

No. 19-8166

ORIGINAL

Supreme Court, U.S.
FILED

MAR 27 2020

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

ANTHONY WILLIAMS — PETITIONER
(Your Name)

vs.

DR. MUHAMMED NAJI — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT,
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ANTHONY WILLIAMS, RPO-SE, # AY-6759
(Your Name)

P.O. BOX 1000, 209 INSTITUTION DRIVE
(Address)

HOUTZDALE, PA. 16698-1000
(City, State, Zip Code)

(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. DID THE COURT OF APPEALS DECISION CONFLICT WITH DECISIONS MADE BY THE U.S. DISTRICT COURT REGARDING IMMINENT DANGER. AND DOES HEPATITIS-C CREATE IMMINENT DANGER?

2. DID THE COURTS OF APPEALS DECISION TO DENY PETITIONER THE RIGHT TO PROCEED IN FORMA PAUPERIS, CONFLICT WITH THE DECISIONS OF OTHER COURTS? =

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] 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:

Defendant Janet Pearson, RN, CHCA, At SCI-Houtzdale, has refused to provide treatment, or protection from further harm to the Petitioners Hepatitis-C condition. This defendant was provided with Grievance# 576089, Clearly there can be no independent review process where the person you allege committed misconduct is also now tasked with deciding the Grievance. And deny's due process. This defendant is involved with denying petitioner medical treatment for his Hep-C Condition. And failure to consider the prolonged failure to treat the Hep-C can lead to such things as liver damage or cancer.

Defendant Christopher H. Oppman-Director, Bureau Of Health Care Services. This defendant is the director of the Bureau of Health care Services. They review medical determinations made by the department at SCI-Houtzdale. And establish protocol and procedures for the Department, and D.O.C. This defendant was made aware of the Petitioners sever Hep-C condition. This defendant did nothing to address the issue. Or to address petitioner not receiving treatment for his Hep-C. Which has been ongoing. The Only Response this defendant gave was, "THE PA. DEPT. OF CORRECTIONS PROVIDES MEDICAL SERVICES TO INMATES THAT ARE CONSISTENT WITH COMMUNITY STANDARDS. THE D.O.C. CONTRACTS VENDERS WHO EMPLOY CREDENTIALLED, LICENSED PRACTITIONERS WHO ARE RESPONSIBLE FOR THE ASSESSMENT, TREATMENT AND FOLLOW UP OF ALL INMATES MEDICAL CONDITIONS." "THE MEDICAL STAFF AT SCI-HOUTZDALE WILL CONTINUE TO ADDRESS YOUR HEALTH CARE CONCERNS AND ASSESS AND APPROPRIATELY TREAT EVERY MEDICAL CONDITION IDENTIFIED. PLEASE DIRECT YOUR FUTURE QUESTIONS AND CONCERNS TO DR. NAJI-DIRECTOR, AND JANET PEARSON, CORRECTIONS HEALTH CARE ADMINISTRATOR."

again this defendant provided no treatment, or remedy, to the petitioner concerning his serious health concerns! And failed to protect the petitioner from the imminent danger which he suffer.

Defendant Patrick J. Nagle, (PACC, R.NP), is a part of the medical staff at

CI-Houtzdale. This defendant has refused to provide plaintiff treatment for his Hep-C after being informed. Failed to provide petitioner with treatment for his Hep-C. Defendant ignored a serious life threatening condition. This defendant also took actions which put petitioner at risk of further harm. Where plaintiff was put in top bunk in which he fell.

Defendant T. Catolina, (Title RN) employed at SCI-Houtzdale medical Dept. This defendant is deliberately indifferent to petitioners serious Imminent danger as to his health. This defendant has refused to provide petitioner with needed medication for his Hep-C condition. This defendant was allowed to decide Grievance #615376, because this defendant would be involved. Due process was violated. This is the same as asking the "Wolves to watch the chickens." This defendant has condoned doctor Naji's actions in denying the petitioner treatment for his condition. And exacerbate his condition. Placing petitioner in Imminent danger. All treatment starts and end with defendant Naji. This defendant in essence allows the defendants herein to police themselves. This defendant also conspired with Doctor Naji to conceal the true facts regarding petitioner allegedly refusing treatment, which was a lie. And to cover up the actions of Doctor Naji who has a history of neglect toward inmates & civilians. (SEE: Exhibit attached as supporting documents). Defendant Margret Barnes, C.R.N.P., employed at SCI-Houtzdale medical Dept. This defendant was angered by petitioners grievance (#577921) against her, on 10/17/16, a sick call petitioner made to plea for treatment which was ignored. Petitioner informed this defendant of his health condition regarding Hep-C. This is documented. This defendant was deliberately indifferent to Petitioners health condition. And refused to provide treatment for Petitioner.

Defendant Barry Smith, Superintendent for SCI_Houtzdale. This defendant was informed of his health condition, his request for treatment, that as of that date petitioner had not received treatment for his Hep-C. This defendant supervises its staff members, enforces policy's, mandates specific procedures for the SCI-Houtzdale Facility. This defendant is deliberately indifferent to petitioners serious health condition.

RELATED CASES

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OTHER

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was DECEMBER 9, 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: FEBRUARY 12, 2020, and a copy of the order denying rehearing appears at Appendix C.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including N/A (date) on N/A (date) in Application No. A N/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

The Constitutional and statutory provisions involved relates to the eighth Amendment claim, and deliberate indifference to the petitioners serious health condition. It also involves Due-Process of law. Here the claims raised are not in dispute. The current issue is the courts conflicting decision related to Hepatitis-C. The court says under the petitioners condition he does not qualify for imminent danger as a result of his Hep-C condition. However, those cases herein conflict with the courts decision. And if this is the case no one who suffers with a serious case of Hepatitis-C would be eligible for relief under the Envelope of Imminent danger. This is an important question that needs to be addressed.

and §1915 does not prohibit the court from granting relief to one who has a serious case of hepatitis-C.

STATEMENT OF THE CASE

This is a case where the petitioner for several years have gone without treatment for Hepatitis-C. And failure to provide treatment that would have cured the Petitioners Hepatitis-C. Over the years the Petitioner attempted to ask the courts to address the denial of adequate treatment for His Hep-C condition. Defendant Naji who is the director for the medical department at this facility. through out this entire time of 2012 years. From that time on the Petitioner has not received the appropriate available treatment for his condition. Petitioner was at one point prescribed Dilantim, which petitioner was taken off of for reasons unknown. Petitioner also suggested to the defendants that he be prescribed for example (PEGYLATED INTERFERON). Petitioner is currently over 65 years of age. Additionally, petitioner suffers with several other ailments. Petitioner has been left to endure pain without treatment. Defendant Naji refused to provide or approve treatment for the petitioner Hep-C. At one appointment Defendant Naji stated to the petitioner to "SHUT UP, YOUR NOT HERE FOR THAT." Defendant naji refused to treat Petitioner forhis worsening condition due to the Hepatitis-C. and although the petitioner has consistently sought help from the defendants and the courts. However, no relief as of this date has been provided. this stems from starting 1993. The court has also refused to acknowledge that Hep-C poses Imminent danger! That the protocol for Hep-C is fatally flawed. Petitioner asked the defendant for treatment that consist of injections combined with pills, usually taken for 6 to 12 month's, that these medicines clear the virus in over half the people who take them. The D.O.C. and its medical staff at SCI-Houtzdale, which includes defendant naji refuses and are unwilling to provide the expensive though necessary medical treatment!

Defendant Patrick Nagle-PA, works for the medical dept. at SCI-HOUTZDALE. Petitioner has communicated with this defendant on more than one occasion. Petitioner informed him of his HEP-C condition. This defendant has taken no actions to protect the petitioner from further hjarm or damage as a result of the Hep-C.

Defendant Dorina Varner-chief grievance officer, at SCI-Houtzdale. This defendant is extensively involved with petitioners case. Petitioner asked Defendant Varner to protect him from further harm due to the Hep-C condition. This was over looked by this defendant. And went without any relief.

REASONS FOR GRANTING THE PETITION

(1) THE COURT OF APPEALS DECISION CONFLICT WITH THE DECISION OF ANOTHER U.S. DISTRICT COURT REGARDING IMMINENT DANGER:

The U.S. District court in *Brown v. Johnson*, 387 F.3d 1344 (11th Cir. 2004) Addressing that the failoure to provide treatment for hepatitis-C, a cronic and potentially fatal disease, constitutes imminent danger.

Davis v. Wetzell, 2018 U.S. Dist. LEXIS 99238 (3rd Cir. June 13, 2018). As in *Davis* Medical attention had been denied to his serious Hepatitis-C condition. The language §1915 does not mandate the express use of the term Imminent Danger, and pro-se litigants are not held to the same pleading standards as attorneys. And given the district court previously granted petitioner IFP status. And as in *Brown v. Wolf*, 705 F.App'x 63 (3rd Cir. 2017), in *Wolf*, the prisoner-plaintiff sought to invoke the imminent danger exception to the three-strikes rule when he alleged that the prison denied him adequate treatment. Although the prisoner had previously refused treatment because of the associated side effects, his subsequent attempts to obtain treatment were denied due to non-medical reasons. *Wof*, 705 F.App'x at 66-67. The court found that these were not trivial symptoms, and that the refusal of any medical treatment for Hepatitis-C met the imminent danger standard. Other circuits have also found that the failure to treat chronic Hepatitis-C may fall under the imminent danger exception, as incremental harm that culminates in A serious physical physical injury may present a danger equal to harm that that results from an injury that occurs all at once. *Vander v. Prison health services, inc.* 727 , 587 (6th Cir. 2013). As in *Davis* Petitioner has been denied curative medication for his Hep-C. The record is clear that petitioner has dealt with Hepatitis-C for a number of years. And was denied curative medications. And defendants have refused to treat him for his

condition that will ultimately worsen! the Davis court established the fact

The court in Davis v. Wetzel, 2018 U.S. Dist. LEXIS 99238 (3rd Cir. June 13, 2018) addressed the claim that Hepatitis-C and it amounting to Imminent danger. Along with a line of cases that address Hep-C in relation to imminent danger. And although the Petitioner has put forth as his sole claim that he has been denied treatment for his Hep-C, and related. The [PLRA] provides a limited exception to the three strikes rule when a prisoner is in Imminent danger of serious physical injury; which serves as a safety valve to ensure that a prisoner is not subject to serious injury due to his inability to pay a filing fee. Brown v. Lyons, 977 F.Supp.2d 475, 481 (E.D. PA. 2013). allegations of Imminent danger must be evaluated in accordance with the liberal pleading standard applicable to pro-se litigants, although the court need not credit "fantastic or delusional" allegations. Gibbs v. Cross, 160 F.3d 962 (3rd Cir. 1998).

And when considering whether imminent danger of physical injury has been alleged, courts may reject vague or conclusory allegations as insufficient to provide a basis for IFP status. Lyons, Id. Imminent danger are those dangers which are about to occur at any moment or are impending. However, even if an alleged harm may in fact be impending, it does not satisfy this exception if it does not threaten to cause serious physical injury. Lyons, Id. And §1915(g) is not a vehicle for determining the merits of a claim. Brown v. Wolf, Id. Finding allegations that a prisoner was refused any medical treatment for his Hepatitis-C.

This is a case where the defendants have not been given the opportunity to Either Admit or deny the claims. The District court and court of Appeals have decided that the Petitioner should not be granted In Forma Pauperis status due to his Three strikes as a result of prior civic actions. As such the substance and validity of the claims are not the substance for the courts consideration. The court in this filing is being asked to decide if someone who has a Severe case of Hepatitis-C that he has been denied treatment of should be denied Imminent danger, and did the appellate courts fail to apply imminent danger as it relates to one who has Hepatitis-C and who has presented Hepatitis-C to the courts as grounds for his imminent danger. A review of the record in this case will reveal that the Appellate courts have not applied Imminent danger to one who has Hepatitis-C Or has incorrectly applied it which contradicts other appellate courts decisions! The Petitioner Hep-C condition and request for treatment is outlined in the attached

(2): THE COURT OF APPEALS DECISION TO DENY PETITIONER THE RIGHT
TO PROCEED IN FORMA PAUPERIS,

CONFLICTS WITH THE DECISIONS OF OTHER COURTS:

At the outset, Petitioner avers the following cases that were decided regarding Hepatitis-C and how it applies to Imminent Danger. (1) BROWN V. U.S. DISTRICT COURT, ET AL., 2014 U.S. DIST. 38971 (MARCH 25, 2014); (2) DAVIS V. WETZEL, 2018 U.S. DIST. LEXIS 99238 (3rd CIR. JUNE 13, 2018); (3) BROWN V. WOLFE, 705 F.APP'x 63, 66 (3rd CIR. 2017); ALSO (4) TUCKER V. PENTRICH, 483 F.APP'x 28, 30 (6th CIR. 2012). The language of §1915 does not mandate the express use of the term imminent danger, and that pro-se litigants are not held to the same pleading standards as attorneys. Treatment in this case was denied due to non-medical reasons. With a review of the record in this case and the above stated cases there would be no clearer claim of a contradicted decision that the pro-se petitioner could think of. The record fails to come close to the decision that was required to make a determination as to Imminent danger related specifically to Hepatitis-C.

And as the courts in this case by their decision state that Hepatitis-C does not establish Imminent danger without saying it. under these grounds to begin with the petitioner not only did not apply the proper review of his claim warranting the courts to grant In Forma Pauperis, but also failed to even address imminent danger as it relates to his Hepatitis-C condition.

The court only addresses Hep-C under a limited circumstance. For example, The Center For Disease Control, stated, "AFTER SEEING THE NUMBERS OF AMERICANS DYING FROM HEPATITIS-c RELATED DISEASES NEARLY DOUBLED FROM 1999 TO 2007." However, the R&R makes the infection of the Hepatitis virus either not

serious or not life threatening. Its this that the petitioner ask this court to finalize in a decision. Because in the cases listed the courts say different! Wouldn't that be inconsistent? Would it not also create a disparity, because those defendants were able to secure relief, who were in the same position as the petition, under the same circumstances, Being confined etc. Additionally the issue is of significant importance because it involves a Constitutional question surrounded by the 8th Amendments cruel and unusual punishment ground. And the 14th Amendment to the U.S. Constitution. Roe v. Sims, U.S.D.C. CXD. Ill., case No. 3:06-CV-0303-HAB-CHE.

Petitioner averred that imminent danger exist where the liver is damaged and the petitioner is not receiving treatment. Ibrahim v. District Of Columbia, et al., 463 F.3d 3, LEXIS 22841 (2006); Brown v. Lisa Johnson, Doctor Presnell, 387 F.3d 1344, LEXIS 21588 (2004). The R&R failed to take these these factors into consideration, in denying the petitioner the right to proceed IFP-(In Forma Pauperis) without considering whether petitioner was in imminent danger. And that under the circumstances of his Hep-C (Hepatitis-C) condition he would in fact qualify for Imminent Danger. Doctor having told the petitioner that he liver in fact has now exacerbated to the point we arrive at now a damaged liver. Which petitioner was seeking relief for over a decade ago. And that as a result of his current liver condition cannot receive treatment for other conditions because doctors have now told petitioner that because of his liver it could kill him. The Ibrahim court of appeals for the District of columbia, the Ibrahim court noted that it had no difficulty concluding that a chronic disease that could result in serious harm or even death constitutes serious physical injury, and imminent danger. These points raised above have not been addressed by the courts R&R. As such petitioner moves the Honorable court to make the decision that needs to be

made as it relates to Hepatitis-C and Imminent Danger.

Petitioner prays for this courts liberal consideration because the courts current decision conflicts with other District court decisions, Etc.

Finally, The request the petitioner is asking this court to make is not complicated and is clear. Based upon the R&R, information and case laws presented herein.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Anthony Williams', written over a horizontal line.

ANTHONY WILLIAMS, PRO-SE

Date: March 24-2020