

No. **20-7769**

Supreme Court, U.S.
FILED

JAN 26 2021

OFFICE OF THE CLERK

In the
Supreme Court of the United States

James Hightower
Petitioner

vs.

LaDonna Thompson
Defendant

On Petition for Writ of Certiorari to

United States Appeals Court for the sixth Circuit
Name of Court that Last Ruled on Merits of Your Case

Petition for Writ of Certiorari

Jamees Hightower
Name of Petitioner

Kentucky State Pen. 266 Water Street
Address

Eddyville, Ky. 42038
City, State Zip Code

ORIGINAL

(270) 388-2211
Phone Number

Questions Presented

1. Did United States Appeals Court for Sixth Circuit violate Fourteenth Amendment of United States Constitution and therefore violate section C of USCS of Supreme Ct. R. 10. When Affirming District Court Decision. That Ruling on September 27th 2016 was a mistake under Fed. R. Civ. P. 60(b)(1) not an exceptional and extraordinary circumstance under Fed. R. Civ. P. 60(b)(6)

LIST OF PARTIES

☐ All parties appear in the caption of 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:

James Hightower, Inmate Kentucky State Penitentiary
VS.

LaDonna Thompson, Commissioner

James Erwin, Deputy Commissioner

James Sweet, Classification Branch Manager

Randy White, Warden Kentucky State Pen

Joel Dunlap, Deputy Warden Security Kentucky State Pen

Skyla Grief, Deputy Warden Programs Kentucky State Pen

Gary Beckstrom, Warden Eastern Kentucky Correctional

Keith Helton, Deputy Warden Security Kentucky
Kentucky Correctional Complex

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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 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☒ is unpublished.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 A 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☒ is unpublished.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 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 United States Court of Appeal decided my case was August 11th 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: October 29th 2020, and a copy of the order denying rehearing appears at 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. _____

The Jurisdiction of this court is invoked under 18 USC § 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 Application No. ____ A _____.

The jurisdiction of this Court is invoked under 28 USC § 1257.

Constitutional and Statutory Provisions Involved

The Constitutional Amendment that is involved in this case is the Fourteenth Amendment of the United States Constitution That states: 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 where in 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 any state deprive any person of life, liberty, or property without due process of law, nor deny any person ^{within} ~~in~~ its Jurisdiction the equal protection of the law.

STATEMENT OF CASE

On October 22nd 2015 Petitioner's, 42 USC 1983 complaint was filed in the United States District Court of Eastern District of Kentucky. The Respondents were LeDonna Thompson, Commissioner at the time for the Department of Corrections PO Box 2400, Frankfort, Ky. 40601; James Erwin, Deputy Commissioner for Department at the time of incident PO Box 2400, Frankfort Ky. 40601; James Sweat, Classification Branch Manager at the time of incident PO Box 2400 Frankfort, Ky. 40601; Randy White Warden for Kentucky State Penitentiary at the time of incident 266 Water Street, Eddyville Ky. 42038; Joel Dunlap, Deputy Warden of Security for Kentucky State Penitentiary, at the time of incident 266 Water Street, Eddyville, Ky. 42038; Skyla Grief Deputy Warden of Programs for Kentucky State Penitentiary at the time of incident 266 Water Street Eddyville, Ky. 42038; Gary Beckstrom Eastern Kentucky Correctional Complex at the time of the incident. 200 Road to Justice West Liberty Ky.

41472; and Keith Helton Deputy Warden of Security Eastern Kentucky Correctional Complex. 200 Road to Justice West Liberty Ky. 41472.

On May 16th 2016 Petitioner, filed a motion to Supplement Complaint and add Donna Reed, Classification Branch Manager at the time of the said incident PO Box 2400, Frankfort, Ky. 40601; And Adam Noel Assistant Unit Administrator for Kentucky State Penitentiary at the time of the incident. 266 Water Street, Eddyville, Ky. 42038.

On August 8th 2016 Petitioner filed a Petition for Emergency Injunction.

On September 27th 2016 the Honorable United States District Court dismissed 1983 Complaint and as a Result of that dismissal all other Petitions were dismissed as moot.

On October 28th 2016 Petitioner filed motion to vacate order and Dismissal for failure to exhaust administrative Remedies and Reconsider Plaintiff's merits Pursuant to Fed R. Civ P. 59.

On November 1st 2016 the Honorable United States District Court dismissed Petitioner's motion to vacate order and dismissal.

On November 30th 2016 Petitioner filed Notice of Appeal with United States District Court.

On January 1st 2017 Petitioner filed his appeal Brief with the United States Appeals Court for sixth Circuit.

On July 7th 2017 the Honorable United States Appeals Court Dismissed Petitioners Brief.

On July 26th, 2017 The Petitioner filed Petition for Reconsideration.

On August 29th, 2017 The Honorable United States Appeals Court dismissed Petitioner's Petition for Reconsideration.

On December 30th 2019 Petitioner filed Motion to reopen Case Pursuant to Fed. R. Civ. P. 60(b)(6).

On January 6th 2020 Honorable District Court Denies Petitioner's Motion to Reopen Case Pursuant to Fed. R. Civ. P. 60(b)(6)

On January 16th 2020 Petitioner files

Ole.

Notice of appeal with Honorable District Court.

On February 6th 2020 Petitioner filed Appeal Brief with the United States Appeals Court for Sixth Circuit.

On August 11th 2020 Honorable Appeals Court for Sixth Circuit Denied Petitioner Appeal.

On September 10th after asking for Extension of time and receiving it Petitioner mailed a Motion for Rehearing En Banc Pursuant to Federal Rules of Appellate Procedure 35.

On October 29th 2020 Honorable Appeals Court for Sixth Circuit Denied Petition for Rehearing En Banc.

Reasons for Granting the Petition

1. Plaintiff asserts that a reason to grant this petition is because the United States Court of Appeals for Sixth Circuit Violated Fourteen Amendment of the United State Constitution that States... No State shall make or enforce any law which shall deprive any person of life liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law. And therefore violates Section (c) of USCS of Supreme Ct. R. 10 that States: A State Court or a United States Court of Appeals has decided an important federal Question in a way that conflicts with relevant decisions of this Court. When a flouting United States District Court ruling to Stand. When they denied Petitioner Fed. R. Civ. P. 60(b)(6). In Lundy-V-Campbell 888 F.2d 467, 470 (1989) The United States Appeals Court Cited Roche-V-California, 342 US 165, 172 (1952); Palko-V-Connecticut 302, US 319, 325 (1938). Where the United States Supreme Court held that procedural due process is, in the last analysis, simply the

Court's notion of "fundamental fairness and compliance with the principles" implicit in the concept of ordered liberty."

Fed. R. Civ. P. 60(b)(6) has a procedural way for it to apply to the law. Section (b)(1) is for mistake, inadvertence, surprise, or excusable neglect. (b)(2) is for

party. (b)(3) is for fraud, misrepresentation, or misconduct by an opposing party. (b)(4) is for either a Judgment is void or it is valid. (b)(5) is for where applying the judgment prospectively is no longer equitable, and (b)(6) any other reason that justifies relief of exceptional and extraordinary circumstances. Like the integrity of the Judges ruling.

For a federal Court to issue a ruling that it was a mistake ~~the~~ the ruling it ~~has~~ made on September 27th 2016. When a Fed. R. Civ. P. 60(b)(6) ~~was~~ filed on December 30th 2019 stating that it was the integrity of the Judges ruling because how can a Judge not know that Plaintiff tried to exhaust his administrative remedies when all through

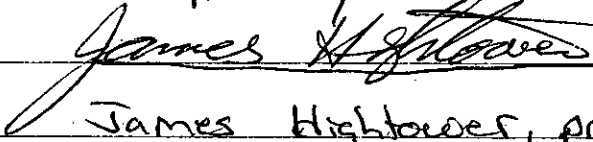
the Court proceeding of his 1983 and Fed. R. Civ. P. 60(b)(6) Petitioner stated that he was not notified of Classification to transfer him so how could he appeal decision. Was a abuse of discretion on the part of United States District Court. See In re Bendeckin Litigation 857 F.2d 290, 307 (6th Cir 1988) Where the United States Appeals Court held: the standard of review is abuse of discretion... Abuse of discretion exists only where there is definite and firm conviction that the Court below committed a clear error of judgment in the conclusion it reached upon weighing of relevant factors. Then turning around in said case now being Appealed to Supreme Court and went against was it said in In re Bendeckin Litigation. 857 F.2d 290, 307 (6th Cir 1988) Id. Therefore Violating the procedural rules set forth in Fed R. Civ. P. 60(b). As well as the Fourteenth Amendment that States: 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 where in 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 any state deprive any person of life, liberty, or property without due process of law, nor deny any person within its Jurisdiction the equal protection of the law. Thus violating Supreme Ct. R. USCS (c) that states: a State Court or a United States Court of Appeal has decided an important Federal Question in a way conflicts with relevant decisions of this Court.

Conclusion

WHEREFORE, for the foregoing Reasons the Plaintiffs Respectfully request that this Honorable Court Grant his Certiorari.

Respectfully Submitted


James Hightower

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