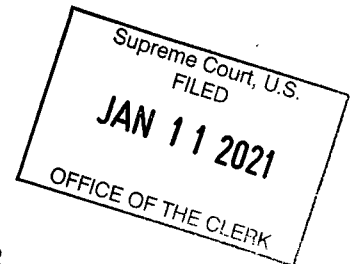


20-7016

No. _____

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Andrew David Bruins II, — PETITIONER
(Your Name)

vs.

M. Whitman, A W, et al., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States District Court for the Southern District
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

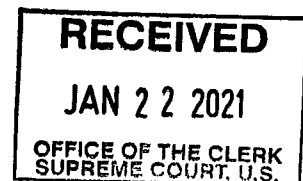
PETITION FOR WRIT OF CERTIORARI

Bruins, Andrew
(Your Name)

⁷⁰¹⁸
~~1700~~ Blair Road/Po Box 5007
(Address)

Calipatria Ca 92233
(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

- I. The appropriate question, does the lack of mandate of the institution towards visiting renewal notification and or approval before resumption of a disapproval constitute remedies of a Public interest?
- II. The appropriate question, does the act or process of, of accommodating or accommodative information only establish when court proceeding are formed?
- III. The appropriate question, does provisions that reflect technological advancement in the area of ancillary aid and service lie under a specific requirement for determining the existence of undue financial and administrative burdens?
- ~~IV.~~ The appropriate question, does inmates and non-inmates
IV. similarly situate?

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:

- Respondent; J. Jimenez, Institution ADA Coordinator

RELATED CASES

- Pennsylvania department of Corrections, ET AL., v Ronald R. Yeskey, Writ of Certiorari to the United States Court of Appeals for the third circuit. April 28, 1998, argued; June 15, 1998, decided: No. 97-634
- Ashcroft, former attorney general, ET AL. v IQBAL ET AL. Certiorari to the United States Court of Appeals for the Second circuit, No. 07 1015; argued December 10, 2008 Decided May 18, 2009
- Carmell v Lightner, 143 F.3d 1210, 1213 (9th Cir 1998)
- Ibrahim v District of Columbia 463 F.3d 3, 7 (D.C. Cir 2006)
- Byrd v Egoard No. 00 Civ 2135 (GSD) SDNY Aug 26 2005

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United States court of appeals for Ninth circuit, motion for Reconsideration.*

This Petition for writ of Certiorari is Not a matter of Right but Judicial Discretion. Rule 20 RULES of the Supreme Court of the United States.

TABLE OF AUTHORITIES CITED

CASES

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Ashcroft v Iqbal, U.C.S. D7 1015 (2009)	Five
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STATUTES AND RULES

Welfare and Institution Code; 4903 (A) (1)	Three
42 USC §1983 civil Complaint	Three
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42 USC 12131 (1)(B)	NINE

California Code and Regulations

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CCR: 3170(F)	Six
CCR: 3172 (A)(E) > . . . 3176.1 (F)(G) > . . . 3270 et seq	Seven
CCR: 3176.1 (F)(G) > . . . 3170 et seq > . . . 3086(a)	eight
CCR: 3282 (d) > . . . 3086 > . . . 3085	Nine

OTHER

Declaration 42 USC § 12131 et seq.	TEN
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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

☐ For cases from **federal courts**:

The opinion of the United States court of appeals 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 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

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was SEP 11 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: DEC 14 2020, 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 NA (date) on NA (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 12.12.19.
A copy of that decision appears at Appendix _____.

☒ A timely petition for rehearing was thereafter denied on the following date: 2.26.2020, 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 NA (date) on NA (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- The first amendment under a 42 USC 1983 civil Rights violation this applicable on Page Four of the Statement of the Case.

A. Non-inmates lose now of their 1st amendment Rights; The deprivation of first amendment Rights entitles a Plaintiff Judicial Relief "Wholly" aside from any Physical injury he can show, or any mental or emotional injury he may have incurred. Page Six

The Complete Ban of family or qualified individual/Participant - Human Rights article 16 (2) (3) (1) men and women of full age, without any limitation due to Race nationality or religion, have the Rights to marry and to found a family. They are entitled to equal Rights as to marriage, during marriage and its dissolution

(2) Marriage shall be entered into only with the free and full consent of the intending spouse (3) The family is the natural and fundamental group unit of society and State. Page Four

B. Welfare and institution Code; Access to Records. Welfare and institution Code giving the option towards Person with disability pertaining to such application wherein the Participant has opportunity the declining of information; Welfare and institution Code 4903 A (1) (1) Page Four

- The fourteenth Amendment under a 42 USC 1983 civil Rights violation

A. The Right to intimate association with family members "stems both from the first and fourteenth; substantive due process protections XIV; Rights of association I
This text is found of page Five

- The fourteenth amendment of a substantive Due Process Protection under the jurisdiction of a 42 USC 1981. All persons within the jurisdiction of the United States shall have the same Right in every state and territory to make and enforce contract, to sue, be parties, give evidence and to full and equal benefit of all laws and proceedings for the security of Person and Property as is enjoyed by white citizens, and shall be subject to the like Punishment, Pains, Penalties, ~~Taxes~~, licenses and exactions of every kind, and to no other.

The synonymic Text appears of Page Nine

The eighth amendment under a 42 USC 1983 Civil Rights violation

A Harm that may occur in part to a Chronic Disease is protected and proclaimed by the 8th amendment of United States Constitution.

Causation is a fundamental element that must be proved in any 1983 Civil Rights suit. The inquiry of such must be individualized and focus on the duties and responsibilities of each individual defendant whose acts or omissions are alleged to have caused a constitutional deprivation. Page Five

The eighth amendment under a 42 USC 1983 civil Rights violation, this on a totality of "Conditions" theory adding up to create an overall effect that is unconstitutional

deliberate indifference the requirement of fault is based on the burden of proof that is to say the lack of training brought on the actions of discrimination and or a custom/culture that has been indoctrinated thru these failures. Page five

1st amendment Provision appear on Page - six

8th amendment Provision appear on Page - eight

14th amendment Provision appear on Page - fourteen

Rule 10(a) Considerations Governing Review on Certiorari Page five

Americans with Disabilities Act (ADA) 42 USC 12132 pg 8 42 USC 12131 (1)(B)

Page Nine. 42 USC 12131 et seq pg six } ---- 42 USC 12132; covers inmates in state prison pg seven

STATEMENT OF THE CASE

The ability towards programs and services deemed for the usage of ADA Participants does not fit into the category of Hypertension this was relay by the ADA representative conducted on the 2d accommodation form sent out by Mr. Bruins. Defined in the 2d:1824 form was that of the 1st amendment, 42 USC 12131 et seq. quotes of section 35.160-1.61 communications. 42 USC 12131 et seq

- Before the court Andrew David Bruins II (Plaintiff) first Amendment Complaint (FAC), (ECF no. 6) for reason stated below, the Court dismisses Plaintiff's fac for failing to state a claim.

Petitioner Filed a Grievance on the grounds of approval/disapproval verifications. Mrs Bruins was ask to Renew applications for policy reasons. Stated during contact visit Mr. Bruins ask his spouse of any procedure that were problematic. While not entirely sure the expectation by Mrs. Bruins was of the same nature. Prior to the issue at hand Mrs. Bruins visited her husband at other prisons. The designated officer conducting the Renewal, failed to apply accommodation that were full in measure and replete in understanding. Furthermore Mrs. Bruins did not receive the appropriate Receipt Producing necessary qualification in order to Redress a Grievance through the proper channels. Mr. Bruins Placed information that was changed pertaining to name, address, or phone number for security reason. Prison staff took the information and down loaded the new information. - Title 15, Crime and Prevention Division 3 Rules and Regulations

- Andrew David Bruins II an Prisoner incarcerated at California State Prison (CAL) located in California, and Proceeding Pro'se, has filed a Civil Rights Complaint Pursuant to 42 USC 1983 (ECF no 1) Plaintiff did not Pre Pay the filing fee required by 28 USC 1915a to commence a civil action at the time he filed his Complaint, instead, Plaintiff has filed a motion to proceed in forma pauperis (IFP) to 28 USC 1915(a). (ECF no 2)

Petitioner formed a letter of recommendation requesting the application of a beneficial need. This need was for the institution to consider the alternative towards effective communication. The letter encompassed structural capabilities possible. The letter also Produced a meeting giving testament towards the problems in which Petitioner was facing. Explained to Petitioner that what they had was in compliance with ADA and so where was it needed for improvement. Petitioner made reference. Geographically the current prison was the fasioned choice due to family. The meeting concluded by Petitioner informing both A.W.M. Whitman and J. Jimenez of a suit. Furthermore petitioner recieved a response back from officials stating the usage of ADA state utilities would be possible once approved list of eligibility was made. Subsequently the item of prepaid cards and or credit cards will be available for those covered and those family members. This information would be sent out once made known per. Operation Procedure (OP 2020)

A Declaration was filed By Petitioner spouse regarding the lack of effective communication. The application of a utility (TRY) failed to give proper connection and attachment of a normal life. All complaints were filtered through the DOJ and closed. 42 USC 12131 et seq

- Plaintiff's Motion to Amend Complaint (ECF No. 12) Grants; Directs the Clerk of the Court to file Plaintiff's proposed complaint (ECF No. 12-1) as Plaintiff's third amended Complaint;

REASONS FOR GRANTING THE PETITION

The Standard for determining whether a plaintiff has failed to state a claim upon which relief can be granted under 1915 e 2 B(ii) was the order in which now gives grounds for such legal standing. This legal standing presented in petitioner reconsideration motion By the Ninth Circuit appeals court proclaim in part towards Consideration Governing review on Certiorari set forth in Rule 10(a):

These Challenges in which Petitioner arranged Point towards the Error decision of the united states district court where by Causation is a fundamental element that must be proved in any 1983 Civil Rights suit. The inquiry of such must be individualized and focus on the duties, and responsibilities of each individual defendant whose acts or omissions are alleged to have caused a Constitutional deprivation; Rather deliberate indifference the requirement of fault is based on the burden of proof that is to say the lack of training brought on the actions of discrimination and or a custom/culture that has been indoctrinated thru these failures. Ashcroft v. Iqbal v. c No. 07-1015209

Therefore the Consideration of legal conclusion statements can form my legal issues. However they must be supported by factual allegations that their Policy was discriminatory albeit intentional or indirect. The law in which conforms to the violation in question were plead by the 8th amendment in a level of a Cognizable Constitutional injury. where a Complete Ban of an intimate association, family ties under the constitution; moreover A substantive due Process protection of the fourteenth amendment

engaging the violation. This also directly connected to a serious harm that might occur. The policy of a two year renewal of such visiting application without notice to both parties prior to such full-filment without the proper compliance of ADA became the means of discrimination, this inextricable tied to the spouse. Subsequently the problem in which the basis of action has relevance here is the court liberally construe a pro'se litigant complaint on the account of (ADA) American with Disabilities, compliance and or direct connection towards prisoners entitlement of reasonable telephone access - 1st amendment
The deprivation of first amendment Rights entitles a Plaintiff Judicial relief "Wholly" aside from any physical injury he can show, or any mental or emotional injury he may have incurred. - Canell v Lightner, 143 F.3d 1210, 1213 (9th cir 1998)

Furthermore the intent the not a requirement has apparent authority when the participant is subjected to a Random Demand upon Her Person, Prudent For Participation, 42 USC 12110 (F)
Provided the Participant understands the issue, doctrine of the information given, determining the option of the individual and offering all necessary factors to make the most educated choice. Moreover the institution shall have the individual with disability unless it can demonstrate that another effective means of Communication exist or that use of means chosen would not be required under "ACT". Deference to the Request of individual with a disability is desirable because of the range of the disabilities, the variety of circumstance requiring effective Communication 42 USC 12131 et seq

The moment in which Participant was to be known disabled by any sensible staff shall have determining factors of what type of ancillary aid and service is necessary this shall be predicated on the availability of Compliance Requirements in its most simplistic form. In support pointing towards an assumption that officers are not aware of the law American with Disabilities (ADA) subtitle a of the title II defined. The incoherent nature of a task they applied complacently added to this Revocation Ban. Absent an unmistakably clear expression of intent to alter the usual constitutional balance between the States and Federal Government the institution may pull on the basis of a Penological interest for the management of the prison. While not entirely clear the Controlling principle is retrievable by the complete demonstration of the responsibility of Rule 3270 et seq whereby a less stringent standard to failure to train shall be incorporated when the accountability by designated officer alter the itemized system of Regulation and or rules placed: ~~CCR 3173 RE~~ CCR 3176.1(F)(G) by vicarious liability standards it is discriminatory to impose Policies or Criteria that, while not creating a direct Bar to CCR 3176.1(F)(G) Individuals with disabilities indirectly prevent or limit their ability to Participate. The rule of Contract/application warrants the Response of necessary Documented Clearance of any material for disability, however verification of visitational mail inclines the Petitioner of his obligation to such visiting approval by Signature. Placing such latent Responsibility on Ward to conduct their own visiting list addendum. In short the failed severability of the Rule placed under state statute giving Blanket discretion towards the actions of a designated officer to conduct an entitled Right obligated by the Petitioner gives questions to the requirements that Congress intent Regulate of particular state activities 42 USC 12132

as an initial matter Rule 8 Provides that in order to state a claim for relief it must contain a short and plain statement of the grounds for the court jurisdiction and a short plain statement of the claim showing that the pleader is entitled to relief.

appellant Prisoner was eligible for CDCR (CAL) Benefit program and family reunification services. California Code and Regulation title 15; 3176.1 (f) (G) and 3170 et seq updated version 2019. However defendants, Correctional department refused accommodation. Due in-part to architectural, Communication, monetary hindrance, and or the acknowledgment of admission to ADA program due to his hypertension - 42 U.S.C.S 19132; CCR 3086(a)

The practice of diminishing or deducing the scope of human rights directly connected to an intimate associate of spouse and family, therein the succession of violations is which abate the foundation of Constitutional law. These issues brought upon the appellant where in the result and or lack of improvement can bring on serious and irreparable harm. The granting of Compensatory and nominal damages by the successive action resulting in emotional and mental insult; The discrimination against disabled and or family members under a controlling principle wherefore the validity of the rules and the process of enforcing rules and duties recognized by substantive Law may be procured; 2. His amendment serves harm that might occur Abraham v District of Columbia 463 F.3d 3, 7 (D.C. Cir 2006); and a Fourth amendment violation Substantive Due Process Byrd v Guard No 00 Civ. 2135 (RBD) (S.D.N.Y. Aug. 26, 2005)

Petitioner's spouse filed a declaration in which Compliance with ADA has failed to produce or sustain effective communication. The Complaint made CCR 3082(d) reference of the capacity given in order to attach to some sort of a normal life. These complaints were fashioned and produced towards DOJ and OCR. Prior to the declaration of spouse Mr. Bruins filed his own Request 1824 accommodation form on a unrecalled date. This made reference towards the ability of the ADA program connection with inmates were strained. As recommended the Correctional facilities should provide access to advanced forms of telecommunication, notation added; few person now use (TTY) preferring instead to communicate by email, texting and video Phone (VRS). another attempt for conciliation was fashioned by Mr. Bruins this attempt was directed towards building staff counselor. Proposed requirement of CCR 3086 verification was needed once applied building staff was obligated to set up a time and date in which he would be calling and or billing credits applied. - Yeskey v Pennsylvania 524 U.S. 206 (1998) CCR 3085

- Petitioner Claim under title II of the ADA instructed the allegations must have (1) he 'is an individual with disability'; (2) he 'is otherwise qualified to participate in or receive the benefit of some public entity's services, programs, or activities'; (3) he 'was either excluded from participation in or denied the benefits of the public entity's services, programs, or activities, or was otherwise discriminated against by the public entity'; and (4) 'such exclusion, denial of benefits, or discrimination was by reason of his disability.' This in Prison context. 42 USC 12131 (1)(B)

Order Terminating As moot Pending motions 12.12.2019: Because Plaintiff was not granted leave to amend and a judgement has been entered closing the case, the court TERMINATES AS MOOT the aforementioned motions pending before this court, The case closed.

Time schedule order dated and filed Jun 14, 2020; ORDER: A review of the District court docket reflects that the district court has certified that this appeal is not taken in good faith and has revoked appellants in former pauperis status. See 28 USC 1915(a); Order upon review of the, the response to the courts January 22, 2020 order, and opening the Brief received on March 5, 2020, we conclude this appeal is frivolous; Mandate The Judgment of this court, entered September 11, 2020, takes effect this date This constitutes the formal mandate of this Court issued pursuant to Rule 44(a) of the Federal Rules of Appellate Procedure; Order Bruins motion for reconsideration (Docket Entry No. 17) is rejected as untimely, Bruins motion to proceed in forma pauperis (Docket Entry No. 14) and motion for appointment of Counsel (Docket Entry 15) are Denied as moot. closed case.

United States Court of appeals
for the Ninth Circuit

1.
2.
3.
4. Bruins et al

5. v

6. Whitman, et al

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10.

11. Same hereby declare

12. While incarcerated at Cal Calipatria State Prison here on A-Yard I was entitled to a
13. regular occurrence of a weekend visit; Pertaining too the issue at hand; ADA
14. Compliance title II. The ability of applicable notice through informational signs /
15. or other means bringing Compliance to ADA instructed obligations for the Beneficial
16. understanding of the public was non-existing, Dated 8-5-20

17.

18. I here by declare by the penalty of perjury that this is true and correct
19. to the best of my ability.

20. 8-5-20
x Date

x Sign Paul M. [Signature]

21.

22.

23.

24.

25.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Andrew Dawn Briving II

Date: Jan - 11 - 21