

No. 19-8505

ORIGINAL

Supreme Court, U.S.
FILED

MAY 13 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

GEORGE TOLBERT — PETITIONER
(Your Name)

vs.

STEPHANEE WAGGONER — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS, SEVENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

GEORGE TOLBERT B-13301
(Your Name)

4017 EAST 2603 ROAD
(Address)

SHERIDAN, ILLINOIS 60551
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

According to 28 U.S.C. Section 1915(g) Plaintiff-Appellant George Tolbert could not proceed in forma pauperis on Case No. 20-1143 after being denied to proceed in forma pauperis in U.S. District Court for the Southern District of IL. Case No. 3:19-cv-01318-NJR. This Appeal was dismissed pursuant to Circuit Rule 3(b), and there was no further litigation pursuant to Section 1915(g).

Premised on the above PLRA 28 U.S.C. Section 1915(g) an incarcerated person cannot address to the U.S. District Court(s), deliberate, callous and reckless abused Constitutional rights and abuse of prisoners by their jailors because the prisoner is indigent and/or have "Struck Out." Tolbert exhausted all of his state remedies to no avail including Illinois Court of Claims Case No. 18CC2525 disposition Dismissed with Prejudice.

The federal Court(s) does not entertain or deny's Tolbert to proceed in forma pauperis and Court's timely deadline to pay Court fees to proceed. The Court's takes the fees anyway after dismissing Complaint(s) and still does not entertain Complaint. How can Tolbert get remedy for Constitutional Rights violations?

Tolbert never sign Trust Fund Officer to let money leave Tolbert's account.

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:

STEPHANIE WAGGONER, Warden
C/OFF. J. MESSA,
VANDALIA CORRECTIONAL CENTER, and IL. DEPT OF CORR.
et al.
Respondents.
IL. DEPT. OF CORR'S ADMINISTRATIVE -
REVIEW BOARD (GRIEVANCE) OFFICE OF
INMATE ISSUES, P.O. BOX 19277
SPRINGFIELD, IL. 62794-9277.

RELATED CASES

GEORGE TOLBERT

^{v.}
IL. DEPT. OF CORR., STEPHANIE WAGGONER, et al. No. 18-CV-2525, COURT OF CLAIMS STATE OF ILLINOIS. Judgment entered March 18th 2019.

Tolbert v. Waggoner, No. 19-CV-1318-NJR, U.S. District Court Southern District of Illinois. Judgment entered. Case Closed January 7th 2020.

Tolbert, plaintiff-Appellant v. Waggoner, et al., Defendants - Appellees No. 20-1143, United States Court of Appeals Seventh Circuit. NOA Filed: January 27th 2020. Judgment entered February 28th 2020 signed by Chief Judge Nancy T. Rosenstengel. Copies sent by Clerk's office of Order to the United States Court of Appeals and Trust Fund Officer at Sheridan Correctional Center, Sheridan, IL.

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Christiansen v. Masse, App. 1 Dist. 1996, 664 N.E.2d	314
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Wilson v. Seiter, 501 U.S. 294, 297-303 (1991)	
18 U.S.C. Section 3006 A; 42 U.S.C. Section 1997e (d)(3).	
28 U.S.C. 1915(g).	

STATUTES AND RULES

ILLINOIS DEPARTMENT OF CORRECTIONS DEPARTMENTAL ADMINISTRATIVE RULES 20 Ill. Adm. Code 501.23D, PERSONAL PROPERTY (3), SECTION 535.90 and 535.120(c). When a committed person wishes to dispose of an allowable property item by send it out of the facility, selling it, donating it, giving it to a relative with approval by the Chief Administrative Officer, or authorizing its destruction, a signed record shall be filled in the committed person's Master File (record) and a copy of the record shall be maintained by the facility in the personal property files.

Court of Claims of Illinois jurisdiction lies according to 705 ILCS 505/1 et seq.

OTHER

Ill. Rev. Stat. 1991, ch. 37, par. 439.8(a). Court of Claims of IL. has exclusive jurisdiction to award attorney fees and cost against the State.

Also see Court of Claims of IL. Section 8(b) of the above statute.

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 F to the petition and is

☒ reported at 28 U.S.C. § 1915 (g); 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 E to the petition and is

☒ reported at 28 U.S.C. § 1915 (g); 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 D to the petition and is

☐ reported at Dismissed With Prejudice; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Adm. Review Board (E.D.O.C.) court appears at Appendix _____ to the petition and is

☐ reported at Denied; 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 FEBRUARY 27th 2020.

☒ 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 3/26/2019.
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

In *Wilson v. Seiter*, 501 U.S. 294, 297-303 (1991) The 8th Amendment prohibits only Cruel and unusual punishment. The above Court reasoned that if the pain inflicted is not formally meted out as punishment by the Statute or Sentencing judge some mental element must be attributed to the inflicting officer. Before it can qualify as Cruel and unusual punishment.

The above named Respondent acted with deliberate indifference by taking upon themselves to deny Petitioner Tolbert of an important quality of life, Petitioner's eye sight, by refusing to replace eye glasses.

Petitioner asked in Grievance on Institutional level to Administrative Review Board Office of Inmate issues to just replace my glasses with another pair, or return mine back. It was imperative that I need my glasses being pro se in the Court(s).

Petitioner Tolbert deprived by Respondent's to have access to his glasses and suffered other physical mishaps from being caused by cloudy vision which subsequently could have led to the formation of two cataracts after not having glasses fifteen months, continually put a strain on petitioner's vision leading to cataract surgery in both eyes, amounts to Cruel and Unusual punishment under the 8th Amendment of the U.S. Constitution.

28 U.S.C. Section 1997(e)(c) does not bar recovery for nominal, punitive, injunctive and declaratory relief.

STATEMENT OF THE CASE

Petitioner Tolbert pose this Challenge to U.S. District Court's Imminent danger of serious physical injury Pursuant to 28 U.S.C. Section 1915(g).

Webster's Dictionary defines "imminent as- ready to take place: (hanging) threatenly over one's head. Danger is defined as- exposure or liability to injury, harm or evil. Something that may cause harm, injury, hazard, risk. U.S. District Court created its own definition by combining the two words, with otherwise independent elements together and stating that within the meaning of their Statute 28 U.S.C. Section 1915(g) that a prisoner has to be half dead before a prisoner under the above Statute can Pass the threshold of U.S. District Court, Once a Prisoner has allegedly "struck out."

From February 4th 2018 to May 22, 2019. Petitioner Tolbert has suffered a tremendous amount of discomfort physically from his eyes, to busted shins, from missteps and falls, to walking into walls during daylight hours, to continuous headaches, blurred vision, eye strain due to not having my glasses. Petitioner Tolbert still has many scars on shins as a result of the missteps on concrete steps at Vandalia's Corr. Ctr. main compound.

Petitioner Tolbert subsequently was transferred to Vandalia's Work Camp where as Petitioner work in the 5 a.m. Shift dietary, missing the counter and dropping pots of food on the floor getting yelled at by Correctional Supervisors and Petitioner Tolbert was mixing ~~toxic~~ ~~chemicals~~ ~~together~~ ~~for~~ ~~cleaning~~ because Petitioner Tolbert, who is an excellent reader, could not see the instructions on the chart, for using and mixing or not mixing certain cleaning chemicals, that caused poisonous fumes. Petitioner Tolbert accidentally mixed bleach and

STATEMENT OF THE CASE (CONT.)

Some Ammonia like substances together which caused Poisonous like fumes in the Dietary and it had to be shut down for repairs and clearing. The majority of the other dietary workers were sand bagging after a Hornade ravaged South Central Illinois that year.

Petitioner Tolbert assert to this Honorable U.S. Supreme Court that Copies of Petitioner's Grievance(s) were attached and submitted to Court of Claims of Illinois, U.S. District Court for the Southern District of Illinois Filed: December 2, 2019 Stating as Relief Requested on the Institutional level. Petitioner Tolbert stated to Vandalia Corr. Ctr. to either return Petitioner's glasses or replace them. Vandalia Corr. Ctr. refused to do the above and totally destroyed Petitioner's glasses not allowing Petitioner the right to mail them home or consent to them being destroyed.

Vandalia Corr. Ctr. Administration stated that if Petitioner wanted another pair from the institution, Petitioner had to pay to get eyes examined and pay for glasses. I was^{at} work camp for about seven months before transferring from Vandalia Corr. Ctr. Petitioner worked for one month at work camp.

If Petitioner had been mowing lawns, Petitioner probably would have cut off toe(s) or fingers with lawn mower. Petitioner's age at the work camp was 60 years old. What 60 year old person has 20/20 vision without glasses?

REASONS FOR GRANTING THE PETITION

Petitioner Tolbert States to this Honorable U.S. Supreme Court that since transferring to Sheridan Correctional Center, Petitioner visited the optometrist where as optometrist stated that the eye machine here at Sheridan Corr. Ctr. is one of the first in the country that can detect cataracts. The optometrist stated to petitioner that petitioner has two (2) cataracts growing. They most likely developed when Petitioner made missteps and tripped, walking into walls in broad daylight. Cataracts cloud a persons vision through the lens of the eyes and obstruct vision. When Vandalia Corr. Ctr. confiscated my glasses, every thing became mostly a blur. The detection of Petitioner's Cataract information is documented and on file in Health Care Unit Optometrist here at Sheridan Correctional Center.

That Cataract information was a stunner for me when the optometrist told me I have two. I have been incarcerated since February 2, 2010. My cataracts developed while incarcerated.

Petitioner had his eyes examined in 2009 when Petitioner was told by the Dept of Motor Vehicles to get eyes examine to renew driver's license, and there were no sign of cataracts forming in eyes from optometrist on the street. The cost of eye exam was (\$45.00) forty five dollars.

REASON FOR GRANTING PETITION (CONT.)

The John Howard Association (JHA) a Citizen Monitor of prisons and jails had to step in and force IL Dept. of Corrections to stop charging inmates to pay of five (\$5) dollars a visit to health care unit and giving prisoners in IL Dept. of Corrections inadequate health care. A prisoner was out of fifteen dollars before we get eyes examined. The first five dollars for the health care visit, the second five dollars was the next scheduled visit to see eye doctor, the third \$5 dollars was for the scheduled eye exam, a total of (\$15) fifteen dollars before anything is done. We prisoners are Ward of the State. Most of us prisoners cannot get jobs in prison based on background, recidivism, etc. We have no monies. The Correctional Center(s) deducted payments from our ten (\$10) dollar unassign pay given prisoners monthly, or take whole pay leaving prisoners with nothing.

Since November 30th 2015 Petitioner Tolbert has been arguing in Federal Court on habeas Corpus Relief 28 U.S.C. Section 2254 for the present conviction. Petitioner Tolbert researched, submitted most of continued argument at Vandalia Corr. Ctr. after glasses were confiscated, till this day U.S. District Court for the Northern District of Illinois has not ruled on habeas Corpus for an allege Attempt Burglary (of twisting an allege doorknob). Petitioner Tolbert was sentenced to Twenty Five (25) years. Petitioner has written Governor of IL. J.B. Pritzker and Congressman Bobby L. Rush of Chicago, IL. Petitioner has almost completed the sentence to no relief.

Petitioner Tolbert contends to this U.S. Supreme Court, how can U.S. District Court judge(s) determine how much pain an inmate/prisoner has to endure before that prisoner meet the above U.S. District Courts standard of imminent danger of serious physical injury to satisfy overcoming 28 U.S.C. Section 1915(g). Petitioner Tolbert was already misstepping and very badly scarring shins on concrete steps, and walking into walls in well-lit rooms and halls because of cloudy blurry vision in which optometrists detected as cataracts, that developed in eyes. Petitioner will soon be sixty two (62) years old and cannot recover as fast from ~~the~~ falling down stairs and/or accident as Petitioner Tolbert could as a younger man. If Petitioner Tolbert had his glasses these mishaps would not have happened. I would like **CONCLUSION** Respondents to pay for my glasses.

For All the above reason stated herein Petitioner Tolbert states:

The petition for a writ of certiorari should be granted.

Respectfully submitted,

George Tolbert

Date: April 2nd 2020

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

GEORGE TOLBERT — PETITIONER
(Your Name)

VS.

STEPHANEE WAGGONER, et al. RESPONDENT(S)

PROOF OF SERVICE

I, GEORGE TOLBERT B13301, do swear or declare that on this date, April 27th, 2020, as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

CLERK, SUPREME COURT OF THE UNITED STATES
Washington, D.C. 20543

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 13th, 2020

George Tolbert
(Signature)