

No. 20-5352

ORIGINAL

Supreme Court, U.S.
FILED

AUG 05 2020

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Shawn Woodward — PETITIONER
(Your Name)

vs.

Ali and Stevenson — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Appellate Court of Second Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Shawn Woodward #977468B
(Your Name) South Woods State Prison

215 South Burlington Road
(Address)

Bridgeton, New Jersey 08302
(City, State, Zip Code)

(Phone Number)

RECEIVED

AUG 13 2020

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

- 1.) Plaintiff/Respondent wrote a letter to the District Court Judge and told him that Respondent will "consent" to a Magistrate Judge. If the Court and Defendants agree to a non-jury trial - trial by Magistrate Judge - and send Respondent the paper work. The Court and Defendants agreed, then later on tried to force Respondent to trial by jury and when Respondent tried to "withdraw" his consent the Court refused to do so and ordered a trial by jury.
- 2.) Respondent followed all of New York State's Prison Rules regarding exhaustion of administrative remedies and the Northern District Court still dismissed Plaintiff's lawsuit?
- 3.) Must a Respondent/Plaintiff testify at an exhaustion hearing if all the documents show that administrative remedies were not available to the inmate?
- 4.) Should the district court apply the Houston v. Lack, 487 U.S. 266 rule to an inmate who provides an affidavit

Question(s) Presented Continue p. 2 of 2

Setting forth the date his Objections were given to prison authorities for mailing.

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:

1.) Woodward v. Ali, Stevenson, Miller, Martuscello, Law, Baldwin and Paulin, Case No. 13-CV-1304 (NDNY); Court of Appeals - Second Circuit No. 19-2612

2.) Woodward v. Lytle, Gaffney, Docteur, Jones, Dawley, Case No. 16-CV-1174 (NDNY); Court of Appeals - Second Circuit No. N/A

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APPENDIX B Feb 25, 2019 Letter to the District Court and March 12, 2019 Letter advising of consent and June 7, 2019 Report and Recommendation and July 3, 2019 Decision

APPENDIX C September 27, 2018 Decision 2018 US Dist LEXIS 166404; March 29, 2019 2019 US Dist LEXIS 53950 and June 19, 2019

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- 9.) Williams v. Priatno, 829 F.3d 118 (2nd Cir. 2016) quoting *Ross v. Blake*, 136 S.Ct 1850 (2016) 11

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- 5.) 7 NYCRR §§ 701.5-701.8 / New York State's Directive 4040-5

OTHER

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-C to the petition and is

☐ reported at see attached; 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.

Appendix B: (Woodward v. Ali, et al, Case No. 13-CV-1304)

- (i) Plaintiff's February 25, 2019 Letter to the District Court requesting to consent to a Magistrate Judge for trial
- (ii) March 12, 2019 Letter advising of consent
- (iii) June 7, 2019 Report and Recommendation from Magistrate Judge regarding Plaintiff's Motion to Withdraw Consent at 2019 ~~US~~ Dist Lexis 96870 (NDNY)
- (iv) July 3, 2019 Decision and Order denying Plaintiff's Motion to Withdraw Consent to Magistrate Judge at 2019 US Dist Lexis 111241 (NDNY)

Appendix C: Woodward v. Lytle, et al, Case No. 16-CV-1174)

- (i) September 27, 2018 Decision from the District Court denying Defendants' Motion for Summary Judgment for Failure to Exhaust at 2018 US Dist Lexis 166404 (NDNY)
- (ii) March 29, 2019 Decision from the District Court denying Plaintiff's Motion for Discovery, preventing

Opinions Below Continued

(i) Plaintiff from having documents to show that the grievance process was unavailable to him at 2019 US Dist Lexis 53950 (NORV)

(iii) June 19, 2019 Decision from the District Court dismissing Plaintiff's lawsuit for failure to exhaust because Plaintiff did not "verbally testify" at the exhaustion hearing and Plaintiff's Objections (at Dkts 122-123) were not timely filed although Plaintiff's Affidavit of Service set forth the date of mailing pursuant to Houston v. Lack, 487 U.S. 206; 2019 US Lexis 102075

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JURISDICTION

☐ For cases from federal courts:

The date on which the United States Court of Appeals decided my case was Approx. March 12, 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: May 23, 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

a.) Woodward v. Ali, et al, Case No. 13-CV-1304 (NDNY):

- 1.) Freedom of Speech (First Amendment)
- 2.) Excessive Force (Eighth Amendment)
- 3.) Freedom of Religion (First Amendment)
- 4.) Due Process (Fourteenth Amendment)
- 5.) 28 USC § 636(c)
- 6.) Fed. R. Civ. P. 73(b)(3)

b.) Woodward v. Lytle, et al, Case No. 16-CV-1174 (NDNY):

- 1.) Freedom of Speech - First Amendment
- 2.) Excessive Force - Eighth Amendment
- 3.) Due Process - Fourteenth Amendment
- 4.) 42 USC § 1997e(a)
- 5.) 7 N.Y.C.R.R. 701.5 - 701.8 (New York State's Inmate Grievance Program)
- 6.) 28 USC § 636(b)(1)
- 7.) New York State's Directive 4040

STATEMENT OF THE CASE

a.) Woodward v. Ali, et al, Case No. 13-CV-1304 (NDNY); Court of Appeals - Second Circuit, Case No. 19-2612

1.) On or about February 25, 2019 Plaintiff wrote a letter to the District Court "advising/agreeing" to consent to a Magistrate Judge if Plaintiff could have a trial by ~~jury~~ non-jury, see, Appendix B at pp. 1-2

2.) The District Court sent Plaintiff a Consent to Magistrate Judge form - see, Woodward v. Ali, supra at Dkt # 186 - which Plaintiff signed and enclosed a March 12, 2019 Letter "advising" the Court of consenting to a Magistrate Judge "if" the judge is Judge Stewart, id at Dkt # 189, see, Appendix B at p. 3.

3.) Judge Stewart set a jury-trial for July 22, 2019. Plaintiff requested to "withdraw" his consent. Judge Stewart denied Plaintiff's withdrawal by misrepresenting the facts in his Report and Recommendation at 2019 US Dist Lexis 96870 and the District Court agreed at 2019 US Dist Lexis 111241.

b.) Woodward v. Lytle, et al, Case No. 16-CV-1174 (NDNY)

1.) The District Court denied Defendants' Motion for Summary for Failure to Exhaust Administrative Remedies at 2018 US

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Statement of the Case (Continued)

Dist Lexis 166404 and Defendants' Reconsideration at 2018 US Dist Lexis 200155.

- 2.) The basis for the denial was that prison officials refused to file Plaintiff's grievance and when Plaintiff sought help from prison supervisors he was refused help in appealing the denial, see, 2018 US Dist Lexis 166404
- 3.) The District Court ordered an exhaustion hearing/trial, but refused to allow Plaintiff to obtain discovery from Defendants to use at the hearing stating "... the exhaustion hearing is narrowly focused on ... Plaintiff's ... own testimony versus that of the Defendants ..." at 2019 US Dist Lexis 53950
- 4.) At the exhaustion hearing Defendants have all the documents/witnesses and Plaintiff had none (see, Woodward v. Lytle, supra at Dkt # 113, dated April 12, 2019: Exhaustion Hearing Held Before Judge Peebles)
- 5.) Plaintiff did not testify at the April 12, 2019 Exhaustion Hearing, see, 2018 US Dist Lexis 102075
- 6.) Plaintiff filed Objections as Ordered by Judge Stewart

Statement of the Case (Continued) p. 3 of 4

by placing such in the care of the prison officials and including in his papers an Affidavit of Service. The District Court did not apply the standard of *Houston v. Lack*, 487 US 266 (the prison mailbox rule) and deemed Plaintiff's papers to have been received late, i.e., that Plaintiff did not file Objections, see, 2019 US Dist Lexis 102075

C.) Appeals To Second Circuit Appellate Court:

1.) On or about July and August of 2019 Plaintiff filed Notices of Appeals in both the *Woodward v. Lytle*, supra and *Woodward v. Ali*, supra cases, see, Appendix A at pp. 2-3.

(NOTE: Plaintiff does not have a copy of the Second Circuit's Docket Sheet for *Woodward v. Lytle*, supra, because when the Second Circuit responded to Plaintiff's May 23, 2020 Letter at Appendix A at p 6. Plaintiff was only sent a Docket Sheet for the *Woodward v. Ali*, supra case)

2.) From September of 2019 through November of 2019 Plaintiff filed all the needed papers, see, Appendix A at pp. 1-3.

Statement of the Case (Continued) p. 4 of 4

3.) On December 13, 2019 Plaintiff was discharged from New York State Department of Corrections' custody and subsequently extradited to New ~~York~~ Jersey's prison custody on December 20, 2019, see, Appendix A at p. 6.

4.) Plaintiff wrote to the Court of Appeals advising that he was transferred to New Jersey State Prison.

5.) On January 29, 2020 the Court of Appeals issued a directive to Plaintiff, because Plaintiff was in New Jersey he never received the directive and subsequently the Court of Appeals dismissed Plaintiff's appeal, see, id at p. 4.

6.) Through Appellant Counsel, Christina Wong, Plaintiff was informed of the dismissal and by Letters dated May and June of 2020 Plaintiff requested Reconsideration, explaining what happen, but was denied, id at pp. 3-4.

REASONS FOR GRANTING THE PETITION

a.) Woodward v. Ali, et al, Case No. 13-CV-1304 (NDNY); Court of Appeals - Second Circuit No. 19-2612. Plaintiff wrote to the District Court "advising/agreeing" to Consent to a Magistrate Judge if Plaintiff could get Judge Stewart as the judge to conduct a non-jury trial. The District Court had the Court mail Plaintiff a Magistrate Judge consent form for Plaintiff to sign. Plaintiff signed the form and sent the form in with a letter attached. After the District Court turned the case over to Judge Stewart, Judge Stewart set a date for a jury trial. Judge Stewart's Report and Recommendation stated in part that Plaintiff's March 12, 2019 Letter did not mention a trial by jury, but erroneously Judge Stewart intentionally overlooked the February 25, 2019 Letter from Plaintiff that led to the parties consenting to a Magistrate Judge to begin with. Therefore, Plaintiff's rights under 28 USC §§ 636(c), 636(b)(1) were violated by the District Court.

b.) Woodward v. Lytle, et al, Case No. 16-CV-1174 (NDNY):

Reasons For Granting The Petition

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The District Court denied Defendants' Motion for Summary Judgment and Motion for Reconsideration for Plaintiff's failure to exhaust his administrative remedies. Based on documentary evidence that the administrative remedies were not available to Plaintiff citing *Williams v. Priatno*, 829 F.3d 118 (2nd Cir. 2016) quoting *Ross v. Blake*, 136 S.Ct 1850 (2016). Additionally, a live exhaustion trial/hearing was held with Plaintiff not being allowed to: (a) call witnesses and (b) gather evidence to defend his self at the trial/hearing. The hearing/trial was conducted before Judge Peebles. The Defendants called all their witness, presented all the documents they wanted and Plaintiff did not testify. Objections were submitted by both Parties Members, but according to the District Court Plaintiff's objections were received late although Plaintiff's Affidavit of Service stated the Date that Plaintiff placed his papers in the care of prison officials for mailing pursuant to *Houston v. Lack*, 487 US 266 (prison mailbox rule). The District Court ruled that Plaintiff did not file objections and dismissed Plaintiff's

Reasons For Granting The Petition

lawsuit in its entirety. Furthermore, some of Plaintiff's claims were fully exhausted, such as, but not limited to, Plaintiff's due process claims which are exhausted by filing a tier three (3) disciplinary appeal which Plaintiff did and had the charges "reversed and expunged" ("... Plaintiff was confined... ~~after~~ being found guilty of charges... the determination were eventually reversed..." see, 2018 US Dist Lexis 166404 at 6

C.) Court of Appeals - Second Circuit's Denials: The Appellate Court denied an appeal to the Woodward v. Lytle, supra case and dismissed appeal with respects to the Woodward v. Ali, supra case because Plaintiff did not follow the Court's January 29, 2020 Directive. Which Plaintiff did not receive because he was incarcerated in New Jersey and the Court did not up date Plaintiff's address after he wrote to them.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Shan Wood

Date: July 27, 2020