

20-5310
No. _____

Supreme Court, U.S.
FILED

MAY 13 2020

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

Benjamin Franklin — PETITIONER
(Your Name)

vs.

Glenna Blair — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Benjamin Franklin
(Your Name)

Mc Connell unit, 3001 S. Emily drive
(Address)

Beeville, Texas 78102
(City, State, Zip Code)

NONE
(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

1. Did The District Court Abuse discretion in Denial Appoint of Counsel But found several arguable claims under the R.L.U.I.P.A.?
2. Based on the Allegations in Civil Action No. 7:15-cv-164 Exhibit(s): C AND E; Could the Court see Presumption of intent to the Respondent Blair's Contributory Negligence misstatement of the Petitioner Franklin's Mail [see] Exhibit: A-Grievance Response?
3. Is there grounds For Reasonableness inference of Reasonable Doubt that the Petitioner's Mail was ever mail out Pursuant established T.D.C.J. Mailing Procedural Dueprocess?
4. In ~~■~~: Allen V. T.D.C.J. 80 S.W 3d 681, TX. App. Houst. 1st Dist. year 2002 the Grievance tribunal has Authority to take some responsive Action; then Why WAS No Authority Authorized to Correct the Discription of my Mail, Prima Facie of intentional Negligently deprivation of Freedom of speech, Conspiracy Deprived OF the exclusive Administrative remedy to Petitioner for claim For relief?
5. In ~~■~~: Bell Atlantic corp VS. Twombly Supreme Court Ruleing Under relaxed Pleading standards conclusions of LAW were ~~established~~ established ^{Keep} Litigants in Court; Why WAS this standard Not used to Keep ^{my complaint} ~~■~~ IN the Court?
6. In ~~■~~: Jones V. Caruso, 569 F.3d 258 (6th Cir. 2009) Does the Court see even the minimal infringements Upon The First Amendment U.S.C. by ~~■~~, the Allegation Conclusions Aver against the Respondent Blair?
7. In light of Supreme Court Judgement in Haines VS. Kerner, 404 U.S. 519, (year 1978); CAN my handwritten prose 42 U.S.C. section 1983 Civil Action be dismissed if it Appears beyond Doubt I can prove No set of Facts in Support of this claim?

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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 C to the petition and is

☒ reported at _____; or,

☐ has been designated for publication but is not yet reported; or,

☒ ~~is~~ 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 17 MARCH 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: 29 April 2020, and a copy of the order denying rehearing appears at Appendix A.

☐ 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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- The Constitution of the United States of America Amendment I :
Congress shall make no law respecting an establishment of religion
or prohibiting the free exercise thereof, or abridging the freedom of
speech, or of the press; or the right of the people peaceably to
assemble, and to petition the Government for a redress of grievances.
- see Appendix: D - Fourteenth Amendment to the United States Constitution
- see Appendix: E - Religious Land Use and Institutionalized Person Act
42 U.S.C. sec. 2000cc (1)(a)

STATEMENT OF THE CASE

UNDER Supreme Court Ruling IN, Memphis Community School Dist. Vs. Stachura, 106 S.Ct. 2537 (1986) page 2542 The petitioner - Franklin's 42 U.S.C. section 1983 Creates a species of tort liability under the common Law of torts. I WAS deprived of Federal Rights by the intentionally reckless BAD Faith Actions of Respondent Blair Not limited to misstatement to the correct description of my property a CAUSAL connection to the theft of property via MAIL FRAUD 18 U.S.C.A. section 1341 CASE LAW: FRANKS VS. Delaware, 98 S.Ct. 2674 (1978) "misstatements were not inadvertently But in mens rea false statements knowingly AND intentionally reckless disregard for the truth. Federal Rules of Evidence Rule 608 In my Petition for Re hearing I Attacked the credibility of Respondent Blair supported by But Not limited to EXHIBIT: G Shows a D.V.D. sent to me But Exhibit: D shows a.D. my mail changed Description once the Respondent Blair received it is truly grounds for Due Process Violation Under the Fourteenth Amendment to the United States Constitution under Ruling IN, Zimmerman V. Burch 110 S.Ct. 975 (1990) The Parratt Rule regarding adequacy of post deprivation tort remedies is NOT limited to property rights But may Also Apply to deprivation of Liberty interest. i.e. my Liberty to use the mailing process First Amendment to the U.S. Constitution Texas Remedy though adequate in theory WAS NOT AVAILABLE in Practice e.g. I filed a similar tort Petition IN The TEXAS Justice of The Peace Court House - J.P. SUSANA CONTRERAS on Date: 26 April 2019 to DATE of this writing No reply prima facie of NOT AVAILABLE in Practice. The Respondent Blair is bent upon departing from or indifferent to complying with established policy AND Procedure There by the Court is shown prima facie Exhibit: C AND Exhibit: E - Letters that my property WAS NOT MAILED to them Axiomatically common defense of finding of fact is For example a Conclusion by way of Reasonable inference from evidence Rule 103 (a) (2) WAS Apparent from the context within The Petitioner is not Barred from pursuing contributory Negligence of Respondent Blair ipso facto Substantially Contributed to the Petitioner Franklin's injury. Ex parte Hull, 61 S.Ct. 640 (1941) Justice Stevens suggest Depriving someone of AN arguable claim inflicts Actual injury.

REASONS FOR GRANTING THE PETITION

The District construed merit for R.L.U.I.P.A. claim However retained position to Denial of Appointment of Counsel This is clear Admission of Guilt of Abuse of Discretion. Texas Board of Criminal Justice policy 03.91 IN Denial of D.V.D. placed substantial burden on my religious practice [see] Demarco v. Davis, 914 F.3d 383 (2019) Quoting Beard vs. Banks, 126 S.Ct. 2572 Year 2006 The state of Texas must do more than merely show a formalistic Logical Connection Between its policy AND Penological objective [see] Person vs. Ohio, 109 S.Ct. 346 (1988) it was error Not to Appoint Counsel AFTER the Court's review found several Arguable claims it Presumption of Prejudice. Under the Plausibility Standard The Court should act on its judicial experience AND common sense In, Turner v. Pleasant 663 F.3d 770, 775 (5th 2011) [see] Supreme Court Rule 10 (a) Court of Appeals entered a decision in conflict; To case law: Lowrey v. Texas A&M Univ. System 117 F.3d 242, 247 (5th 97) Liberally construed in favor to a Petitioner, all facts pleaded are taken as true 352 F.Supp. 3d. 718 (2018) Formand v. U.S. Wired Inc. 565 F.3d 228, 232 (5th 2009) motions to dismiss viewed with Disfavor AND rarely granted. AND decision in U.S. vs. Schmick (C.A.5. TX 1990) 904 F.2d 936 No element need be proved by direct evidence But MAYBE INFERRED from circumstantial evidence. In Burns vs. P.A. Doc. (2008) 544 F.3d 229 "The Supreme Court of U.S. has held that the impairment of property rights even Absent the permanent physical deprivation [i.e. Mail Property D.V.D. Religious] property is often sufficient to trigger Due Process protections; The Supreme Court have embraced in numerous cases over 20 year The Bundle of Rights Theory of Property [D.V.D. Religious] my Right to Use, Possession AND enjoyment I was Denied All three By the Respondent Blair AND T.B.C.J. Policy 03.91. [see] 512 U.S. 374, 393 Any external thing. R.L.U.I.P.A. - Religious Land Use AND Institutionalized Person Act. The Court of Appeals Abused Discretion Dismissing my Brief Because IN re: Bell Atlantic Corp. vs. Twombly, 127 S.Ct. 1955 (2007) under relaxed pleading standards Fed. Rules the idea was to keep litigants [i.e. Petitioner Franklin] in Court. There is NO Logical distinction between Statements AND Conclusions of Law.

My Allegations AVER CONCLUSIONS ipso FACTO CONCOMITANT Letters prima facie that my mail was never sent [see] civil Docket Numbers: 4, 11, 18, AND 24 AND 22 District Court Record(s); AND Docket No. 19. see 5C. Wright AND Miller Fed. Pract. AND Procedure 1216 page 207 3d. 2004. This is OF National Importance to others similarly situated [see] Declaration(s) By Fredrick Gooden AND Mendoza. [see] APPENDIX: F

IN re: DANIELS vs. Williams, 106 S.Ct. 677 (1986) BEING deprived of an ASPECT OF Liberty as result in part of a form of TEXAS ACTION I would characterize each loss as a deprivation of Liberty. The Respondent BLAIR INFRINGEMENT my Right AND ~~entitlement~~ entitlement of procedure Due process AND Free speech by Not correctly Notating the Description of mail this gives rise to Reasonable Doubt AND the court CAN Reasonable infer UN-truthfulness to the Respondent's Credibility. It is part of the procedural due process to NOTate mail. In, Carey vs. Piphus explained that a deprivation procedural due process is Actionable under Sec. 1983. Id. 48 S.Ct 1042 even if the deprivation was in fact justified so the plaintiff did not suffer any other actual injury cause by the lack of due process. I do believe official conduct which causes personal injury due to recklessness [i.e. Respondent Blair] or deliberate indifference does deprive the Petitioner FRANKLIN of Liberty within the meaning of the Fourteenth Amendment.

CONCLUSION DAVIDSON V. CANNON, 106 S.Ct 668 (1986)

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 11. MAY 2020