

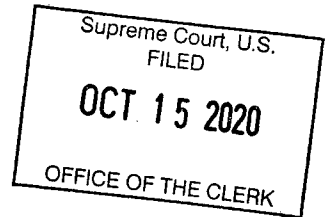
20-6160

No. 20-6295

ORIGINAL

IN THE

— SUPREME COURT OF THE UNITED STATES



AZANIAH BLANKUMSEE — PETITIONER
(Your Name)

vs.

RICKY FOXWELL — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEAL - FOURTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

AZANIAH BLANKUMSEE
(Your Name)

18800 Roxbury Road
(Address)

Hagerstown, Md 21746
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Did the court of Appeal decision create conflict between its decision, and the decision of other appellate court decisions concerning the same issues?
- 2) Does the exhaustion requirement apply to private contractors such as defendant Troxell?
- 3) Is the first amendment right to practice religion a right guaranteed to all prisoners?

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: United States Court of Appeals
FOR THE FOURTH CIRCUIT;

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND...

RELATED CASES

EDDIE ADAMSON V. CORRECTIONAL MEDICAL
SERVICES, INC. COURT OF APPEALS OF MD.,
359 MD. 238, 753 A.2d 501

Daniel Ross, Charles Yoes, Willard Moore,
et al v. Dr Stanley Blackledge et al.,
United States Court of Appeals for the Fourth Circuit;

Bruce D. Wellman, et al v. Gordon H.

Faulkner, et al, United States Court of Appeals
for the 7th Circuit, 715 F.2d 269; 1983

Africa v. Commonwealth of Pennsylvania,
662 F.2d 1025 (3d Cir 1981).

Love v. Reed, 216 F.3d 682 (8th Cir 2000)

Lafayette v Saffie, 936 F.2d 1117 (10th Cir 1991)

Estelle v. Gamble, 429 U.S. 97 (1976)

Brown v District of Columbia, 514 F.3d 1279
(D.C. Cir 2008)

RELATED CASES (continued)

Jones v. Bock, 549 U.S. 199, 214, 127 S.Ct. 910, 920, 166 L.Ed.2d 798, 812 (2007)

Giano v. Goord, 380 F.3d 670, 679-80 (2d Cir. 2000)

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circuit.

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District of Maryland

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TABLE OF AUTHORITIES CITED

CASES

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STATUTES AND RULES

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 NO. 19-6133; 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 Civil action No. PWG-18-106; 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 ~~April 28, 2020~~ July 28, 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 _____.
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

First Amendment right (The Free exercise clause);

Fourteenth Amendment Protection of religion

The religious Land use and institutionalized persons act;

Fourteenth Amendment to Equal protection of Law;

The Eight Amendment right to medical Care; Deliberate indifference;

Prisoner Litigation act (PLA) Md Code Ann., cts & Jud. proc §5-1001 et seq (supp. 1999)

Md code Ann. correct servs. §10-201 et seq.

STATEMENT OF THE CASE

AZANIAN Blankumsee filed a civil rights action alleging various violations of his Constitutional rights to the United States District Court for the District of Maryland;

PLEASE refer to Attached
STATEMENT OF CASE for
Greater details concerning facts
of the case (Numbered 1-3)

On January 10, 2019, the United States District Court denied plaintiff's motion for Summary Judgment;

On July 28, 2020 the Fourth Circuit Affirmed the District Court's decision;

ATTACHED STATEMENT OF CASE

UNITED STATES SUPREME COURT

AZANIAH BLANKUMSEE V. RICKY FOXWELL, et al,

No. 20-6295

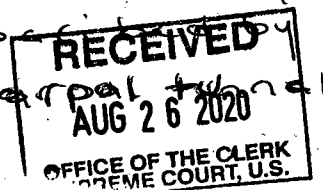
8:18-cv-00106-PWG

PETITION FOR WRIT OF CERTIORARI

Petitioner Azaniah Blankumsee, Pro se, files this Petition for writ of certiorari, and respectfully states as follows:

1) Plaintiff/petitioner filed a Complaint December 19th, 2017;
2) The complaint concerned two separate incidents at which time both occurred at Eastern Correctional Institution (ECI) in October 2017;

3) Petitioner alleges that officer Childers and Captain Perry deliberately interfered with a medical treatment prescribed to petitioner by a doctor, by confiscating his prescribed wrist brace, preventing a doctor to treat his diagnosed Carpal tunnel; Carpal tunnel



4) Petitioner sufficiently informed both defendants of his medical condition, and provided documentation;

5) defendants were deliberately indifferent to petitioner's serious medical needs by delaying petitioner's treatment for more than a month;

6) Plaintiff filed an administrative grievance against Childers and Perry. On the same day, Childers and Perry issued a notice of disciplinary infraction against plaintiff, calling the brace and other allowed property, contraband;

7) A hearing was scheduled, and conducted on October 24th, 2017; plaintiff agreed to an informal disposition, and his "sweatpants, wrist brace and jeans were ordered returned to Plaintiff;

8) Plaintiff then returned to the property room to retrieve all of the items ordered returned to him, and was told by Childers, that he did not care what the hearing officer said, he was not getting anything;

9) while plaintiff was exiting the property room, he seen, and attempted to speak to Cpt Perry, who told plaintiff "since you wrote me up, live with it";

10, defendant captain perry's statement made the Administrative remedy process unavailable, and, obviously detrimental, and dangerous to plaintiff's rights safety and health;

11) plaintiff's A.R.P. was dismissed, stating that "inmates may not seek to resolve a complaint through the A.R.P. for Inmates disciplinary proceeding procedures and decisions;

12) Therefore making the A.R.P. unavailable;

13) where defendant's perry and Childers is concerned, A.R.P. was made unavailable on two occasions;

14) on November 13th, 2017, plaintiff filed an A.R.P. (No. 2943-17) regarding the Pork stock in the turkey Sausages;

15) plaintiff's A.R.P. was meritorious in part, according to defendant warden Foxwell;

16) Defendant troxell, is a civilian, not a employee of the department of correction, therefore, plaintiff can not exhaust remedies through the A.R.P. against defendant troxell;

REASONS FOR GRANTING THE PETITION (1 of)

a) The United States Court of Appeals has entered a decision in conflict with the decision of another state court of Appeals on the same important matter;

b) the United States Court of Appeals has decided an important question of federal law that should be settled by this court, as its decision conflicts with relevant decisions of this court;

In Adamson v. Correctional Medical

Services Inc., the court of appeals of Maryland held that the administrative exhaustion requirement does not apply to private contractors who provide medical care to prisoners under the control of DOC; however defendant Troxell (CDM) is also a private contractor therefore, therefore, the district court's decision in this case is in conflict with the court of appeal in the ADAMSON case; However, defendant Troxell's admission to serving pork sausages violated petitioner's constitutional right to practice his religion which prohibits consumption of pork;

Petitioner has a constitutional right to practice his religion; All similarly situated persons have that right;

Dismissal for non-exhaustion is supposed to be without prejudice;

REASONS FOR GRANTING THE PETITION (20P) CONTINUED

Dismissal without prejudice means that you can come back to court after you pursue your grievance; Jones v. Bock.

In Abney v. McGinnis, 380 F.3d 663, 669 (2d Cir 2004) (holding a prisoner who repeatedly got favorable decisions that later were not carried out had exhausted despite failure to appeal the favorable decisions.)

Defendants Perry, Childers and Foxwell deliberately interfered and delayed plaintiff's medical treatment by confiscating, then withholding Arnbracc, a medical treatment prescribed to plaintiff by a doctor.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Janet Blount

Date: 9-15-2020