

20-6403

No. _____

ORIGINAL

FILED

MAR 02 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE

SUPREME COURT OF THE UNITED STATES

Casey Mattingly
(Your Name)

— PETITIONER

vs.

Duval County Jail et al

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Eleventh Circuit Court of Appeals

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

PETITION FOR WRIT OF CERTIORARI

Casey Mattingly
(Your Name)

Dade Correctional Institution
19000 S.W. 377 Street

(Address)

Florida City, FL, 33034

(City, State, Zip Code)

N/A

(Phone Number)

What was the Eleventh Circuit Court

thinking Affirming Summary Judgment

where the Authority and Precedent

relied upon, demonstrates why

Summary Judgment should have

been overturned?

PARTIES PERTINENT TO CASE

DANA BARNES, M.D.	DEFENDANT
JUSTICE BRANCH	11th CIRCUIT COURT
JUDGE TIMOTHY CORRIGAN	U.S. MIDDLE DIST. OF FL
SEAN GRANAT	DEFENSE COUNSEL
JUSTICE JORDAN	11th CIRCUIT COURT
SOHAIL KHAN, P.A.	DEFENDANT
JUSTICE MARCUS	11th CIRCUIT COURT
LINDA RICHIO, A.R.N.D	DEFENDANT
TIFFANY DOUGLAS-SAFI	DEFENSE COUNSEL
JUDGE JOEL TOOMEY	U.S. MIDDLE DIST. OF FL

PROCEEDINGS IN THE U.S. DISTRICT COURT

* = Approximate dates due to lack of confirming paperwork lost via institutional searches and transfers.

November 2014 - Initial 42 U.S.C 1983 Complaint
Filed in Florida's Middle District
Court.

* April 2016 - Defendants are served 3rd
Amended Complaint

* August 2016 - Interrogatories served on
Plaintiff

* ~~September 2016~~ Request for Admissions served
on Defendants

* January 2017 - Deposition of Plaintiff;
Mediation conducted by
Magistrate Judge Joel Toomey

* April 2017 - Deposition of Defense witnesses
Gale Murray, Gregorio Griffin, and
Wendell Aldridge

* May 2017 - Deposition of Loree Mattingly and
Danielle Proepper

June 6, 2017 - Deposition of Patricia Kalu A.R.N.P

* July 2017 - Summary Judgment submitted
by Defendants

* September 2017 - Plaintiff files Response to Summary Judgment.

March 28, 2018 - Judge Timothy Corrigan grants Defendants Summary Motions.

April 16, 2018 - Plaintiff filed Notice of Appeal to the Eleventh Circuit Court

PROCEEDINGS IN THE ELEVENTH CIRCUIT COURT

* May 2018 - 11th Circuit Court dismissed the Plaintiff's appeal no: 18-11608E for failure to demonstrate indigency.

June 1, 2018 - Plaintiff refiles Notice of Appeal and appropriate indigency papers. A new case number is assigned: no: 18-12242.

* July 2018 - 11th Circuit Court dismisses appeal no: 18-12242 as duplicative to appeal no: 18-11608E.

* August 2018 - Plaintiff confers with 11th Circuit Clerk of Courts about the confusion demonstrated by the 11th Circuit Court regarding the indigency and duplicative appeals.

* September 2018 - Plaintiff follows up with 11th Circuit Clerk of Courts.

* October 2018 - Plaintiff follows up with 11th Circuit Clerk of Courts.

February 5, 2019 - Plaintiff's original appeal, No: 18-11608E is reinstated due to Plaintiff having complied with indigency papers the first time.

* March 2019 - Plaintiff's Initial Brief is filed.

* April 2019 - Defendant's Reply Brief is filed.

May 3, 2019 - Plaintiff files Motion for Extension of Time to file Response Brief. Motion is granted.

June 1, 2019 - Plaintiff's Response Brief is filed.

September 25, 2019 - 11th Circuit Court renders Opinion Affirming the U.S. District Court's Order granting Summary Judgment to the Defendants.

October 4, 2019 - Plaintiff files Motion for Rehearing.

December 3, 2019 - 11th Circuit Court denied Motion for Rehearing.

TABLE OF CITATIONS

Bowring v. Godwin 551 F.2d 44 (4th Cir 1976)	pg. 16
Farrow v. West 320 F.3d 1235 (11th Cir 2003)	pg. 14
Heines v. Kerner 92 S.Ct 594 (1972)	pg. 10
Harris v. Thigpen 941 F.2d 1495 (5th and 11th Cir 1991)	pg. 16
Mann v. Taser Intl. Inc 588 F.3d 1291 (11th Cir 2009)	pg. 17
McElligot v. Foley 182 F.3d 1248 (11th Cir 1999)	pg. 14
Melton v. Abston 941 F.3d 1207 (11th Cir 2016)	pg. 12/14/1
NLRB v. Pittsburgh S.S. Co. 71 S.Ct 452 (1951)	pg. 17
Waldrop v. Evans 871 F.2d 1030 (5th and 11th Cir 1989)	pg. 16

CONSTITUTION CITATION

U.S. Constitution Seventh Amendment	pg. 9
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UNITED STATES STATUTE CITATION

Statute 1254	pg. 7
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OTHER CITATION

Eleventh Circuit Court Opinion	pg. 18
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STATEMENT FOR JURISDICTION

By virtue of United States Statute §1254, Jurisdiction of the United States Supreme Court is conferred upon said Court for the purposes of determining if the Appellant's Petition for Certiorari, stemming from the 11th Circuit Court's Affirming of Defense Summary Judgment, should be granted. This Statute allows this High Court to consider whether the 11th Circuit Court acted in conformity with the standards and precedents held currently in the United States as the acceptable legal practices for the purpose of achieving proper justice.

This Appellant's Appeal to the 11th Circuit Court was to the intent of overturning the U.S. District Court's

decision to grant the Defendant's Summary Judgment. The Appellant's Appeal was denied and the judgment affirmed on September 25, 2019. The Appellant filed for rehearing and was denied rehearing on December 3, 2019. The Appellant's Petition for Certiorari is timely.

CONSTITUTIONAL PROVISION

In this instant case, justice and properly balanced legal scales are achieved through interpretation of the United States Constitution's Eighth Amendment, right to remain free from cruel and unusual punishment; and the Fourteenth Amendment, Equal protection of the Law; and the Seventh Amendment, any controversy that exceed twenty dollars shall have the right to trial by jury. These are and have always been the vehicles the Appellant has relied on to obtain justice for his case.

STATEMENT OF THE CASE

The Petitioner, Casey Mattingly, is proceeding pro se, relying on Haines v. Kerner 92 S.Ct. 594 (1972) for the Courts holding him to the "less stringent standards". Mr. Mattingly has been pro se since this case's inception under the U.S. District Court, Middle District of Florida, case no: 3:14-cv-591-J-32JBS and in the Eleventh Circuit Court of Appeals case no: 18-11608E. In this case of Deliberate Indifference Mr. Mattingly filed a 42 U.S.C 1983 Civil Rights Complaint Form against several defendants for their acts of deliberate indifference to a diagnosed serious medical need. His grounds were and are based on medical record evidence of denials for specialist referrals, denials for

recommended treatment, delays in care, and of the constant debilitating pain Mr. Mattingly was left in. In filing his Appeal from Summary Judgment granted to the Defendants, Mr. Mattingly relied on controlling and binding case law from the Eleventh Circuit Court. He also cited persuasive authority case law from sister Circuit Courts, and most importantly he demonstrated the same evidence to the Eleventh Circuit Court as had been given to the District Court. All of which was geared towards overcoming the Defense's Motion for Summary Judgment. This Petition for Certiorari comes on the heels of the Eleventh Circuit Court's astonishing Affirming of Summary Judgment.

Here's the key irony in which the Eleventh

Circuit Court has now created an issue of comity. The Eleventh Circuit Court relied on a by-line in Melton v. Abston 941 F.3d 1207, 1224 (11th 2016.). However, as you will, no doubt, see, the Melton case and Melton's case law citations provide the exact grounds for why Defense Summary Judgment should not have been granted. In fact as you will undoubtedly see Mr. Mattingly also relied on the exact same cases that the Melton Court used in over turning Mr. Melton's Defense Summary Judgment. The Eleventh Circuit Court must have over looked the parallels contained within the entire Melton case that absolutely have now created a contradict of the Eleventh Circuit Court's controlling and binding position towards Summary Judgment and

evidence that creates genuine issue of fact that should be left to a jury.

Ultimately this Petitioner, future petitioners, and the U.S. Supreme Court need codification on this issue to ensure comity through out the Courts.

ARGUMENT

In Melton v. Abston 941 F.3d 1207 (11th 2016) the Eleventh Circuit Court (herein 11th or Eleventh) concluded that Summary Judgment against Mr. Melton be vacated on several of his defendants in his 42 U.S.C. 1983 claims for deliberate indifference. The Eleventh determined that from the medical record evidence a reasonable minded jury could return a verdict in favor of Mr. Melton. Mr. Melton demonstrated with the medical records how his defendants denied and delayed treatment, despite his persistent complaints of pain, of his broken arm and how his defendants provided cursory care; which overall the Eleventh concluded using cases like Farrow v. West 320 F.3d 1235 (11th 2003) and McElligot v. Foley 182

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F.3d 1248 (11th 1999) amounted to deliberate indifference and the case was REMANDED back to the Alabama District Court.

In this instant case the Melton case, should have favored this Petitioner, however, the Eleventh using one by-line, irrelevant to the specifics in Mr. Melton's case, which states

"A simple difference in medical opinion between the prison's medical staff and the inmate as to the latter's diagnosis and course of treatment does not support a claim of deliberate indifference." Melton id. at 1224.

condemned this Petitioner's pursuit for justice which has genuine issues of fact and material evidence in dispute.

Mr. Mattingly traced this pernicious by-line back to its origins trying to ascertain how the Eleventh surmised what is now a diametrical, instead of juxtaposed, position to

harmony and conformity to the controlling and binding law the Eleventh normally strictly adheres to, and as reviewable this by-line was referenced in: Harris v. Thigpen 941 F.2d 1495, 1505 (5th and 11th 1991); then Waldrop v. Evans 871 F.2d 1030, 1033 (5th and 11th 1989); then originally in Bowring v. Godwin 551 F.2d 44, 48 (4th 1976) where it is stated not even remotely like the obscure reference in the Melton cases. This creates a question of real and embarrassing conflict of opinion and authority within and without the Eleventh. Its a question such as this that Certiorari is primed for review by this Court.

"Certiorari is granted only in cases involving principles, the settlement of which is of importance to public as distinguished from parties, and in cases where there is real and embarrassing conflict of opinion and authority

"between Courts of Appeals." NLRB v.

Pittsburgh S.S. Co. 71 S.Ct 453 (1951).

By the Eleventh relying on the Melton big-line
It has created a defense "loop-hole" for
future decisions to dismiss claims or grant
Summary Judgment against Plaintiffs, even in
the face of genuine material facts in dispute.

Defendants can now cite this Petitioner's case
decision from the Eleventh and simultaneously
discredit Melton, even when Plaintiffs, especially
prase prisoner plaintiffs, present solid evidences
that support claims and should preclude
Summary Judgment. This is due to the Eleventh
comitting the error and making it law.

"Factual issues are considered genuine
when they have a real basis in the record."

Mann v. Taser International Inc. 588 F.3d 1291, 1303

(11th 2009)

The evidences in both Melton and this
Petitioner's Appeals and the reliance on the
same controlling and binding precedent should
have unified the Eleventh's position and
authority in relation to its District Courts, its
sister Courts, itself, and its highly esteemed
U.S. Supreme Court, because the decision
should have been the same here as it was
in the Melton case. Instead, now, we can
review additional irony of the Eleventh going
so far as to openly acknowledge that the
defendants in Mr. Mattingly's case did not comply
with the treatment recommendations from the
medical specialists. SEE: Eleventh Circuit Court's
Opinion Page 2. An irony that is truly
confounding.

This is truly a case of inattentiveness.

by the Eleventh. Had it carefully reviewed the record in the light most favorable to the non-moving party, this Petitioner, the Eleventh would have drawn all the same parallels regarding denial of specialist referrals and treatment, the delays in care, the cursory care, and the persistent complaints of pain, that not only Melton demonstrated, but also so did the Eleventh in relying on Farrow id. supra and McElligot id. supra to overturn Summary Judgment. The same cases Mr. Mattingly relied upon.

CONCLUSION

Due to the Eleventh's ununiform, incongruent and obviously contradictory positions regarding material evidence, genuine fact, and Summary Judgment, this Petitioner and future Appellants

need the issuing of Certiorari in order to
see and trust that the Eleventh Circuit Court
of Appeals is in conformity with the standards
and practices prescribed by the U.S. Supreme
Court.

Respectfully submitted,

Casey Mattingly

Casey Mattingly J34596
Dade Correctional Institution
19000 S.W. 377 St.
Florida City Fl, 33034

CERTIFICATE OF SERVICE

I, Casey Mattingly, do certify that a true and
correct copy of this Petition was mailed through the
U.S. Postal Service to: United States Supreme Court,
Clerk of Courts, and to Sean Grant, Defense/Appellee
Counsel of record, 117 W. Duval St. Suite 480, Jacksonville
Fl, 32202 on this 4th day of November 2020.

Casey Mattingly
Casey Mattingly J34596