DEFENDANT DID SO INTENTIONALLY AND (3) THERE WAS NO RATIONAL BASIS FOR THE DIFFERENCE IN TREATMENT HILL V . BOROUGH OF KUTZTOWN 455 F.3d ,225,239,(3d CIR 2006) , PLAINTIFF HAS IDENTIFIED MULTIPLE INMATES THAT ARRIVED ON CAMP HILL ON JUNE 15 , 2016 AND OUT OF ALL OF THE IDENTIFIED INMATES, THE PLAINTIFF IN THE ABOVE CAPTION MATTER WAS THE ONLY INMATE NOT TO RECEIVE ANY OF HIS LEGAL PAPERS OR PROPERTY CLEARLY NONE OF THESE FACTS WERWE TAKEN INTO CONSIDERATION BY THE DISTRICT COURT AND OR APPEALS COURT .

ARGUMENT

D. FOURTH QUESTION

WAS THE PLAINTIFF IMPEDED FROM PRESENTING COGNIZABLE CLAIMS TO THE COURTS ? .

THERE ARE MULTIPLE INSTANCES AND CLAIMS LOST THAT PLAINTIFF PRESENTED IN HIS COMPLAINT, AND MOTION FOR AN INJUNTION, THERE WERE " FORWARD LOOKING CLAIMS " AND " BACKWORD LOOKING CLAIMS " " FORWARD LOOKING CLAIMS ALLEGE THAT OFFICIAL ACTION FRUSTRATES A PLAINTIFF IN PREPAIRING AND FILING A SUIT AT THE PRESENT TIME HARBURY 563 U.S. AT 412-413 AS STATED PLAINTIFF ACCUMULATED EIGHT MONTHS OF TIME WORKING ON HIS DIRECT APPEAL, THAT WAS WRITTEN OUT , AS TO DATE FOUR YEARS LATER PLAINTIFF'S P.C.R.A. IS DUE AND PLAINTIFF CANNOT PRESENT COGNIZABLE CLAIMS THAT HE COULD OF PRESENTED HAD HE HAD ALL OF HIS LEGAL DOCUMENTATION , ADDITIONALLY IT IS APPARENT THAT ALL OF THE PLAINTIFF'S LEGAL DOCUMENTS WERE DETRIMENTAL TO THE ADVANCEMENT OF CERTAIN CLAIMS , " BACKWARD LOOKING CLAIMS HOWEVER ALLEGE THAT PAST OFFICIAL ACTS CAUSED THE LOSS OR INADEQUATE SETTLEMENT OF , THE LOSS OF AN OPPROTUNITY TO SUE OR THE LOSS OF AN OPPROTUNITY TO SEEK SOME PARTICULAR ORDER OF RELIEF , HERE PLAINTIFF'S DENIAL OF PRESENTING COGNIZABLE CLAIMS WITHOUT ANY OF HIS LEGAL DOCUMENTATION WOULD FALL INTO " FORWARD AND BACWARD LOOKING CLAIMS " ADDITIONALLY PLAINTIFF HAS POINTED OUT THAT THE DEFENDANT'S PAST AND PRESENT

OFFICIAL ACTS HAS CAUSED INADEQUATE EVIDENCE TO SUPPORT MOST OF PLAINTIFF'S CLAIMS , TO PROVE A DENIAL OF ACCESS TO THE COURTS CLAIM THE PLAINTIFF MUST ESTABLISH TWO ELEMENTS (1) THAT HE OR SHE SUFFERED AN ACTUAL INJURY , AND THAT THEY SUFFERED AN ACTUAL INJURY AND LOST A CHANCE TO PURSUE " A NON FRIVILOUS " OR ARGUABLE UNDERLYING CLAIM AND (2) THAT HE OR SHE HAS NO OTHER REMEDY THAT MAY BE AWARDED AS RECOMPENSE FOR THE LOST CLAIM OTHER THEN THE PRESENT DENIAL OF ACCESS SUIT MONROE V . BEARD 536F.3d,198,205 (3d CIR 2008) CITING HARBURY 536 U.S. AT 415, ACCORDINGLY TO DEMONSTRATE THE SUFFICIENCY OF THE UNDERLYING CLAIM , THE COMPLAINT MUST DESCRIBE THE LOST REMEDY id AT,205,06(CITING HARBURY 536 U.S. AT 416-417, PLAINTIFF HAS IN HIS COMPLAINT TO BOTH THE DISTRICT COURT AND THE APPEALS COURT EXPLAINED IN DETAIL ALL OF THE PROCEEDINGS THAT HE NEEDED HIS LEGAL DOCUMENTS FOR , FOR EXAMPLE HOW COULD PLAINTIFF CHALLENGE ANY ALLEGED CONSTITUTIONAL VIOLATIONS THAT TOOK PLACE AT TRIAL WITHOUT HIS TRIAL TRANSCRIPTS , ADDITIONALLY THE JURY COULD OF BEEN INSTRUCTED IN A WAY THAT RELIEVED THE COMMONWEALTH OF ITS OBLIGATION TO PROVE CERTAIN CONSPIRACY CHARGES THAT PLAINTIFF WAS NEVER CHARGED WITH , CONSEQUENTLY PLAINTIFF HAD MULTIPLE FILINGS AND INEFFECTIVE ASSISTANCE OF COUNSEL MOTIONS THAT PLAINTIFF FILED THAT COULD OF SUPPORTED HIS INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS ON P.C.R.A. , PLAINTIFF HAD GRAND JURY DOCUMENTS THAT COULD OF PROVED §659 MANNER TERMINATION OF GRAND JURY TO INDICT THAT COULD OF SUPPORTED HIS CLAIM OF BEING CONVICTED , SENTENCED , AND INCARCERATED FOR CRIMES NOT CHARGED , ADDITIONALLY THE PLAINTIFF HAS ALLEGED THAT THE DEFENDANT'S INTERFERED WITH HIS FIRST AMENDMENT RIGHT TO ACCESS OF THE

COURTS WITH RESPECT TO PLAINTIFF'S CRIMINAL CASE , THE RIGHT OF ACCESS IS SATISFIED WHEN A CRIMINAL DEFENDANT IS OFFERED APPOINTED COUNSEL WHETHER HE TAKES IT OR NOT , HOWEVER THERE IS ASLO A SEPARATE SIXTH AMENDMENT RIGHT TO DEFEND ONE SELF PRO SE, ONE FEDERAL APPEALS COURT HAS STATED AN " INCARCARATED CRIMINAL DEFENDANT WHO CHOSES TO REPRESENT HIMSELF HAS A CONDITIONAL RIGHT TO ACCESS TO LAW BOOKS OR OTHER TOOLS TO ASSIST HIM IN PREPAIRING A DEFENSE , IT IS APPARENT THAT THE PLAINTIFF NEEDS HIS LEGAL PAPERS TO CHALLANGE HIS CONVICTION , THE RIGHT TO BE FREE FROM INTERFERENCE WITH COURT ACCESS , THE GOVERNMENT IS PROHIBITED FROM INTERFERING WITH " PEOPLES " INCLUDING PRISONERS EFFORTS TO USE THE COURTS " AS WITH OTHER ALLEGED COSTITUTIONAL VIOLATIONS THAT COULD OF OCCURED TO PLAINTIFF , SUCH INTERFERENCE MUST BE INTENTIONAL TO VIOLATE THE CONSTITUTION , CLEARLY THE CONFISCATION AND OR SEIZURE, DESTRUCTION OF ALL OF PLAINTIFF'S LEGAL DOCUMENTS , APPEALS, LEGAL PAPERS DOES SATISFY THE " REASONABLE RELATIONSHIP " STANDARD , TO SATISFT THE TURNER V . SAFELY STANDARD , CLEARLY THERE WAS NO PENOLOGICAL GOAL THAT WAS LEGITIMATE FOR THE CONFISCATION OF PLAINTIFF'S LEGAL DOCUMENTS . ADDITIONALLY INDIVIDUAL ACT'S OF INTERFERENCE THAT DO NOT REPRESNT REGULATIONS OR PRACTICES CAN ALSO VIOLATE THE RIGHT OF COURT ACCESS , ALSO INTERFERENCE WITH THE RIGHT OF ACCESS BY STATE AGENTS WHO INTENTIONALLY CONCEAL THE TRUE FACTS ABOUT A CRIME MAY BE ACTIONABLE AS A DEPRIVATION ,SWEKEL V . CITY OF RIVER ROUSE 119 F.3d,1259,1261,64 (6TH CIR 1999) SMALL V . CITY OF NEW YORK 274,F.SUPP 2d 271,278,279 (ED2003) , CLEARLY PLAINTIFF HAD INFORMATION THAT WAS RELATED TO THE UNITED STATES ATTORNEY GENERAL'S OFFICE'S IN SCRANTONS MISSING PERSONS REPORT ,

AND THE PLAINTIFF WAS RETALIATED BY HAVING ALL OF HIS LEGAL DOCUMENTATION TAKING. IN SOME STATES MAY HAVE A CLAIM OF SPOILATION OF EVIDENCE IF OFFICIALS INTENTIONALLY OR NEGLIGENTLY DESTROY EVIDENCE THAT MIGHT HAVE PERMITTED THE SUCESSFUL LITIGATION OF AN OTHERWISE LEGAL VALID LEGAL CLAIM SEE, PEREZ V . GARCIA VILLAGE OF MUNDELIEN 396F.3d SUP2d 907,912 13 (N.D. 2005) UNDER FEDERAL LAW , APPLICABLE IN FEDERAL COURT SPOILATION OF EVIDENCE MAY RESULT IN SANCTIONS SEE ADKINS V . WOLEVER 554,F.3d 650(6TH CIR 2009) CONSEQUENTLY AS STATED IN THE BEGINING OF THIS WRIT PLAINTIFF HAD INFORMATION IN HIS DISCOVERY THAT WOULD OF PROVEN THAT THE ASSISTANT DISTRICT ATTORNEYB OF MONROE COUNTY WAS ACTING AS A DETECTIVE , RATHER THEN AN ADVOCATE FOR THE STATE , AND WOULD OF LOST JUDICIAL IMMUNITY IF PLAINTIFF WAS ABLE TO PRESENT INCRIMINATING DOCUMENTS ON HIS BEHALF IN REGARDS TO HIS MALICIOUS PROSECUTION CLAIM , THAT WOULD OF ADVANCED HIS TORT CLAIM AGAINST THE MONROE COUNTY DIRSTRICT ATTORNEYS OFFICE , THE PTOTECTED ACT OF TRYING TO GAIN ACCESS TO THE COURTS SHOULD INCLUDE WHATEVER ACTIONS PRISONERS NEED TO TAKE TO GET THEIR CLAIM IN COURT SIGGERS V . EL BARWIN 412,F.3d 693(6TH CIR 2005) CONSEQUENTLY FOR PLAINTIFF HE COULD ONLY ADVANCE HIS CLAIMS IN STATE AND FEDERAL COURT TO CERTAIN POINT , WITHOUT ANY OF HIS LEGAL DOCUMENTATION TO SUPPORT HIS CLAIM LEACHV . DUFRAIN ,103,F.SUPP2d 548 (N.D.NY 200) HOLDING THAT CONFISCATION OF LEGAL PAPERS DOES NOT STATE A COURT ACCESS CLAIM WITHOUT SUFFICIENT INFORMATION ABOUT THE QUANTITY AND CONTENTS OF THE PAPERS TO DETERMINE WHETHER " THE CONFSCATION IMPERMISSIBLY COMPROMISED A LEGAL ACTION" , CLEARLY IN PLAINTIFFS CASE ALL OF HIS LITIGATIONS WERE COMPROMISED .

ARGUMENT

E. FIFTH QUESTION

DID THE PLAINTIFF HAVE ADEQUATE ACCESS TO THE COURTS ?.

PLAINTIFF HAS NOT HAD ANY OF HIS LEGAL PAPERS FOR CLOSE TO FOUR YEARS NOW , AT THE TIME OF THE DESTRUCTION, CONFISCATION , SEIZURE OF PLAINTIFF'S LEGAL DOCUMENTS PLAINTIFF HAD ACCUMULATED CLOSE TO EIGHT MONTHS OF TIME, AND HAD COMPILED A COGNIZABLE DIRECT APPEAL THAT NEEDED TO BE PRESENTED TO THE SUPERIOR COURT AS PLAINTIFF KNEW AND DID NOT WANT HIS COURT APPOINTED ATTORNEY FILING A DEFICIENT APPEAL , PLAINTIFF HAD EVERY RIGHT TO REPRESENT HIMSELF AND FILE HIS OWN DIRECT APPEAL , UNFORTUNEATELY AND CONSEQUENTLY , PLAINTIFF HAD NO CHOICE OR OPTIONS BUT TO USE HIS COURT APPOINTED DEFICIENT REPRESENTATION AS THE DEPARTMENT OF CORRECTIONS SEIZED ALL OF PLAINTIFF'S LEGAL PAPERS INCLUDING HIS DIRECT APPEAL THAT HE HAD BEEN HANDWRITING OUT FOE EIGHT MONTHS , PLAINTIFF ALSO DECRIBED IN DETAIL AND IDENTIFIED ALL OF THE PROCEEDINGS THAT HE NEEDED ALL OF HIS LEGAL PAPERS FOR (1) HIS DIRECT APPEAL (2) TWO WRIT OF CERTORARIS TO THIS COURT ,(3) TWO §1983 CLAIMS ONE AGAINST THE COUNTY OF MONROE FOR MALICIOUS PROSECUTION AND ONE FOR THE THE LOSS OF HIS LEGAL DOCUMENTS BY THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS , (4) MULTIPLE APPEALS TWO THE THIRD CIRCUT FOR DENIAL OF HIS CLAIMS (5) TWO STATE TORT CLAIMS , AND (6) HIS PRESENT DAY P.C.R.A. THAT HIS DUE , IT WOULD BE IMPOSSIBLE FOR PLAINTIFF TO PRESENT ANY ALLEGED CONSTITUTIONAL VIOLATIONS

WITHOUT ANY OF HIS TRANSCRIPTS TO HIS CRIMINAL PROCEEDINGS , FOR INSATANCE THE PLAINTIFF HAD CLAIMED THAT DOUBLE JEOPRADY VIOLATIONS COULD OF OCCURED TO HIM , BUT AS STATED IT WOULD BE IMPRACTICAL AS WELL AS DEFICIENT TO PRESENT THOSE CLAIMS WITHOUT ANY LEGAL DOCUMENTATION TO SUPPORT THAT CLAIM SEE CHRISTOPHER V. HARBURY 536,U.S. 403,412,122,S.C.T. 2179,2185,2186,153Le^d 2d 413,423-424(2002) FIRST THERE ARE CLAIMS THAT INVOLVE SOME TEMPORORY FRUSTRATION OF ONGOING LITIGATION BUT" [T]HE OPPROTUNITY [TO LITIGATE] HAS NOT BEEN LOST FOR ALL TIME Id AT 413,2185,2186,423, SECOND THERE ARE CLAIMS THAT LOOK BACWARD TO A TIME WHEN A SPECIFIC LITIGATION ENDED POORLY id AT 414,2186423-424, AS STATED IN PLAINTIFFS COGNIZABLE CLAIMS TO THE COURT , PLAINTIFF'S ACCESS TO THE COURTS CLAIMS FALLS INTO BOTH THESE CATEGORYS , SPECIFICALLY PLAINTIFF ALLEGES HE WAS CONVICTED AND SENTENCED TO CRIMES NOT CHARGED AND OR COMMITTED , AND THEN PLAINTIFF WAS IMPEDED FROM PRESENTING THOSE CLAIMS BECAUSE ALL OF HIS LEGAL DOCUMENTATION WAS SEIZED , ADDITIONALLY ALL OF PLAINTIFF'S CLAIMS TO ANY COURT WERE ALL UNSUCCESSFUL , PLAINTIFF'S P.C.R.A. WAS DUE MONTHS AGO , AND PLAINTIFF WAS THEN FORCED TO USE MORE DEFICIENT REPRESENTATION FROM THE COUNTY OF MONROE , CONSEQUENTLY THE ABSENCE OF ALL OF PLAINTIFF'S LEGAL PAPERS HAD PREVENTED HIM FROM PRESENTING EVIDENCE THAT COULD OF SUPPORTED HIS MALICIOUS PROSECUTION CLAIM , AS WELL AS ANY EVIDENCE TO SUPPORT AND PRESENT ANY INNEFFECTIVE ASSISTANCE OF COUNEL CLAIMS , AND OR ANY OTHER CLAIMS, AS STATED PLAINTIFF HAS ALLEGED THAT THE DEFENDANTS INTEFERED WITH WITH HIS FIRST AMENDMENT RIGHT'S TO ACCESS OF THE COURTS BY CONFISCATING ALL OF HIS LEGAL PAPERS HAS IDENTIFIED THE

PROCEEDINGS LOST , ADDITIONALLY PLAINTIFF NOW HAS TO PROVE HIS EXCEPTYION TO HIS P.C.R.A. TIME BAR IN HIS PRESENT CAS3E , WHEN A PRISONER ASSERTS THAT THE DEFENDANTS ACTIONS HAVE INHIBITED HIS OR HER OPPROTUMITY TO PRESENT A PAST LEGAL CLAIM THE PRISONER MUST SHOW THAT (1) THEY SUFFERED AN ACTUAL INJURY AND THAT THEY LOST A CHANCE TO PURSUE A NON-FRIVOLOUS OR UNDERLYING ARGUABLE CLAIM AND (2) THAT THEY HAVE HAD NO OTHER REMEDY THAT MAY BE AWARDED AS RECOMPENSE FOR THE LOST CLAIM OTHER THEN IN THE PRESENT DENIAL OF ACCESS SUIT MONROE V . BEARD 536 F.3d,198-205-206 (3d CIR 2008) A PRISONER HAS A CONSTITUTIONAL RIGHT TO ACCESS THE COURT SYSTEYM FREE FROM UNNECESSARY GOVERNMENT INTERFERENCE BOUNDS V . SMITH 430 U.S. 817,828 97 S.C.T. 1491,52 Led 2d 72(1977) THE RIGHT IS NOT ABSOLUTE BUT INCLUDES A RIGHT TO BRING A COURT A GRIEVEANCE THAT THE INMATE WISHED TO PRESENT LEWIS V . CASEY 518 U.S. 343,354,116 S.C.T. ,2174,135 LEd 2d (1996) THE CONSTITUTIONAL DOCTORINE OF STANDING REQUIRES PRISONERS WHO ARE ALLEGING AN INTERFERENCE WITH HIS RIGHT TO DEMINSTRATE ACTUUAL INJURY SUCH AS THE LOSS OR REJECTION OF A LEGAL CLAIM OLIVER V . FAUVER 118,F.3d 177, (3d CIR 1997) (CITING LEWIS 518 AT 350 (1996) THE SUPREME COURT HAS DESCRIBED THE RATIONALE BEHIND " ACTUAL INJURY " REQUIREMENT IN LEWIS IT IS THE ROLE OF THE COURTS TO PROVIDE RELIEF TO CLAIMS IN INDIVIDUAL OR CLASS ACTIONS WHO HAVE SUFFERED OR WHO WILL IMMINENTLY SUFFER ACTUAL HARM , IN THE CONTEXT OF THE PRESENT CASE IT IS FOR THE COURTS TO REMEDY PAST OR IMMINENT OFFICIAL INTERFERENCE , WITH THE INDIVIDUAL INMATES PRESENTATION OF CLAIMS TO THE COURTS , IT IS FORTHE POLITICAL BRANCHES OF STSTE AND FEDERAL GOVERNMENTS TO MANAGE PRISONS IN SUCH A FASION THAT OFFICIAL INTERFERENCE WITH

THE PRESENTATION OF THE CLAIMS WILL OCCUR LEWIS 518 US AT 349-350, THE CLAIM ALLEGED TO HAVE BEEN LOST MUST BE " ARGUABLY ACTIONABLE " AND MUST EITHER CHALLANGE THE VALIDITY OF PLAINTIFF'S SENTENCE OR CONDITIONS OF HIS CONFINEMENT IN A CIVIL RIGHTS ACTION id AT 353 , A PRISONER DOES NOT HAVE TO BRING A id COMMENTING ON THE DIFFERENCE BETWEEN A FRIVOLOUS CLAIM AND AN ARGUABLE CLAIM WHICH WOULD QUALIFY AS ACTUAL INJURY , THE SUPREME COURT NOTED NOT EVERYONE WHO CAN POINT TO SOME " CONCRETE " ACT AND WHO IS ADVERSELY EFFECTED CAN CALL IN THE COURTS TO EXAMINE THE PROPRIETY OF EXECUTIVE ACTION , BUT ONLY SOMEONE WHO HAS BEEN ACTUALLY INJURED , DEPRIVING SOMEONE OF AN ARGUABLE (THOUGH NOT YET AN ESTABLISHED CLAIM INFILTS INJURY BECAUSE IT DEPRIVES THEM OF VALUE OF SOMETHING ARGUABLE , NOT ALL LOOSING CLAIMS ARE FRIVOLOUS IF THEY ARE PROCEDURALLY DEFAULTED CLAIMS , THE DESTRUCTION OF ALL OF PLAINTIFF'S LEGAL PAPERS , APPEALS , TRANSCRIPTS INTERFERED WITH PLAINTIFF'S RIGHT OF ACCESS TO THE COURTS IT IS CLEAR THAT THE DEFENDANTS OWED HIM A DUTY NOT TO ABRIDGE SUCH ACCESS BY DESTROYING ALL OF HIS PROPERTY , ADDITIONALLY THE DEFENDANTS OWED PLAINTIFF A HIGHER DEGREE OF CARE TO AVOID THE SEIZURE AND DETRUCTON OF ALL OF HIS LEGAL DOCUMENTS ADAMS,SIGFUS,AND dewit SUPRA N . 28 INDICATE THAT AN INTENTIONAL TAKING OF A PRISONERS LEGAL PAPERS THAT RESULTS IN INTERFERENCE WITH ACCESS TO THE COURTS VIOLATES THIS DUTY , THE PLAINTIFF IN THE ABOVE ACTION HAS STATED AND DEMONSTRATED TO THE DISTRICT COURT AS WELL AS THE APPEALS COURT THAT HIS FOURTEENTH AMENDMENT CLAIM CAUSE OF ACTION , AS WELL AS A FOURTH AMENDMENT CLAIM , THE PLAINTIFFS VERIFIED COMPLAINT INDICATED THE EXISTENCE OF A FACTUAL DISPUTE STILL

EXISTS .

ADDITIONALLY THE PLAINTIFF HAS ASSERTED A FEDERAL RIGHT TO RECOVER ON THREE DIFFERENT THEORYS ;

(1) THAT THE TAKING OF ALL HIS LEGAL DOCUMENTS , TRANSCRIPTS , APPEALS , DURING THE CONDUCT OF A SEARCH VIOLATED HIS FOURTH AMENDMENT RIGHT .

(2) THAT THE TAKING OF ALL OF HIS LEGAL PAPERS WAS A DEPRIVATION OF HIS PROPERTY PROHIBITED BY THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT .

(3) THAT THE UNITED STATES ATTORNEY GENERALS OFFICE , THE PENNSYLVANIA STATE POLICE AND THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS INTERFERRED WITH PLAINTIFF'S ACCESS TO THE COURTS PROTECTED BY THE SIXTH AND FOURTEENTH AMENDMENTS , AS WELL AS HIS FIRST AMENDMENT RIGHTS TO BRING CERTAIN CLAIMS TO THE COURT , CLEARLY THE PLAINTIFF HAS BEEN IMPEDED FROM PRESENTING CERTAIN COGNIZABLE , ADEQUATE CLAIMS TO THE COURT .

ARGUMENT

(F) SIXTH QUESTION

IS THE DEPARTMENT OF CORRECTIONS FOR THE STATE OF PENNSYLVANIA'S

GRIEVANCE PROCESS MEANINGFUL UNDER PLAINTIFF'S CASE .

WHERE A CLAIM DIRECTLY IMPLICATES THE CORE ISSUE OF DENIAL OF ACCESS TO THE COURTS , AN ACTUAL INJURY NECESSARILY OCCURS BY VIRTUE OF A PERSONS FAILURE TO PROVIDE THE LEVEL OF ASSISTANCE REQUIRED , IT HAS NOW BEEN CLOSE TO FOUR YEARS WITHOUT ANY TYPE OF ASSISTANCE FROM THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS IN RETAINING PLAINTIFF'S LEGAL DOCUMENTS THE ONLY ASSISTANCE PLAINTIFF DID RECEIVE IS YEARS OF HARASSMENT AND LITIGATIONS THAT HAVE CAUSED THE PLAINTIFF TO SUFFER FINANCIALLY AS WELL AS LEGALLY , PLAINTIFF FILED MULTIPLE GRIEVANCES WHICH IN PLAINTIFF'S CIRCUMSTANCES ARE WORTHLESS , MOST IMPORTANTLY THE TIME LIMIT TO FILE APPEALS HAD BEEN LOST , PLAINTIFF WAS TOLD BY S.C.I. GRATERFORD THAT HIS LEGAL DOCUMENTS AND PROPERTY WERE SHIPPED OUT , PLAINTIFF'S FAMILY CONTACTED BOTH INSTITUTIONS S.C.I. GRATERFORD AND S.C.I. CAMP HILL ONLY TO BE TOLD THERE IS NOTING THEY COULD DO , PLAINTIFF WAS THEN TOLD BY S.C.I. CAMP HILL THAT BOTH INSTITUTIONS ARE WORKING ON A SOLUTION TO RETAIN PLAINTIFF'S LEGAL DOCUMENTS BACK , ALL OF PLAINTIFF'S GRIEVANCES WERE REJECTED FOR MULTIPLE DIFFERENT REASONS EVERY TIME A GRIEVANCE WAS FILED , THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS GRIEVANCE PROCESS DOES

NOT PROVIDE ADEQUATE REMEDIES IN PLAINTIFF'S CIRCUMSTANCES BECAUSE PLAINTIFF HAD ALMOST FINISHED WRITING OUT HIS DIRECT APPEAL THAT HE WAS GOING TO FILE WITH THE SUPERIOR COURT , AND ACCUMULATED EIGHT MONTHS OF TIME WORKING , STUDYING , RESEARCHING AND WRITING OUT HIS DIRECT APPEAL , AS STATED IT HAS NOW BEEN FOUR YEARS WITHOUT ANY OF THE PLAINTIFF'S LEGAL DOCUMENTATION RETURNED , PLAINTIFF IS NOW AT HIS P.C.R.A. STAGES AND STILL DOES NOT HAVE ANY OF HIS LEGAL PAPERS OR TRANSCRIPTS BACK , PLAINTIFF WAS FORCED TO LITIGATE MULTIPLE CIVIL PROCEEDINGS WITHOUT ANY LEGAL DOCUMENTATION TO SUPPORT HIS CLAIMS AND OR ADVANCE ANY OF HIS ALLEGED ERRORS THAT COULD OF HAPPENED TO HIM DURING HIS CRIMINAL CASE , THE BURDEN OF PROOF WAS ULTIMATELY ON THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS TO SHOW THAT AN INMATE HAS ADEQUATE ACCESS TO THE COURTS , THE DEPARTMENT OF CORRECTIONS HAS PRODUCED NO EVIDENCE TO SUPPORT ANY TYPE OF PENOLOGICAL INTERSEST IN THE DESTRUCTION AND OR SEIZURE OF PLAINTIFF'S LEGAL PAPERS , PLAINTIFF HAS MADE OUT A PRIMA FACIE CASE SHOWING LACK OF ACCESS TO THE COURTS , PLAINTIFF'S FEDERAL COMPLAINT WAS MORE THEN ADEQUATE TO SATISFY THE KERSHNER REQUIREMENT IT IS CLEAR THAT A PRISON REGULATIONS THAT IMPINGE ON AN INMATES CONSTITUTIONAL RIGHT'S MAY BE VALID AS LONG AS THEY ARE RELATED TO A PENOLOGICAL INTEREST , THERE WAS NO PENOLOGICAL REASON FOR PLAINTIFF TO NOW HAVE GONE FOUR YEARS WITHOUT ANY OF HIS LEGAL DOCUMENTS, AT LEAST ONE COURT HAS HELD ACCESS TO LEGAL MATERIALS MUST BE PROVIDED AT THE CORRECTIONAL INTAKE FACILITY WHICH RETAINS PRISONERS FOR NO LOMGER THEN NINETY DAYS BERRY V . DEPARTMENT OF CORRECTIONS 591 A.2d 330,144,ARIZ,318,697 ,F.2d 711 .

ARGUMENT

(G) SEVENTH QUESTION

DID THE DEFENDANT'S HAVE PERSONAL INVOLVEMENT IN PLAINTIFF'S CLAIMS.

42 U.S.C.S. §1983 IS NOT A SOURCE OF SUBSTANTIVE RIGHT'S RATHER IT IS A MEANS TO REDERESS VIOLATIONS OF THE FEDERAL LAW BY STATE ACTORS , IT IS WELL ESTABLISHED THAT PERSONAL LIABILITY UNDER **§1983** , CANNOT BE IMPOSED UPON A STATE OFFICIAL BASED ON A THEORY OF RESPONDENT SUPERIOR , IT IS ALSO WELL ESTABLISHED AND SETTLED IN THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT THAT THE DEFENDANT'S PERSONAL INVOLVEMENT IN THE ALLEGED CONSTITUTIONAL VIOLATIONS IS A REQUIREMENT IN A **§1983** CASE , AND THAT THE COMPLAINT MUST ALLEGE SUCH PERSONAL INVOLVEMENT , EACH DEFENDANT MUST BE SHOWN THROUGH THE COMPLAINTS / ALLEGATIONS TO HAVE BEEN PERSONALLY INVOLVED IN THE EVENTS OR OCCURENCES UPON WHICH THE PLAINTIFF'S CLAIMS ARE BASED , A DEFENDANT IN A CIVIL RIGHT'S ACTION MUST HAVE PERSONAL INVOLVEMENT IN THE ALLEGED WRONGS , PERSONAL INVOLVEMENT CAN BE SHOWN THROUGH ALLEGATIONS OF PERSONAL DIRECTION OR ACTUAL KNOWLEDGE AND ACQUIESCENCE , ALLEGATIONS OF PARTICIPATION OR ACTUAL KNOWLEDGE AND ACQUIESCENCE , MUST BE MADE WITH APPROPRIATE PARTICULARITY , COURTS HAVE ALSO HELD THAT AN ALLEGATION SEEKING TO IMPOSE LIABILITY ON A DEFENDANT BASED ON A SUPERVISORY STATUS WOTHOUT MORE WILL NOT SUBJECT THE OFFICIAL TO **§1983** LIABILITY , THE PLAINTIFF PROVIDED IN HIS COMPLAINT MUTIPLE REQUEST SLIPS THAT WERE SENT TO

VARIOUS EMPLOYEES OF THE DEPARTMENT OF CORRECTIONS IN REGARDS TO ALL OF HIS
LEGAL DOCUMENTS MISSING,ON JUNE 23, 2016 PLAINTIFF FILED A GRIEVANCE FOR HIS
MISSING LEGAL PROPERTY , THE GRIEVANCE WAS DENIED BECAUSE IT STATED THE PLAINTIFF
DID NOT FILE THE GRIEVANCE WITHIN FIFTEEN DAYS OF THE PROPERTY GOING MISSING
PLAINTIFF ARRIVED AT CAMP HILL JUNE 15, 2016 JUNE 15 TO JUNE 23, 2016 THE DATE THAT
THE GRIEVANCE WAS FILED WAS ONLY EIGHT DAYS WELL WITHIN THE FIFTEEN DAY TIME LIMIT
PLAINTIFF THEN FILED ANOTHER GRIEVANCE ON AUGUST 3,2016 IN REGRDS TO ALL OF HIS
LEGAL DOCUMENTS THAT WERE MISSUING , ON JULY 18,2016 PLAINTIFF SENT A REQUEST SLIP
TO BARRY SMITH THE FACILITY MANAGER ABOUT ALL OF HIS LEGAL DOCUMENTS MISSING , ON
AUGUST 2, 2016 PLAINTIFF SENT A REQUEST SLIP TO LAUREL HARRY SUPERINTENDENT AT S.C.I.
CAMP HILL NOTIFYING HER OF THE PLAINTIFFS LEGAL DOCUMENTS THAT WERE MISSING ,
PLAINTIFF NOTIFIED KATHLEEN ZWICERZYNA AND TONYA HEIST THE FACILITY GRIEVANCE
COORIDINATORS ON JUNE 29,2016, PLAINTIFF NOTIFIED THE UNIT MANAGER OF " A BLOCK
RENEE ZOBITNE ON JUNE 21,2016, JULY 20 , 2016 ,AUGUST 22 ,2016 ,SEPTEMBER 9, 2016
OCTOBER 1, 2016, OCTOBER 31,2016 PLAINTIFF NOTIFIED WENDY SHAYLOR THE FACILITY
GRIEVANCE COORIDINATOR AT S.C.I. GRATERFORD IN JUNE AND JULY OF 2016, PLAINTIFF
NOTIFIED CYNTHIA LINK IN JULY OF 2016 PLAINTIFF THEN NOTIFIED MULTIPLE DEFENDANTS
FROM THE FACILITY OF APPEALS IN MECHANICSBURG ABOUT MISSING LEGAL DOCUMENTS ,
WHEN PLAINTIFF WAS TRANSFERRED TO HIS CURRENT JAIL S.C.I. RETREAT HE NOTIFIED
MULTIPLE STAFF MEMBERS ABOUT HIS MISSING LEGAL DOCUMENTS , CLEARLY THE
DEFENDANT'S HAD KNOWLEDGE AND ACQUIESCENCE OF THE PLAINTIFF'S MISSING LEGAL
DOCUMENTS AND FAILED TO HELP THE PLAINTIFF IN ANY TYPE OF REASONABLE MANNER .

ARGUMENT

H. EIGHTH QUESTION

DID THE DISTRICT COURT ALLEGEDLY ABUSE IT'S DISCRETION IN DISMISSING ALL OF PLAINTIFF'S CLAIMS ?.

PLAINTIFF FILED FOR A SECOND INJUNCTION ON THE RETURN OF HIS LEGAL PAPERS IN FEBRUARY OF 2019 , HE ORIGINALY FILED FOR AN INJUNCTION IN NOVEMBER OF 2018 , AND NEVER RECEIVED ANY TYPE OF RESPONSE FROM THE DISTRICT COURT PLEASE SEE **EXHIBIT F1-F3**, PLAINTIFF FILED A MOTION FOR HIS SECOND INJUNCTION BASED UPON THE FACTS THAT THE THE DEFENDANTS NEVER UNOPPOSED OR RESPONDED TO PLAINTIFF'S FIRST REQUEST FOR AN INJUNCTION PLAINTIFF'S REQUESTS WERE FOR THE RETUEN OF ALL HIS LEGAL DOCUMENTS , APPEALS , PAPERS , IN HOPES OF RETAINING ALL OF HIS TRIAL TRANSCRIPTS SO PLAINTIFF COULD FILE ADDITIONAL ALLEGED CLAIMS ON HIS P.C.R.A. , CONSEQUENTLY THE PLAINTIFF WAS NO CLOSER TO RETAINING ANY OF HIS LEGAL DOCUMENTS BY FILING A MOTION FOR AN INJUNCTION AS ALL OF HIS MOTIONS WENT UNANSWERED UP UNITL HIS COMPLAINT WAS DISMISSED IN MARCH 28, 2019 BY THE DISTRICT COURT , PLAINTIFF WAS ONLY ALLOWED ONE YEAR FROM FROM APRIL 30, OF 2018 TO FILE HIS P.C.R.A. , , ADDITIONALLY PLAINTIFF / DEFENDANT HAD TO PRESENT ANY CLAIMS OF GOVERNMENT INTERFERENCE WITHIN SIXTY DAYS OF APRIL 30,2019 WHICH PLAINTIFF / DEFENDANT CLAIMED ON HIS P.C.R.A. , PLAINTIFF NOTIFIED THE FORTY THIRD JUDICIAL DISTRICT OF THE

PROBLEMS THAT HE ENCONTERED WITH ALL OF HIS LEGAL DOCUMENTS , THE LOCAL RULES
MAKE IT CLEAR THAT AN MOTION FOR AN INJUNCTION CONSIDERED UNOPPOSED LOCAL RULE
7.6 MANDATES THAT ANY PARTY OPPOSING ANY MOTION OTHER THEN A MOTION FOR
SUMMARY JUDGEMENT SHALL FILE A BRIEF IN OPPOSITION WITHIN **14** DAYS AFTER SERVICE OF
MOVANTS BRIEF , AS WITH MULTIPLE OTHER MOTIONS THAT WENT UNOPPOSED ANY PARTY
WHO FAILS TO COMPLY WITH THIS RULE SHALL BE DEEMED NOT TO OPPOSE SUCH A MOTION
CLEARLY THE DEFENDANT'S DID NOT COMPLY WITH THE FEDERAL RULES OF CIVIL PROCEDURE
AND CONSEQUENTLY THE DISTRICT COURT LET IT TAKE PLACE .

PLAINTIFF ALSO FILED A MOTION FOR EQUITABLE TOLLING TO THE CHIEF JUDGE IN
HARRISBURG PENNSYLVANIA CHRISTOPHER CONNER , ON THE BASIS THAT HIS P.C.R.A IS DUE
AND HE HAS NOT COME TO A RESOLUTION ON THE RETURN OF ANY OF HIS LEGAL
DOCUMENTS , PLAINTIFF DID INDEED IN HIS MOTION FOR EQUITABLE TOLLING SEE **EXHIBITS**
G1-G2 ESTABLISH A BASIS FOR EQUITABLE TOLLING BY SHOWING THAT (1) HE HAS BEEN
PURSUING HIS RIGHT'S DILIGENTLY , AND (2) THAT SOME EXTRAORDINARY CIRCUMSTANCES
STOOD IN HIS WAY AND PREVENTED A TIMELY FILING **HOLLAND V . FLORIDA 130 S.C.T.**
2549,2562,177,LEd 2d 130 (2010) , CLEARLY BY ISSUING PLAINTIFF EQUITABLE TOLLING IN
REGARDS TO HIS P.C.R.A. WOULD OF CAUSED NO HARM TO ANYONE .

PLAINTIFF ALSO FILED A MOTION FOR RECONSIDERATION OF JUDGE MANNIONS ORDER DATED
MARCH 26,2019 , BASED UPON THE FACTS THAT PLAINTIFF HAD ESTABLISHED A **PRIMA FACIE**
CASE FOR RETALIATION **MASON V . ORANGE CRUSH OFFICERS USDC (SD ILL)** SEE **EXHIBITS**
H1-H3.

PLAINTIFF ALSO FILED A MOTION FOR APPOINTMENT OF COUNSEL SEE **EXHIBITS I1-I2** , AS

PLAINTIFF CANNOT POSSIBLY LITIGATE HIS P.C.R.A. AND HABEAS CORPUS , AS THAT DEFENDANT'S ACTIONS HAVE IMPEDED PLAINTIFF / DEFENDANT FROM TRYING TO COMPLY WITH THE STATES PROCEDURAL RULE **MURRAY V . CARRIER 477 U.S. 478,488,106 S.C.T. 2639** **9LL Ed 2d 397 (1996)** CLERLY THE PLAINTIFF HAS BEEN PREJUDICED , THE SUPREME COURT CLARIFIED IN **COLEMAN V . THOMPSON** THAT " CAUSE UNDER THE CAUSE AND PREJUDICE TEST MUST BE SOMETHING EXTERNAL TO THE PETITIONER , SOMETHING THAT CANNOT BE ATTRIBUTATED TO HIM **501 U.S. 722,753,111 S.C.T. ,2546, 115 LEd 2d (1991)** CONSEQUENTLY IT IS NOT THE PLAINTIFF'S FAULT THAT ALL OF HIS LEGAL DOCUMENTS VANISHED AND CLEARLY PLAINTIFF IS NOT AN ATTORNEY AND IS DOING HIS BEST TO LITIGATE HIS CASE WITHOUT FINANCIAL RESORCES TO PAY FOR AN ATTORNEY , PLAINTIFF SHOULD OF BEEN GRANTED AN ATTORNEY .

REASONS FOR GRANTING PETITION

PETITIONER HAS NOW GONE FOUR YEARS WITHOUT ANY OF HIS LEGAL DOCUMENTATION RELATED TO HIS CRIMINAL CASE, PLAINTIFF HAS DONE EVERYTHING POSSIBLE ON HIS BEHALF IN TRYING TO RETAIN ALL OF HIS LEGAL DOCUMENTS , PLAINTIFF ALLEGES THAT HE WAS MALICIOUSLY PROSECUTED , AS WELL AS RETALIATED AGAINST, PLAINTIFF CANNOT PRESENT CERTAIN COGNIZABLE CLAIMS WITHOUT ANY OF HIS LEGAL DOCUMENTATION , PLAINTIFF HAS ALLEGED A " SEIZURE " UNDER PALMER AS WELL IN THE PLAINTIFF'S CASE THERE WAS NO CONTENTION THAT THE PLAINTIFF'S LEGAL PAPERS POSED ANY THREAT TO INSTITUTIONAL SECURITY , THERE WERE NO CONTENTIONS THAT THE PLAINTIFF'S LEGAL PAPERS WERE CONTRABAND THERE CAN ALSO BE NO DOUBT THAT THE PLAINTIFF'S COMPLAINT ADEQUATELY ALLEGES A " SEIZURE " WITHIN THE MEANING OF THE FOURTH AMENDMENT , AS IN PALMER PLAINTIFF WAS COMPLETELY DEPRIVED OF HIS POSSESSORY INTERESTS IN HIS PROPERTY , AND THA PENNSYLVANIA DEPARTMENT OF CORRECTIONS HAS BEEN ASSERTING " DOMAIN AND CONTROL " OVER THE PLAINTIFF BY LITIGATING AND IMPEDEING PLAINTIFF FROM PRESENTING CERTAIN COGNIZABLE CLAIMS , THE MOST SIGNIFIGANT OF PLAINTIFF'S POSSESSORY INTERSTS ARE PROTECTED AS A MATTER OF SUBSTANTIVE CONSTITUTIONAL LAW , ENTIRELY APART FROM THE LEGITIMACY OF THOSE INTERESTS UNDER STATE LAW OR THE DUE PROCESS CLAUSE , THE EIGHTH AMENDMENT FORBIDS " CRUEL AND UNUSUAL PUNISMENT RHODES V . CHAPMAN 452 US 337,346-347-69LED 2d 59 ,101,S.Ct 2392,21 OHIO.

CONCLUSION

THE PENNSYLVANIA DEPARTMENT OF CORRECTIONS HAS OFFERED NO EVIDENCE TO SUGGEST THAT ACTIONS WERE TAKEN FOR ANY REASON PENOLOGICALLY OR OTHER LEGITIMATE REASON , THE PLAINTIFF HAS PRESENTED A GREAT DEAL OF EVIDENCE FROM WHICH ANY REASONABLE JURY COULD CONCLUDE THAT THE PRISON OFFICIALS CONFISCATED , AND OR DESTROYED ALL OF PLAINTIFF'S LEGAL DOCUMENTS IN CONJUNCTION WITH THE NAMED DEFENDANT'S, THE PLAINTIFF HAS THEN BEEN PENALIZED LEGALLY AS WELL AS FINANCIALLY AS HE HAS ACCUMULATED THOUSANDS OF DOLLARS IN FILING FEES TO THE UNITED STATES DISTRICT COURT , AS WELL AS THE APPEALS COURT, THE PLAINTIFF HAS ALSO ACCUMULATED THOUSANDS OF DOLLARS IN POSTAGE FEES AS WELL AS COPYING FEES , ADDITIONALLY PLAINTIFF HAS DEMONSTRATED A SUGGESTIVE TEMPORAL PROXIMITY BETWEEN THE FILING OF HIS DIRECT APPEAL , AND THE CONFISCATION /DESTRUCTION OF ALL HIS LEGAL DOCUMENTATION FARREL V . PLANTERS LIFESAVERS CO 206,F.3d 27L 280,3d CIR (2000) PLAINTIFF HAS CLAIMED CAUSATION IN A RETALIATION CASE , FOR THE REASONS SET FORTH THE PLAINTIFF'S CASE SHOULD BE ALLOWED TO PROCEDE IN THE DISTRICT COURT , AS HE HAS PROVIDED AMPLE EVIDENCE TO SUPPORT HIS CLAIMS OF RETALIATION , AND THAT HE HAS BEEN IMPEDED INTENTIONALLY FROM THE ACCESS TO THE COURTS AS WELL AS HIS LEGAL DOCUMENTATION .

RESECTFULLY SUBMITTED

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