

198095
No. 19231

IN THE

Deville McCants — PETITIONER
(Your Name)

vs.

CHENG HUNSEN ET AL. RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Seventh Circuit Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Deville Mercants
(Your Name)

(Address)

— 1 —

PONTIAC, ILLINOIS 184

(City, State, Zip Code)

(B) - Note 1

RECEIVED
MAR 24 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- (1) WHETHER THE DISTRICT COURT ERRED IN ALLOWING DEFENDANTS' COUNSEL TO FILE A MOTION TO STAY DISCOVERY AND SIMULTANEOUSLY FILE A MOTION FOR SUMMARY JUDGMENT,?
- (2) WHETHER THE DISTRICT COURT ERRED IN REFUSING TO TAKE NOTICE THAT THE DEFENDANTS' VIOLATED THEIR OWN ADMINISTRATIVE DIRECTIVES AND RULES PERTAINING TO THE PROPER PROCEDURE TO BE UNDERTAKEN,?
- (3) WHETHER THE DISTRICT COURT JUDGE MISUNDERSTOOD AND/OR MISINTERPRETED THE PLAINTIFF'S CLAIMS AND FACTS AS IT RELATED TO THE DISTRICT COURT JUDGE STATING THAT PLAINTIFF'S CLAIM WAS A H.I.P.P.A. CLAIM, INSTEAD OF RECOGNIZING

THAT THE ADMINISTRATIVE RULES AND
DIRECTIVES THAT THE PLAINTIFF SUBMITTED
IN HIS RESPONSE TO THE MOTION FOR SUMMARY
JUDGMENT SUPPORTED PLAINTIFF'S CONTENTION
THAT THE DEFENDANT GRIEVANCE OFFICER
WAS REQUIRED TO REVIEW AND SUBMIT
PLAINTIFF'S MERITUAL GRIEVANCE THROUGH A
SPECIFIC AVENUE OF REVIEW?

(4) WHETHER THE DISTRICT COURT'S ORDER IN
WHICH THE COURT CLAIMS THAT HE DID NOT
BAR THE PLAINTIFF-APPELLANT FROM SEEKING
DISCOVERY AS TO EXHAUSTION, BUT MERELY
BARRED AND STAYED (I.E., PREVENTED PLAINTIFF
FROM SEEKING MERIT DISCOVERY) WAS NOT
FACTUALLY CORRECT OR AMBIGUOUS, OR AN
OUTRIGHT AFFRONT TO THE UNITED STATES
SUPREME COURT'S PRECEDENCE OF CELOTEX CORP.
V. CATTELL, 477 U.S. 317 AT 323 (1986)?

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	5
STATEMENT OF THE CASE	6
REASONS FOR GRANTING THE WRIT	10
CONCLUSION.....	11

INDEX TO APPENDICES

APPENDIX A SEVENTH CIRCUIT COURT OF APPEALS

APPENDIX B UNITED STATES DISTRICT COURT CENTRAL DISTRICT
OF ILLINOIS

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

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 SEPTEMBER 18TH 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).

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

- *Lewis v. Washington*, 300 F.3d 829; 4
- *CELOTEX CORP. V. CATRETT*, 477 U.S. 317, 106 S.Ct. 7
2548 (1986);
- *SPANN V. ROPER*, 453 F.3d 1007 (2006); 7
- *BATT V. TALOMBY*, 573 F.3d 641 (1975); 7
- *BAUGH V. TAYLOR*; 117 F.3d 197, 202 (1975);
- *COLSKO V. EDWARDS*, 164 F.3d 396; 8
- *DATES V. STEVENS*, 163 F.3d 437; 8
- *BRUCS V. SAMUELS*, 136 S.Ct. 627; 8

STATUTES AND RULES

OTHER

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:

RELATED CASES

- LEWIS v. WASHINGTON, 300 F.3d 829;
- CELOTEX CORP v. CATTORI, 477 U.S. 317, 106 S.Ct. 2548 (1986);
- SPANN v. ROPER, 453 F.3d 1007 (2006);
- BATT v. TWOMEY, 513 F.3d 641 (1975);
- BAUGH v. TAYLOR, 117 F.3d 197, 202 (1975);
- CELSKE v. EDWARDS, 164 F.3d 396;
- PATE v. STEVENS, 163 F.3d 437;
- BRUCE v. SAMUELS, 136 S.Ct 627.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

-fourteenth Amendment Due Process
Clause.

STATEMENT OF THE CASE

UPON PLAINTIFF FILING HIS COMPLAINT AGAINST PONTIAC CORRECTIONAL FACILITY'S MEDICAL STAFF AS WELL AS THE INSTITUTIONAL GRIEVANCE OFFICER. THE COMPLAINT ALLEGED THAT PONTIAC GRIEVANCE OFFICER AND THE CHIEF ADMINISTRATOR OFFICERS OFFICE DELIBERATELY PREVENTED THE PLAINTIFF FROM PROPERLY EXHAUSTING HIS ADMINISTRATIVE REMEDIES. COURTS HOLDING IN LEWIS V. WASHINGTON, 300 F.3d 829 (7th Cir.)

THE DISTRICT COURT JUDGE COLIN S. BRUCE WAS ASSIGNED TO THE CASE AS SENIOR DISTRICT JUDGE OF THE CENTRAL DISTRICT OF ILLINOIS AND FOUND THAT PLAINTIFF'S COMPLAINT STATED A CAUSE OF ACTION.

DURING THE COURSE OF THE LITIGATION AND BEFORE DISCOVERY WAS COMPLETED AND THE PLAINTIFF HAD AN OPPORTUNITY TO OBTAIN ANY

DISCOVERY FROM DEFENDANTS' DISTRICT COURT JUDGE COLIN S. BRUCE ALLOWED THE DEFENDANTS' TO FILE A MOTION TO STAY THE DISCOVERY, IN WHICH, THE DISTRICT COURT GRANTED, SHORTLY THEREAFTER ALLOWED THE DEFENDANTS' TO FILE A MOTION FOR SUMMARY JUDGMENT IN DIRECT CONTRAVENTION OF THE HOLDINGS IN CELOTEX CORP. v. CATRETT, 477 U.S. 317, 106 S. CT. 2548 (1986); SPANN v. ROPER, 453 F.3d 1007 (8TH CIR. 2006) (PER CURIAM) (A MEDICAL CASE, THE COURT FOUND IT "WRONGFUL" THAT THE DISTRICT COURT DENIED PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL, AN EXPERT WITNESS AND THEN GRANTED SUMMARY JUDGMENT IN PART BECAUSE THE PLAINTIFF'S FAILURE TO SUPPLY MEDICAL EVIDENCE); BATT v. INIONEM, 513 F.3d 641, 650 (7TH CIR. 1975).

JUDGE COLIN S. BRUCE GRANTED DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, DESPITE THE

PLAINTIFF'S OBJECTION AND RESPONSE TO
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

THE PLAINTIFF SUBSEQUENTLY FILED A NOTICE OF APPEAL AND A MOTION TO PROCEED ON APPEAL AS A POOR PERSON IN THE DISTRICT COURT AS REQUIRED BY THE RULES OF APPELLATE PROCEDURE, IN WHICH, JUDGE COLIN S. BRUCE, ABUSED HIS DISCRETION AND DENIED PLAINTIFF'S MOTION TO PROCEED ON APPEAL AS A POOR PERSON, WHEN THE COURT HAD PREVIOUSLY GRANTED PLAINTIFF PAUPER STATUS IN THE DISTRICT COURT.

JUDGE COLIN S. BRUCE ALSO CERTIFIED THAT PLAINTIFF'S APPEAL WAS TAKEN IN BAD FAITH. (SEE: BAUGH V. TAYLOR, 117 F.3d 197, 202 (5TH CIR. 1997); CELSKE V. EDWARDS, 164 F.3d 396; PATE V. STEVENS, 163 F.3d 437; AND BRUCE V. SAMUELS, 136 S. CT. 627.

THE PLAINTIFF MOTIONED THE UNITED STATES

OF APPEALS FOR THE SEVENTH CIRCUIT TO
ALLOW TO PROCEED ON APPEAL AS A POOR
PERSON, SPECIFICALLY, STATING AND CITING
CASE AUTHORITY SHOWING THAT PLAINTIFF WAS
APPEALING IN GOOD FAITH. JUDGE COLIN S. BRUCC
ABUSED HIS DISCRETION IN SEVERAL RESPECTS,
HOWEVER, THE COURT OF APPEALS DENIED
PLAINTIFF'S MOTION TO PROCEED ON APPEAL IN
FORMA PAUPERIS, STATING THAT PLAINTIFF HAD NOT
IDENTIFIED A GOOD FAITH ISSUE, THE DISTRICT
COURT ERRED IN ENTERING SUMMARY JUDGMENT
FOR DEFENDANTS FOR FAILURE TO EXHAUST
ADMINISTRATIVE REMEDIES.

REASONS FOR GRANTING THE PETITION

BEFORE DISCOVERY WAS COMPLETED AND BEFORE PLAINTIFF HAD AN OPPORTUNITY TO OBTAIN ANY DISCOVERY FROM DEFENDANTS, THE DISTRICT COURT JUDGE ALLOWED DEFENDANTS TO STAY THE DISCOVERY, THEREAFTER ALLOWED DEFENDANTS' TO FILE THEIR MOTION FOR SUMMARY JUDGMENT, IN DIRECT CONTRAVENTION OF THE UNITED STATES SUPREME COURT'S HOLDING IN *ECOTEX CORP. V. CATRETTI*, 477 U.S. 317, 104 S.Ct. 2548 (1986); *SPANN V. ROBERT*, 453 F.3d 1007 (8TH CIR. 2006).

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Deville McCourt

Date: 3/13/20