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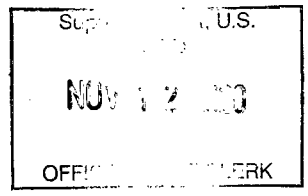

IN THE

SUPREME COURT OF THE UNITED STATES

BENJAMIN K. TOSCANO — PETITIONER
(Your Name)

vs.

NANCY ADAM, et al., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS (9th CIRCUIT)
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

BENJAMIN K. TOSCANO
(Your Name)

P.O. BOX 7500
(Address)

CRESCENT CITY, CA. 95531
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1) DOES RESPONDENT'S HAVE THE RIGHT TO SUBMIT FABRICATED DOCUMENTS?
2) DOES RESPONDENT'S HAVE THE RIGHT TO COMMIT PERJURY?
3) DOES RESPONDENT'S HAVE THE RIGHT TO DENY ME EFFECTIVE MEDICAL TREATMENT?
4) DOES RESPONDENT'S HAVE THE RIGHT TO SUBJECT ME TO UNNECESSARY PAIN AND SUFFERING?
5) DOES RESPONDENT'S HAVE THE RIGHT TO SUBJECT ME TO FURTHER SPINAL INJURY AND OR PERMANENT PARALYSIS?
6) DOES THE DISTRICT COURT AND COURT OF APPEALS HAVE THE RIGHT TO IGNORE EVIDENCE FAVORABLE TO PETITIONER?
7) DOES THE DISTRICT COURT AND COURT OF APPEALS HAVE THE RIGHT TO ALLOW RESPONDENT'S TO SUBMIT FALSE STATEMENTS AND DOCUMENTS?
8) DOES THE DISTRICT COURT AND COURT OF APPEALS HAVE THE RIGHT TO IGNORE THE PERJURY COMMITTED BY THE RESPONDENT'S?
9) DOES THE RESPONDENT'S/THE STATE OF CALIFORNIA HAVE THE RIGHT TO CREATE (BAD LAW) TO AVOID SUPERIOR LIABILITY FOR VIOLATIONS THEIR DIRECTLY INVOLVED IN?

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] 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:

- P. LENOIR, MEDICAL DOCTOR.
- CONALL McCABE, CHIEF PHYSICIAN & SERGEON
- R. McCONNELL, REGISTERED NURSE
- R.L. STRAWN, REGISTERED NURSE
- MAUREEN MCLEAN, MEDICAL DOCTOR/CHIEF EXECUTIVE OFFICER.
- J. LEWIS, DEPUTY DIRECTOR OF APPEALS.
- DOES 1-10, MEDICAL STAFF.

RELATED CASES

- BENJAMIN TOSCANO V. NANCY ADAM, et al., NO.16-cv-06800-EMC, UNITED STATES DISTRICT COURT FOR NORTHERN CALIFORNIA OF SAN FRANCISCO. JUDGMENT ENTERED MAY 29,2019.

- BENJAMIN TOSCANO V. NANCY ADAM, et al., NO.19-16288, UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT. JUDGMENT ENTERED JULY 21, 2020. JUDGMENT ENTERED ON REHEARING OCTOBER 13, 2020.

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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

[X] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[X] reported at 9th CIRCUIT COURT OF APPEALS; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the United States district 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.

[ ] 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

[X] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was 7-21-2020.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 10-13-2020, and a copy of the order denying rehearing appears at Appendix B.

[ ] 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 .

UNITED STATES CONSTITIONAL AMENDMENTS-BILL OF RIGHTS

AMENDMENT I.

CONGRESS SHALL MAKE NO LAW RESPECTING AN ESTABLISHMENT OF RELIGION, OR PROHIBITING THE FREE EXERCISE THEREOF; OR ABRIDGING THE SPEECH, OR OF THE PRESS; OR THE RIGHT OF THE PEOPLE PEACEABLE TO ASSEMBLE, AND TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES.

AMENDMENT VIII.

EXCESSIVE BAIL SHALL NOT BE REQUIRED, NOR EXCESSIVE FINES IMPOSED, NOR CRUEL AND UNUSUAL PUNISHMENTS INFLICTED.

AMENDMENT XIV.SECTION 1.

ALL PERSONS BORN OR NATURALIZED IN THE UNITED STATES, AND SUBJECT TO THE JURISDICTION THEREOF, ARE CITIZENS OF THE UNITED STATES AND OF THE STATE WHEREIN THEY RESIDE. NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES; NOR SHALL DEPRIVE ANY PERSON OF LIFE, LIBERTY, OR PROPERTY; WITH OUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN IT'S JURISDICTION THE EQUAL PROTECTION OF THE LAWS.

STATEMENT OF THE CASE

1. ON 9-7-16 I HAD AN MAGNETIC RESONANCE IMAGING (MRI) SCAN PERFORMED AS A RESULT OF NEW PAIN & INJURY I WAS EXPERIENCING. THE MRI RELEAVED THAT I HAD INFACT SUFFERED A NEW BACK/SPINAL INJURY AND A SIGNIFICANT SIGNAL LOSS IN MY INTERVERTEBRA DISC L4 & L5-S1. A DEGENERATIVE DISC DISEASE WITH DISC PROTUSION THAT IMPINGS UPON MY RIGHT DESCENDING S1 NERVE THAT CONTRIBUTES TO THE CENTRAL CANAL STENOSIS INJURY.

2. ON 9-15-16 I HAD A TELEMED EXAM/INTERVIEW WITH P.LENOIR REGARDING THIS MRI TAKEN ON 9-7-16. DR. P.LENOIR, DENIED ALL OF MY REQUESTED ACTION'S SUCH AS A) EFFECTIVE PAIN MEDS., B) TREATMENT, C) APPLIANCES SUCH AS. BACK BRACE, CANE, WHEEL CHAIR, WAIST CHAIN CHRONO, LOWER TIER/LOWER BUNK CHRONO, BACK SURGERY.

3. ON 9-16-16 I FILED MY ADMINISTRATIVE APPEAL#HC-16061135 ON DR. P.LENOIR FOR DENYING ME THE PROPER TREATMENT AND THE APPLIANCES I NEED & ENTITLED UNDER MEDICALS OWN GUIDELINES.

4. ON 10-6-16 I HAD AN INTERVIEW WITH REGISTERED NURSE (RN) R.McCONNELL, REGARDING MY APPEAL. WHICH SHE WENT OVER WITH ME INCLUDING THE MRI. AND DENIED ALL OF REQUEST'S FOR PROPER MEDICAL TREATMENT, PAIN MEDICATION & APPLIANCES WITHOUT ANY REASON WHY. APPENDIX Q·503-512

5. ON 10-28-16 CHIEF PHYSICIAN & SURGEON CONALL McCABE, DENIED ALL OF MY REQUESTED, EVEN WHEN CONALL McCABE CITED THEIR OWN MEDICAL OPERATIONAL PROCEDURES §1071 VII B(1) WHICH STATES MEDICAL EQUIPEMENT SUCH AS CANES, WHEELCHAIRS, ACE WRAPS ETC. FOR INMATES WITH SEVERE LOWER EXTREMITY'S, SEVERE CHRONIC PAIN CONDITIONS, ETC. WHICH PETITIONERS CLEARLY HAS AND SPINAL INJURY IS HIGHLY DOCUMENTED IN RESPONDENTS' OWN MEDICAL REPORTS & MRI THEREBY DISPROVING ALL OF RESPONDENTS' FALSE STATEMENTS. APPENDIX Q·315-315.

6. AS THE CHEIF PHYSICIAN & SURGEON CONALL McCABE, KNEW OF PETITIONERS BACK INJURIES THAT CAUSES HIM A GREAT DEAL OF PAIN, DISCOMFORT & RISK OF FURTHER INJURY. WHICH SHOULD BE

STATEMENT OF THE CASE

NOTED THAT McCABE DENIED MY 2014 APPEAL#HC-14055248 REGARDING PETITIONER'S L5 INJURY. APPENDIX Q·526-534.

7. ON 11-15-16 I FILED A DISSATIFSFIED RESPONSE TO CONALL McCABE'S DENIAL. APPENDIX Q·505-506.

8. ON 12-8-16 SUPERVISING REGISTERED NURSE (SRN) II R.L. STRAWN CONDUCTED THE 2nd LEVEL RESPONSE AND SIMPLE DENIED ALL OF MY ACTIONS REQUESTED WITHOUT ANY REASONS WHY.

9. ON 12-22-16 THE CHEIF EXECUTIVE OFFICER MAUREEN MCLEAN DENIED MY 2nd LEVEL RESPONSE BY REITERATING, CONALL McCABE, P.LENOIR, et al., TO SUBJECT ME TO ONGOING WANTON INFLICTION OF UNNECESSARY PAIN, DISCOMFORT & FURTHER INJURY, AS RETALIATION FOR FILING HIS APPEAL. APPENDIX Q·517-518.

10. ON 12-25-16 I FILED MY DISSATISFIED RESPONSE TO THE 3rd LEVEL OF APPEALS EXHAUSTING MY ADMINISTRATIVE REMEDIES, TO SEEK PROPER TREATMENT, MEDICATION, & APPLIANCES I NEED FOR SUPPORT & TO ALLEVIATE SOME OF THE PAIN. APPENDIX Q·505.

11. ON 3-29-17 DEPUTY DIRECTOR OF THE 3rd LEVEL OF APPEALS LEWIS, DENIED MY APPEAL & ACTIONS REQUESTED. CITING POLICIES THAT HAS NOTHING TO DO WITH MY INJURY & INFACT CONTRARY TO MEDICALS OWN GUIDELINES. AS THE DEPUTY DIRECTOR OF MEDICAL SERVICES/HEALTH CARE, HE ABOVE ALL ELSE HAS THE RESPONSIBILITY TO SEE THAT I RECEIVE THE PROPER MEDICAL TREATMENT AND APPLIANCES WITHOUT BEING RETALIATED AGAINST, AND TO PREVENT FURTHER INJURY & ALLEVIATE PAIN. ALL OF WHICH HE FAILED TO DO. DESPITE THE X·RAYS/MRI SCAN REPORTS CLEARLY SHOWING THE SERIOUSNESS OF MY SPINAL INJURY'S. SUCH OBVIOUS ACTS & OMISSIONS ARE CLEARLY DELIBERATE. APPENDIX Q·522-524.

12. ON 12-29-17 PETITIONER'S 2nd AMENDED COMPLAINT WAS FILED SEE APPENDIX J·355-364.

13. ON 2-6-18 PROCESSED PETITIONERS' COMPLAINT DISMISSING RESPONDENTS McCABE, MCLEAN, McCONNELL, STRAWN, AND LEWIS FROM THE SUIT. STATING COGNIZABLE CLAIMS DR.LENOIR & DR.ADAM. SEE APPENDIX D·33-35.

STATEMENT OF THE CASE

14. ON 2-13-18 I FILED A MOTION FOR REINSTATEMENT OF RESPONDENT'S CITING THEIR DIRECT INVOLVEMENT IN THIS MATTER WHICH ALL HAD A SUPERVISORY DUTY TO CORRECT THESE VIOLATIONS. SEE APPENDIX L·374-376.

15. ON 3-19-18 MOTION FOR REINSTATEMENT OF RESPONDENTS' DEINED. SEE APPENDIX M·377-379.

16. ON 4-9-18 I FILED A REPLY TO THE COURT'S ORDER CITING MANY CONTROLLING CASE'S REGARDING SUPERVISORY LIABILITIES. SEE APPENDIX N·380-282.

17. ON 10-8-18 RESPONDENT'S FILED THEIR NOTICE OF MOTION & MOTION FOR SUMMARY JUDGMENT (REVISED) & MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF DEFENDANTS' MOTION FOR FOR SUMMARY JUDGMENT (REVISED), IN WHICH RESPONDENTS' SUBMITTED FALSE STATEMENTS & DOCUMENTS. BUT ALSO DOCUMENTS INCLUDING THEIR OWN MEDICAL GUIDELINES WHICH SUPPORTS MY CASE. SEE APPENDIX O·383-466.

18. ON 12-3-18 I FILED MY NOTICE OF MOTION IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, AND MEMORANDUM OF POINTS & AUTHORITIES, AND DECLARATION IN SUPPORT OF MY OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT. WHICH DOCUMENTARY EVIDENCE SUBMITTED CAN NOT BE DISPUTED. SEE APPENDIX P·467-494, & APPENDIX Q·495-547.

19. ON 4-26-19 RESPONDENTS FILED A REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR SUMMARY (SOME EXHAUSTION ISSUE'S ON DR. ADAM DENIED). APPENDIX R·548-554, APPENDIX C·7-32.

20. ON 5-29-19 THE COURT GRANTED SUMMARY JUDGMENT FOR RESPONDENTS'. RELYING ON DEFENDANTS FABRICATED STATEMENTS & DOCUMENTS WHICH PEITIONER CLEARLY POINTED OUT TO THE COURT WITH CONTRADICTING SUPPORTING DOCUMENTS THROUGHOUT THE CASE & DURING THE ADMINISTRATIVE APPEALS PROCESS. SEE APPENDIX C 7-32, APPENDIX Q·495-547.

21. ON 10-?-19 I FILED APPEALED TO THE NINTH CIRCUIT COURT OF APPEALS VIA INFORMAL BRIEF CITING ALL DISCREPACIES, UN-

DISPUTED FACTS & EXHIBIT. AGAIN FURTHER CONTRADICTING NOT ONLY RESPONDENTS' STATEMENTS & DOCUMENTS, BUT THE COURTS RULING. SEE APPENDIX G·41-53.

22. ON 12-23-19 RESPONDENTS FILED THEIR ANSWERING BRIEF ALONG WITH THEIR SUPPLEMENTAL EXCERPTS OF RECORDS. RECORDS THAT ARE DISPUTED, AND FABRICATED TO DECEIVE THE COURTS, AND RECORDS i.e. MEDICAL GUIDELINES THAT SUPPORTS MY CASE. SEE APPENDIX H·54-348.

23. ON 1-1-20 I FILED AN INFORMAL REPLY BRIEF, AGAIN POINTING OUT ALL THE DISPUTED FACTS & DOCUMENTS SUBMITTED BY RESPONDENTS. SEE APPENDIX I·349-354.

24. RESPONDENTS' DID NOT FILE ANY RESPONSE.

25. ON 7-21-20 THE NINTH CIRCUIT COURT OF APPEALS ISSUED IT' MEMORANDUM, DENYING MY CASE. STATING THE DISTRICT COURT PROPERLY GRANTED SUMMARY JUDGMENT. IT IS CLEAR THAT THE COURTS ARE IGNORING CLEAR & PRESENT FABRICATED EVIDENCE TO AVOID SANCTIONS AGAINST RESPONDENTS. THE COURT STATED I FAILED TO RAISE A GENUINE DISPUTE OF MATERIAL FACTS WHICH IS NOT TRUE. NOT TO MENTION THE FACT I SUFFERED A NEW BACK BACK SPINAL INJURY TO HIS L4 DISC. THEREBY OVERCOMING THE F.R.C.P.56 (ACTUAL INJURY) RULE REQUIREMENT. BUT ALSO ON MY 1st AMENDMENT RETALIATION CLAIM WHICH THE COURTS DENIED CLAIMING THE FIRST TIME IT WAS RAISED WAS DURING MY OPPOSITION TO SUMMARY JUDGMENT. WHICH IS COMPLETELY FALSE. SEE APPENDIX A·1-4, APPENDIX K·7 RELIEF#1.

26. PETITIONER'S MOTION FOR REHEARING EXTENSION TO FILE WAS GRANTED DUE TO COVID-19 TESTING/LOCK DOWN. APP.E·36-37

27. ON 8-25-20 I FILED MY MOTION FOR REHEARING CITING ALL THE DISPUTED FACTS. SEE APPENDIX F·38-40

28. ON 10-13-20 THE COURT OF APPEALS DENIED MY MOTION FOR REHEARING SEE APPENDIX B·5-6.

REASONS FOR GRANTING THE PETITION

1. RESPONDENT'S VIOLATED THEIR OWN POLICIES IN DENYING ME THE TREATMENT & APPLIANCES I NEED.

2. RESPONDENT'S CREATED BAD LAW IN TITLE 15§3084.1(b) AN INMATE CAN NOT PREDICT NOR DICTATE WHOSE'S GOING TO CONDUCT THE 1st, 2nd, OR 3rd LEVEL APPEALS RESPONSES, THE LOWER COURTS REFUSED TO ADDRESS THIS ISSUE.

3. RESPONDENT'S SUBMITTED PERJURED STATEMENTS & DOCUMENTS & THE LOWERS COURTS REFUSED TO ADDRESS THIS ISSUE NOR IMPOSE SANCTIONS AGAINST RESPONDENTS.

4. THE LOWERS COURTS DENIED MY CASE WITHOUT ADDRESSING & ACKNOWLEDGING ANY OF MY EVIDENCE.

5. PETITIONER SUFFERED A NEW/ACTUAL INJURY. THEREBY OVERCOMING ANY REQUIREMENT UNDER F.R.C.P.56

6. IT'S GOING ON 4 YEARS & PETTTIONER IS STILL DENIED THE PROPER TREATMENT & APPLIANCES HE NEEDS.

7. RESPONDENT'S ARE TRYING TO CAUSE PERMANENT PARALYSIS TO PETITIONER AS RETALIATION.

8. PETITIONER CLEARLY ESTABLISHED HIS 1st AMENDMENT RETALIATION CLAIMS IN HIS COMPLAINT/2nd AMENDMENT COMPLAINT PAGE 7, RELIEF #1.

9. PETITIONER CLEARLY ESTABLISHED EACH & EVERY RESPONDENTS' ROLL, DECISION IN THIS MATTER. CONTRADICTING THE LOWER COURTS RULINGS.

10. WITHOUT THE SUPREME COURTS INTERFERENCE THE RESPONDENT'S WILL CONTINUE TO DENY PETITIONER THE PROPER MEDICAL TREATMENT & APPLIANCES HE NEEDS IN HOPES TO PARALYZE PETITIONER. (AND OTHER'S IN THE FUTURE).

11. WITHOUT THE SUPREME COURTS INTEREFERNCE THE RESPONDENTS WILL CONTINUE TO CREATE BAD LAWS TO FURTHER VIOLATE OUR RIGHTS AND AVOID LIABILITY.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ben Tiscano

Date: 11.12.20