

20-6026

No.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

SEP 04 2020

OFFICE OF THE CLERK

KENNETH NEWKIRK — PETITIONER
(Your Name)

vs.

WARDEN KISER — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

FOURTH CIRCUIT COURT OF APPEALS OF VA

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

KENNETH NEWKIRK
(Your Name)

WALLENS RIDGE STATE PRISON
(Address)

P.O. BOX 754 BIG STONE GAP, VA. 24219
(City, State, Zip Code)

NA
(Phone Number)

QUESTION(S) PRESENTED

WHILE PURSUING THIS CIVIL SUIT

1. SHOULDN'T I HAVE BEEN RELEASED FROM THIS PRISON AND THE CUSTODY OF THE VA DEPT. OF CORRECTIONS ON 1/14/20 WHEN THE 4TH CIRCUIT COURT FIRST DECLARED THAT I ADEQUATELY ALLEGED THAT I AM UNDER IMMINENT DANGER OF RECEIVING SERIOUS PHYSICAL INJURY?
 2. SHOULD I HAVE TO MAKE TO BE SUBJECTED TO MORE DELIBERATE INDIFFERENCE AND SERIOUS PHYSICAL INJURY JUST BECAUSE I HAVE A CIVIL SUIT PENDING AND NOT A CRIMINAL PROCEEDING?
 3. NO MATTER WHAT I'M FILING SHOULDN'T MY SAFETY COME FIRST?
 4. SINCE THE 4TH CIRCUIT COURT HAS DETERMINED ON JULY 16, 2020 THAT I ARTICULATED "A PATTERN OF MISCONDUCT EVIDENCING THE LIKELIHOOD OF IMMINENT SERIOUS PHYSICAL INJURY". MARTIN, 319 F.3d AT 1050 SHOULDN'T I BE GIVEN BAIL/RELEASE PENDING APPEAL OF THIS CASE? APPENDIX A PAGE 3
- ~~REDACTED~~

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. FOURTH CIRCUIT COURT OF APPEALS
1100 E. MAIN ST
RICHMOND, VA. 23219

~~2. ATTORNEY GENERAL OF VA
900 E. MAIN ST
RICHMOND, VA. 23219~~

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

HELLING V. MCKINNEY, 509 U.S. 25, L. Ed. 2d
22, 113 S. Ct. 2475

3.

8TH AMENDMENT CLAUSE TO THE
U.S. CONSTITUTION

4.

28 U.S.C. 1415(y)

3.

MARTIN, 319 F.3d AT 650

QUESTIONS

STATUTES AND RULES

OTHER

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APPENDIX A July 16, 2020 "THE FOURTH CIRCUIT COURT OF APPEALS STATED, THE DISTRICT COURT ORDER ENTERED OCTOBER 3, 2019 IS VACATED AND REMANDED. MOTIONS FOR BAIL OR RELEASE PENDING APPEAL IS MOOTED."

APPENDIX B Oct. 3, 2019 THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT COURT FOR THE WESTERN DISTRICT OF VA DENIED MY OPPORTUNITY TO PROCEED IN FORMA PAUPERIS.

APPENDIX C Aug. 24, 2020 THE FOURTH CIRCUIT COURT OF APPEALS DENIED MY PETITION FOR REHEARING.

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~~ B 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 JULY 16 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: JULY 16 2020 8/24/20 and a copy of the order denying rehearing appears at Appendix A page 4
APPENDIX C

☐ 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

SINCE THE FOURTH CIRCUIT COURT HAS DECLARED THAT MY SAFETY IS AT RISK I SHOULD BE GIVEN BAIL/RELEASE PENDING APPEAL OF THIS CIVIL SUIT.

EQUAL PROTECTION CLAUSE AND DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT. I HAVE A RIGHT TO BE SAFE FROM CRUEL AND UNUSUAL PUNISHMENT AND DELIBERATE INDIFFERENCE. HELLING V. MCKINNEY 509 US 25, 125 L Ed.2d. 22, 113 S. Ct. 2475, 8th AMENDMENT TO THE US CONSTITUTION ALSO DUE TO THE SPREAD OF COVID19 IN VA. PRISONS I SHOULD BE GIVEN BAIL/RELEASE PENDING APPEAL

~~I HAVE A R~~

I SHOULD NOT HAVE TO REMAIN IN A PRISON SYSTEM OF WHICH I'M TO ENDURE IMMINENT DANGER OF SERIOUS PHYSICAL INJURY. 208 U.S.C. 1915(g)

STATEMENT OF THE CASE

I HAVE A RIGHT TO BE FREE FROM
CRUEL AND UNUSUAL PUNISHMENT WHILE
IN THE CUSTODY OF THE VA. DEPT. OF
CORRECTIONS. 8TH AMENDMENT CLAUSE
TO THE U.S. CONSTITUTION

I HAVE A RIGHT TO REMAIN SAFE AND FREE
OF RECEIVING PHYSICAL INJURY WHILE IN
PRISON.

I SHOULD NOT HAVE TO REMAIN IN ANY
PRISON SYSTEM CALLED ~~THE VIRGINIA~~
OF WHICH I'M TO ENDURE PHYSICAL
INJURY AND BE UNDER IMMINENT
DANGER REGARDLESS OF WHAT I'M
FILING.

MY SAFETY IS FIRST.

REASONS FOR GRANTING THE PETITION

I HAVE A RIGHT TO BE SAFE ~~FROM~~
AND FREE FROM CRUEL AND UNUSUAL
PUNISHMENT WHILE IN THE CUSTODY
OF THE VA. DEPT. OF CORRECTIONS,
8th Amendment CLAUSE TO THE
U.S. CONSTITUTION

I HAVE A RIGHT TO BE FREED FROM
ANY PRISON ~~WHERE~~ OF WHICH I AM
UNDER IMMINENT DANGER OF SERIOUS
PHYSICAL INJURY. ~~AND~~

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Kenneth Newkirk

Date: ~~8/29/20~~ 9/3/20

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