

No. **20-8115**

IN THE
SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

APR 20 2021

OFFICE OF THE CLERK

Christopher S. Merrill et al.
Petitioner(s)

-vs-

GOVERNOR GRETCHIN WHITMER et al.
Respondent(s)

ON A PETITION FOR A WRIT OF CERTIORARI TO
THE SIXTH CIRCUIT COURT FOR THE US COURT OF APPEALS

PETITION FOR WRIT OF CERTIORARI

Christopher S. Merrill #301052
PARNALL CORRECTIONAL FACILITY
1780 East Parnall Road
Jackson, MI 49201

/s/ Chris Merrill

Date: 4/8/2021

RECEIVED

MAY 11 2021

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

Whether prisoners can challenge unsafe prison condition(s) causing death and other life threatening conditions by the COVID-19 pandemic outbreaks using 28 USC 2241 via habeas corpus or if they are limited to 42 USC 1983?

LIST OF PARTIES

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:

A. Plaintiff-Appellants:

Christopher S. Merrill #301052 PARNALL COR. FACILITY

**Appointed Trial Attorney: Alyson Oliver
(248) 327-6556**

Attorney Oliver has filed for CLASS CERTIFICATION (1,600?)

B. Defendants - Appellees

GOVERNOR HRETCHEN WHITMER, PO Box 30013, Lansing, MI 48909

HEIDI WASHINGTON, PO Box 30003, Lansing, MI 48909

DAVE SHAVER, Warden, 1780 E Parnall Rd, Jackson, MI 49201

Attorney for Defendants

Michigan Attorney General

DANA NESSEL (517) 373-1110

PO Box 30212

Lansing, MI 48909

NOTE: For all the names, prison numbers for unnamed plaintiff(s) and defendant(s) see page #2 of the first filing in the US Sup. Ct found in the US COA Dkt # 20-1786, item #7 filed 9-11-20.

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APPENDIX A	Denial of Habeas Corpus- <u>without hearing</u> ; US Dist Court ED Mich
APPENDIX B	US COA 6th Cir Clerk Letter Staying Case
APPENDIX C	US COA 6th Cir () ORDER DENYING LEAVE
APPENDIX D	US COA 6th Cir REHEARING EN BANC DENIED
APPENDIX E	US Supreme Court Ltr - Unfiled (169 pgs also sent to trial court and 6th Cir - RETURNED UNFILED)
APPENDIX F	2nd filing in US Supreme Court (unknown if it was filed - it was sent to both trial court and the 6th Circuit - RETURNED UNFILED)
APPENDIX G	Article Showing the splits in the Circuits
APPENDIX H	Article on habeas corpus / 1983

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

ALL CASES ARE CITED ON APPENDIX G & H

App G/H

Farmer v. Brennan, 511 US 825 (1994)

3

Helling v. McKinney, 509 US 25 (1993)

3

STATUTES AND RULES

28 USC 1254 et seq

2

28 USC 1331 et seq

2

28 USC 1343 et seq

2

28 USC 2102 et seq

2

US Sup Ct Rule 11 & 28

2

18 USC 3626

3

OTHER

WRIT OF HABEAS CORPUS

1

28 USC 2241 & 2254

1

42 USC 1983

1

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 **c/D** to the petition and is **2020 US App LEXIS 31165 (9-30-20)**
2020 US App LEXIS 38144 (12-7-20)
☒ 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. **Rouse et al v Whitmer et al.**
US ED MI 20-cv-11409

☐ 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 9-30-20.

☐ 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: 12-7-20, and a copy of the order denying rehearing appears at Appendix D.

☐ 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).

28 USC 1331
28 USC 1343
28 USC 2101

US Sup Court Rule 10 ~~28~~
Rule 10

Note: Forth filing in US Supreme Court

☐ 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

The constitutional authority is the 8th amendment of the US Constitution via cruel and unusual punishment as applied by the US Supreme Court in Farmer v. Brennan, 511 US 825, 831 (1994) and Helling v. McKinney, 509 US 25 30 (1993).

The statutory basis for the question presented is 28 USC 2241, habeas corpus and/or 42 USC 1983 via 18 USC 3626.

STATEMENT OF THE CASE

Plaintiff-Petitioner(s) filed a hybrid writ of habeas corpus and section 1983 which challenges the situation concerning their confinement which caused massive sicknesses and deaths at the PARNALL CORRECTIONAL FACILITY via mis-management during the COVID-19 pandemic.

Plaintiff-Petitioner(s) filed in the US District Court after filing all required grievances and procedures required including personal complaint letters to both prison and state officials - while their access to the law library was closed for months upon months.

There were originally 52 prisoners whom initially objected to the inhumane conditions causing irreparable harm(s) and deaths. They also requested a TRO to reopen the law library with implements of COVID protections to no avail.

Without a hearing, the trial court (see Appx. A) dismissed the habeas petition portion of the complaint. After Plaintiff(s) filed an appeal to the 6th Circuit for leave - the trial courts Hon. Mark A. Goldsmith appointed counsel - Alyson Oliver/ OLIVER LAW GROUP, (248) 327-6556.

After the 6th Circuit clerk (see Appx. B) stayed the case, Plaintiff(s) filed their first writ of cert. (via a TRO) to the US Supreme Court (see Appx E) which was unfiled (see item #7, filed 9-11-20, US COA #20-1786). The second filing was also unfiled (see Appx F)- also filed in the trial court on about 11-29-20.

REASONS FOR GRANTING THE PETITION

There are "splits" in the US Circuits across the United States on the matter of using habeas relief for prisoners due to the COVID-19 pandemic. See Appx G (Documented "splits" in the US COA's)

Prisoners are getting infected, sick, and still dying at an extremely high rate in comparison to those non-incarcerated.

There has been a more recent "mutation" strain of the COVID virus which has been identified in the United Kingdom which is 70% more transmittable and having a mortality rate increase of 40%!

In addition, this new "mutation" variant has also been surpassed by another strain/variant in South Africa which may be resistant to said strain per a news report aired by FOX News on 1-22-21.

There are many prisoners whom are contracting said virus' and are reporting long-enduring lasting after-affects which are significantly impairing thier lives; there are also many whom are still continuing to DIE at the hands of government officials due to the overcrowding and mismanagement of the prisons conditions. The continual lack of official protocols for the COVID-19 virus warrants this Court's attention and INTERVENTION.

CONCLUSION

The petition for a Writ Of Certiorari should be granted.

- Respectfully Submitted,

Christopher Merrill

Date: 4/8/2021