

20-8420

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Supreme Court, U.S.
FILED

JUN 07 2021

OFFICE OF THE CLERK

JIMMIE O'NEAL — PETITIONER
(Your Name) Pro/se,

vs.

JAY CHRISTENSEN (WARDEN) — RESPONDENT(S)
AND 9TH Cir. of Appeals.

ON PETITION FOR A WRIT OF CERTIORARI TO

9TH CIR. DENIED COA BECASUE NOTICE OF APPEAL NOT TIMELY
9TH CIRCUIT DID NOT REVIEW THE MERITS OF THE CASE

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

PETITION FOR WRIT OF CERTIORARI

JIMMIE O'NEAL IDOC No. #123272

(Your Name)

ISCC UNIT E-2 P.O. Box 70010

(Address)

Boise, Idaho 83707

(City, State, Zip Code)

IDOC (ISCC) Website State of Idaho

(Phone Number)

QUESTION(S) PRESENTED

- A/. IN THIS CASE OF PETITIONERS PETITION FOR WRIT OF CERTIORARI, PETITIONER REQUEST REVIEW OF THE NINTH CIRCUIT COURT OF APPEALS DECISION THAT DENIED HIS REQUEST FOR CERTIFICATE OF APPEAL-ABILITY THAT WAS BASED ON NOT BEING TIMELY FILED BECAUSE OF JUST CRICUMSTANCES OF COVID-19 VIRUS, AND NOT THE MERITS OF PETITIONERS PETITION.
- B/. PETITIONER REQUEST THIS COURT TO REVIEW THE REASON'S WHY HE WAS UNABLE TO FILE MOTION FOR EXTENSION OF TIME AS THE RESULT OF THE ALMOST TWO YEAR SPREAD AND DEATHS AT IDOC FROM COVID-19.
- C/. UNDER THE HARSH ACTIONS THAT WERE TAKEN AGAINST COVID-19 MANY INMATES IN THE 9th Cir., SUCH AS THIS PETITIONER SUFFERED EXTREME HURDLES OF DELAY, UNDER THESE MORE THAN RARE CIRCUMSTNACE THAT HAVE NEVER BEEN BEFORE INSERTED TO THIS COURT IS IT NOT OF A NATIONAL IMPORTANCE TO BETTER SERVE THE INSTEREST OF JUSTICE TO ALL IN OUR GREAT NATION THAT WE ALL STRIVE TO LEAR THE MERITS OF THE CASE BEFORE DISMISSING THE CASE THAT WAS NOT FOUND TO BE FRIVOLOUS IN OUR FEDERAL STATE DISTRICT COURTS, AND SHOULD NOT FOR THOSE THAT SOUGHT (COA'S) IN THE (9th Cir. Court of Appeals) HAVE THEIR (COA) DECIDED ON THE MERITS OF THE CASE. THE QUESTION LIKE A STIMULUS SHOULD NOT IT BE ADMISSIBLE FOR CASE TO BE DECIDED ON THE MERITS INSTEAD OF USING THE AGITATION THAT IT WAS WAS NOT TIMELY FILED AS A PROVEN RESULT OF COVID-19. THIS ISSUE EMBODIES ALL INMATES OF THE NINTH CIRCUIT AND SHOULD APPLY TO THOSE CASES WHERE THE MERITS OF THE CASE WERE NOT FOUND FRIVOLOUS BY STATE FEDERAL DISTRICT COURTS.

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:

JAY CHRISTENSEN (WARDEN) (ISCC) FACILITY
POST OFFICE BOX 83720
BOISE, IDAHO 83720

UNITED STATES COURT OF APPEAL
FOR THE NINTH CIRCUIT (SAN FRANCISCO, CA.)
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ORIGINAL TO: THE SUPREME COURT OF THE UNITED STATES
C/O CLERK OF THE US SUPREME COURT
WASHINGTON, DC 20543

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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 (A) 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 May 14th 2021.

☒ No petition for rehearing was timely filed in my case.

APPLICATION FOR COA FILED LATE AS RESULT OF COVID-19 at the Prison

☐ A timely petition for rehearing was denied by the United States Court of Appeals 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. § 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

EIGHTH AMENDMENT RIGHTS UNDER U.S. CONST.....3 through 16
14th AMENDMENT PROTECTIONS TO DUE PROCESS IN VIOLATIONS UNDER RARE
CIRCUMSTANCES UNDER COVID -19 VIRUS.....3 through 16

THIS CASE IS ABOUT THE 9th CIR. DISMISSING APPLICATION FOR COA BECAUSE NOT
TIEMLY WITHOUT CONSIDERATION OF THE MERITS OF THE CASE (HOMICIDE) or
REVIEWING THE CIRCUMSTANCES OF THE LATE FILING AS A RESULT OF COVID-19
THAT BURDENED MANY INMATES ACROSS THE UNITED STATES AND THEIR CIRCUITS
THAT SERVE THEM. AS THERE WAS STIMULUS FOR THE GREAT CITIZENS OF OUR
GREAT NATION, AND FOR GOVERNMENT AND BUSINESS, BUT WHAT ABOUT A ONE TIME
PASS STIMULUS HANDED OUT TO THOSE THAT FALL UNDER THE CIRCUMSTANCES AS
THIS PETITIONER WHERE COVID-19 BLOCKED THE WAY TO THE COURTS, SHOULD
THERE NOT BE A SHORT REVIEW TO SEE IF MAYBE A JUDICIAL COVID STIMULUS
PASS PACKAGE COULD BE GIVEN IN SUCH RARE CIRCUMSTANCES AS TO ALLOW
CERTAIN CASES TO BE REVIEW UNDER SUCH EXTREME CIRCUMSTANCE THAT THE
WORLD AND OUR GREAT NATION HAS NEVER BEFORE SEEN OR DELT WITH, AS
MANY OTHER PROVISIONS HAVE BEEN ENACTED FOR EVERY OTHER PURPOSE TO ASSIST.

THIS IS A PRO/SE PETITIONER PLEASE TAKE THE TIME TO LISTEN TO MY PLEA.
A PLEA THAT WOULD EFFECT A GREAT MANY ACROSS OUT NATION, THIS IS NOT
ABOUT MY CRIMINAL CASE THIS IS ABOUT MY CONSTITUTIONAL RIGHT TO BE
HEARD THAT I HAVE WORKED HARD FOR TO MEET THE JUDICIAL STANDARDS AS THE
RECORD WILL SUPPORT UNTILE MY APPEAL AND APPLICATION IN THE FEDERAL
COURT SYSTEM WAS OBSTRUCTED FOR OVER A YEAR AS A RESULT OF BEING INCAR-
CERATED WITH THE COVID_19 VIRUS:

STATEMENT OF THE CASE

AFTER STATE EXHAUSTION PETITIONER FILED HIS CASE UNDER A §2254 IN FEDERAL COURT, PETITIONERS PETITION WAS NOTED AS TIMELY BEFORE THE IDAHO FEDERAL DISTRICT COURT OF IDAHO (Located at Boise) AFTER BEING GRANTED PERMISSION TO PROCEED IN FORMA PAUPERIS, AND REVIEW BY THE COURT AND NOT FOUND TO BE FRIVOLOUS. RESPONDENTS MOVED FOR SUMMARY DISMISSAL IN THE CASE OF PETITIONER CASE NO.1;19-cv-00483-REB. THE FEDERAL DISTRICT COURT OF IDAHO WAS NOT INCLINDE TO DO SO, THE COURT ORDERED BRIEFS AS TO HEAR FURTHER ARGUMENT, WHILE THE ATTORNEY GENERAL FOR THE IDOC WARDEN JAY CHRISTENSEN WAS ALLOWED AN EXTENSION BECAUSE OF COVID, PETITOINER COULD NOT RESPOND UNTIL RESPONDENTS RESPONDED. BY THIS TIME PETITIONER WAS IN SPECIAL HOUSING AS A RESULT OF THE COVID, AND WAS NOT ONLY ABLE TO RESPOND IN ARGUMENT TO THE RESPONDENTS RESPONSAE, HE FAIL SERVANT AS A NOTED DISADVANTAGED, TO NOT JUST THE COURTS BUT RESOURCE CENTERS RESEARCH MATERIAL FROM WHERE HE WAS HOUSED AND THE CONDITIONS FOR WHICH HE WAS HOUSE, WITH THE PASSING OF SEVERAL INMATES IN HIS CELL BLOCK AN OPEN DORM CELL BLOCK AT THAT WITH MANY TAKING SICK AS THE VIRUS SPREAD. NO ONE MOVED FROM THE CELL BLOCK AND ONLY CERTAIN CLEARED STAFF WERE ALLOWED TO ENTER.

ON OCTOBER 21st, Chief U.S. Magistrate Judge Ropald E. Bush after NO RESPONSE BRIEF TO THE RESPONDENCE WAS RECEIVE DISMISSED THE CASE WITH PREJUDICE HEARING NO OTHER MOTIONS FOR REVIEW.

(OCTOBER 21st, 2020)

STATEMENT OF CASE

(CONTINUED)

NOT ONLY DID RONALD E. BUSH CHIEF U.S. MAGISTRATE JUDGE OF IDAHO UNDER CASE No. 1:19-cv-00483-REB DISMISS PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS AFTER HE HAD FOUND IT NOT FRIVOLOUS, AND WITH NO RESPONSE FROM THE PETITIONER IN OBJECTION TO STATES RESPONSE THE JUDGE DISMISSED IT WITH PREJUDICE, AND STATED IN ADDITION THAT THE CASE WAS THEREFORE ORDERED CLOSED. PETITIONER NOT EDUCATED IN THE LABYRINTHS OF LAW AND HAVING RECEIVED NO FORMAL EDUCATION FROM A LEGAL INSTITUTION, COUPLED WITH THE HURDLES OF COVID - 19, AFTER MONTHS OF ATTEMPTS FOUND THAT HE COULD APPLY ON HIS OWN ONCE HE WAS ABLE TO OBTAIN RESOURCE MATERIAL TO THE 9th Cir. Court of Appeals, to seek his (COA) from what he was able to OBTAIN THROUGH A WORN OUT GEORGETOWN LAW JOURNAL.

PETITIONER THOUGHT SINCE HIS CASE HAD MERITS HE SHOULD BE ABLE TO CONTINUED TO THE HIGHER COURT TO SEEK THEIR OPINION, EVEN WITH HIS LATE FILING CREDIT SHOULD BE GIVEN UNDER THE CIRCUMSTANCES OF COVID-19, BEING A HURDLE THAT WAS TOO HIGH AT THE TIME TO MEET THE EXPECTATION OF A TIMELY FILING, SHOULD NOT HE AND OTHERS THAT AMOUNT TO COUNTLESS IN THE 9TH CIR. THAT HAVE KNOWN MERIT BY THE FEDERAL DISTRICT COURTS HAVE THE RIGHT TO HAVE THEIR (COA) AND CASES HEARD BASED ON THE MERITS OF THEIR CASE IN THE 9th Cir. WITHOUT SUFFERING FURTHER BY THE COVID-19 VIRUS. THIS CASE IS NOT ABOUT CASE LAW, ITS ABOUT HUMANITARIAN INTERVENTION IN THE INTEREST OF FUNDAMENTAL FAIRNESS AND JUSTICE. ARE WE NOT ALL INHABITANTS TO THE GREAT U.S..

STATEMENT OF CASE

(CONTINUED)

THERE IS NO ABUNDANCE OR SUFFICIENT CASE LAW ON THIS SUBJECT MATTER BEFORE THE COURT NOR AFFLUENCE OF WEALTH OF AUTHORITY THAT CAN SUPORT THE LANGUAGE THE COURT COULD USE TO HEAR THIS CASE AS TO ALLOW CONSIDERATION TO INMATES THAT ARE TARDY A ONE TIME STIMULUS GRANT PER-SAY TO HAVE THEIR CASES CONSIDERED FOR (COA) BASED ON THE MERITS OF THE CASE IF THEY WERE NOT STIPULATED AND FRIVOLOUS AT THE FEDERAL DISTRICT COURT BEFORE THEY WERE DISMISSED, CASES WHERE THE STATE FEDERAL DISTRICT JUDGES IN THE 9TH CIRCUIT FOUND IT NECESSARY TO ORDER THE RESPONDENTS TO RESPOND.

FINDING OF FACT

AS MUCH AS IT WAS THE COVID-19 THAT DELAYED THE PROCESS AND TIMELY FILING, AS THE IDAHO DEPARTMENT OF CORRECTIONS AND STATE DID THEIR BEST TO WORK AROUND THE ISSUES IT WAS OUT OF THEIR CONTROL AS IT WAS MOST ALL ENTITY'S AS WE FAIL PREY TO THE EFFECTS OF COVID-19. HOWEVER CAN ARGUMENT BE CONSIDERED FOR RELIEF WHEN FOR VIOLATIONS OF FEDERAL STATUTE AND COMPLIANCE WAS BROUGHT ON BE THE STATE IS THE QUESTION TO ALLOW SUCH A CONSIDERATION RELIEF TO CONSIDER A CASE ON ITS MERITS INSTEAD OF ITS LATE FILING ON APPEAL FOR (COA). IT IS FULLY NOTED THAT RELIEF FOR VIOLATIONS OF A FEDERAL STATUTE BY THE STATE WILL BE GRANTED ONLY IF THE VIOLATION RISES TO THE LEVEL OF A "FUNDAMENTAL DEFECT WHICH INHERENTLY RESULTED IN A MISCARRIAGE OF JUSTICE" or AS IN THIS CASE IS "INCONSISTENT WITH

FINDING OF FACT

(CONTINUED)

THE RUDIMENTARY DEMANDS OF FAIR PROCEDURE." HERE PETITIONER ASSERTS THE CAUSE OF THE VIOLATIONS ARE AND WERE OF A CONSTITUTIONAL MAGNITUDE, AND THE GENERAL IMPROPRIETIES INDUCED BY THE BURDENS OF COVID-19 INHERENTLY RESULTED IN FUNDAMENTAL DEFECTS MAKING THE CONSTITUTIONAL VIOLATIONS IN ONE FORM OR ANOTHER COGNIZABLE BECAUSE TO ADDRESS THE COVID-19 VIRUS, THE MEASURES APPLIES CREATED FUNDAMENTAL UNFAIRNESS THAT VIOLATED THIS PETITIONER'S FOURTEENTH AMENDMENT RIGHT TO DUE PROCESS.

THE MERITS OF PETITIONERS CASE INVOLVES COUNTLESS FEDERAL CASE AUTHORITY AND ARGUMENT SUCH AS FOUND UNDER ROBINSON v. SCHRIRO 595 E. 3d 1086 1103-04 (9th Cir. 2010) (Federal Habeas Relief GRANTED BECAUSE COUT'S RELIANCE ON INSUFFICIENT EVIDENCE VIOLATED DUE PROCESS NEVERTHELESS THIS ISSUE IN NOT ABOUT THE MERITS OF PETITIONERS CASE AS MERIT HAD PREVIOUSLY BEEN ESTABLISHED.

THIS CASE IS ABOUT THE EIGHTH AMENDMENT RIGHT TO EQUAL TREATMENT THE PROTECTIONS THAT ARE RETAINED AS CONSIDERATION FOR SOME EQUAL PROTECTION PURPOSES. A CLAIM THAT IN THIS CASE SHOULD BE PROTECTED AS OTHER SIMILARLY SITUATED INMATES WERE INTENTIONALLY TREATED DIFFERENTLY FROM ONE ANOTHER DURING THE COVID -19 VIRUSE AFFAIRT. ALL INMATES ABOVE 55 YEARS OF AGE AND THOSE WITH NOTED MEDICAL PROBLEMS WERE MOVED FORM GENERAL POPULATION AND PUT IN H-UNIT A BUILDING NOT CONNECTED TO THE (ISCC) MAIN BUILDINGS, with LAUNDARY FACILITIES THERE, A RELYING KITCHEN FOR FEEDING OPEN DORM LIVING

FINDING OF FACT

(CONTINUED)

SEPERATE YARD THAT WAS NOT ALLOWED FOR MONTHS AND WHEN SO ONLY FROM 30 to 90 MINUTES HERE AND THERE DEPENDING ON WHICH OF THE 3 TEIRS WERE ON COMPLETE LOCKDOWN FOR COVID, NO ONE WITHOUT CLEARANCE COULD ENTER THE BUILDING, INCLUDING MOST STAFF, AT LEAST 4 FOUR INMATES DIED, WITH MANY MORE ON THE EDGE. THIS WENT ON FOR OVER A YEAR AND WELL INTO THE SECOND YEAR, NOW TODAY WE REMAIN AS OUTCAST FROM THE REST OF THE POPULATION, BACK INSIDE THE MAIN COMPLEX AND LOCKED AWAY IN WHAT IS KNOWN AS E UNIT STILL UNABLE TO MIX WITH THE GENERAL POPULATION BUT DO HAVE THE LEGAL RESOURCE CENTER AVAILABLE TO US NOW, THE IDOC MADE A SMALL ATTEMPT TO PROVIDE INFORMATION THROUGH WHAT WAS KNOWN AS JAY PAY, BECAUSE OF THE FACT THE RESOURCE CENTER COULD NOT REALLY ASSIST WHILE AT H-UNIT, HOWEVER ITS NOT MUCH HELP IT DOES NOT PROVIDE FEDERAL LAW OR AT THAT TIME NOW FORMS, NOR DOES IT PROVIDE LEXIS, OR WEST LAW FOR RESEARCH, LET ALONE BACK THAN A MEANS TO FILE, MANY SUFFERED WITHOUT MERCY FROM THE COURTS. OTHER IN THE SYSTEM HAD MEANS TO TIMELY CONTINUE AND ADDRESS THEIR ISSUES. TODAY WE REMAIN APART FROM GENERAL POPULATION. HERE THERE WAS NO RATIONAL RELATION BETWEEN THE DISSIMILAR TREATMENT AND LEGITIMATE PENAL INTERST, AS ALL INMATES AS IT WAS WERE ACCEPTABLE TO COVID-19, AND MOST HAVE HAD IT NOW, WITH MANY OF US RECEIVING OUR SHOTS EVEN AFTER CONTRACTION OF THE VIRUS. PETITIONER REQUEST THAT THIS COURT ALLOW SCRUTINY FOR THE CONSIDERATION TO MANDATE UNDER RARE CIRCUMSTANCE FUNDAMENTAL FAIRNESS BE PROVIDED TO HEAR THE MERITS OF HIS CASE BEFORE DISMISSING

FINDING OF FACT

(CONTINUED)

HIS PETITION ON THE FACT IT WAS LATE AS A RESULT OF THE IDAHO DEPARTMENT OF CORRECTIONS COVID-19 VIRUS AND THE HANDLING OF ITS INMATES AS A RESULT OF THEIR AGE AND MEDICAL ISSUES, AS THOSE TEIRS THAT DID NOT HAVE THE VIRUS THAT REMAINED ISOLATED, ENDED UP WITH IT WHEN THE DEPARTMENT OF CORRECTIONS MISTAKENLY WOULD PUT AN INMATE ON THE TEIR HAVING COVID -19 TIME AND AGAIN WITHOUT CHECKING THEM SENDING THE CELL BLOCK INTO LONG PERIODS OF HARSH LOCK DOWNS, THIS WAS NOT SO IN OTHER IDAHO CORRECTION INSTITUTIONS JUST FOR THE POOR SOULS OF H UNIT.

CONVICTED PRISONERS, RETAIN AT LEAST THOSE CONSTITUTIONAL RIGHTS THAT ARE ENJOYED BY PRETRIAL DETAINEES. DUE PROCESS CLAUSE SHOULD PROVIDE AS MUCH PROTECTION FOR CONVICTED PRISONERS AS IT DOES FOR PRETRIAL DETAINESS UNDER THE 8TH AMENDMENT. BYRD v. MARICOPA CNTY. SHERIFF'S DEPT'T, 629 F.3d 1135, 1141 (9th Cir. 2011)(PRETRIAL DETAINEES RETAIN AT LEAST THOSE CONSTITUTIONAL RIGHTS ENJOYED BY CONVICTED PRISONERS) FULLY NOTING PETITOINER IS A CONVICTED PRISONER AND SHOULD BE ALLOW CONSIDERATION TO THOSE RIGHTS.

INADEQUATE ACCESS TO THE COURT AND RESEARCH TO FILE A TIMELY APPEAL IN THE 9TH CIRCUIT UNDER THESE RARE CIRCUMSTNACES AND BY THE ORDINANCES TAKEN UNDER COVID-19 CERTAINLY ALLOWED DEPRIVATION AND MEANS TO MEET STATUTES AND REGULATIONS THAT ARE CUSTOM TO THE FILING OF A FEDERAL APPEAL IN THIS CASE.

FINDING OF FACT

(CONTINUED)

IN CONSIDERATION OF USING A SECOND OR SUCCESSIVE PETITION IT WOULD PROVE FRIVOLOUS THIS IS YET ANOTHER PARAMOUNT REASON AS TO WHY THE UNITED STATES SUPREME COURT SHOULD TAKE REVIEW AND CONSIDER A ONE TIME REMEDY FOR PETITIONERS IN THE CIRCUIT COURTS UNDER THESE EXTREMELY RARE CIRCUMSTANCES. BECAUSE NO RELIEF CAN BE FOUND FOR CASES SUCH AS THIS UNDER §2244(b)(2), WHICH STATES A PETITIONER CAN FILE A SECOND OR SUCCESSIVE HABEAS PETITION, BUT ONLY AFTER OBTAINING AN AUTHORIZATION ORDER FROM A THREE JUDGE PANEL IN THE APPROPRIATED FEDERAL COURT OF APPEALS. See CALDERON v. THOMPSON, 533 U.S. 538, 533-55 (1998) (PETITIONERS MOTION OF UNDERLYING DECISION REQUIRED AS SECOND OR SUCCESSIVE APPLICATION EVADE BAR AGAINST RELITIGATION OF CLAIMS PRESENTED IN PRIOR APPLICATION. THEREFORE PETITIONER (O'NEAL) HEREIN CAN NOT FILE A SECOND OR SUCCESSIVE HABEAS.

THIS COURT IS AWARE IN ORDER TO OBTAIN AN AUTHORIZATION ORDER A PETITIONER MUST MAKE A PRIMA FACIE SHOWING THAT THE CLAIM WAS NOT PRESENTED IN A PREVIOUS FEDERAL HABEAS PETITION, HERE PETITIONERS PREVIOUS FEDERAL HABEAS PETITION AS ARGUED HAD MERIT WORTH HEARING AND WORTHY OF RESPONSE IN THE LOWER FEDERAL AND STATE COURTS. WHEREAS CLEARLY THE MERITS OF THE CASE CAN NOT BE CHANGED. See also 28 U.S.C. 2244(b)(3) also review BURTON v. STEWART 549 U.S. 147, 157 (2007) (district court lacked JURISDICTION BECAUSE SECOND OR SUCCESSIVE DID NOT RECEIVE PETITION AUTHORIZATION FROM THE CIRCUIT COURT, AND

FINDING OF FACT

(CONTINUED)

PETITIONER (O'NEAL) WOULD NOT IN THIS CASE RECEIVE AUTHORIZATION FROM THE CIRCUIT COURT AS HIS MERITS ARE GROUNDED AND BASED ON WHAT WAS RAISED IN HIS FIRST PETITION WITH NOTED MERIT IN ALL COURTS BOTH STATE AND FEDERAL DISTRICT OF IDAHO PRIOR TO APPLICATION FOR COA REQUEST FROM THE 9TH CIRCUIT COURT OF APPEALS. See also Woods v. Carey, 525 F. 3d 886, 888 (9th Cir. 2008) (Same).

THIS IS ANOTHER FACTUAL BASIS AS TO WHY THIS RESPECT GREAT AND POWERFUL COURT OF OUR NATION SHOULD CONSIDER SOME TYPE OF ASCERTAINABLE RELIEF UNDER CIRCUMSTANCES THAT PLAYED THE PART OF AN OVER BEARING HURDLES THAT DELAYED A TIMELY FILING OF APPEAL AND APPLICATION FOR COA IN THE 9th CIRCUIT COURT OF APPEALS, ONLY TO BE JUSTIFIED ON A CASE BY CASE CONSIDERATION FOR THOSE WITH MERIT THAT WERE LATE TO FILE IN THE CIRCUIT COURTS APPLYING FOR (COA'S) THAT THE RECORD WOULD CLEARLY SUPPORT IN THE LOWER COURTS THAT THERE WAS MERIT TO THE PETITIONERS CASE WORTHY OF RESPONSE. OTHERWISE SIMPLY BECAUSE YOU WERE AN INMATE FILING LATE DURING THE COVID-19 VIRUS PERIOD UNLESS CIRCUMSTANCES COULD BE PROVEN AS IN PETITIONER (O'NEALS) CASE SUCH A RULE FOR OR PASS TO ALLOW CONSIDERATION FOR COA IN CIRCUIT COURTS WOULD NOT APPLY. OTHERWISE LIKE IN IDAHO'S DEPARTMENT OF CORRECTIONS THE ONLY ONES THIS COULD APPLY TO WOULD HAVE HAD TO BE HOUSED IN H-UNIT OR (E-UNIT) AT THAT TIME AND ACTUALLY APPLIED FOR

FINDING OF FACT

(CONTINUED)

A COA IN THE NINTH CIRCUIT WITH A PENDING CASE THAT WAS FOUND TO OF HAD MERIT IN THE LOWER COURTS WORTHY OF RESPONSE FROM RESPONDENTS. CHANCES ARE ONE WOULD BE HARD PRESSED TO FIND A FEW, BUT FOR THOSE INDIVIDUALS AND AFTER THE RECORD WOULD SHOW THIS PETITIONER HAS SPENT NEARLY (4) FOUR YEARS OF HIS LIFE RESEARCHING AND TIMELY FILING AND RESPONDING TO RESPONDENTS RESPONSES, MOVING FROM ONE COURT TO THE NEXT SO THAT FINALLY THE HIGHT COURT IN THE 9TH CIRCUITTT COURT OF APPEALS COULD DECIDE HIS CASE BASED ON THE VALIDITY OF HIS MERITS RAISED, BUT THAN ALL THIS IS TO GO UNNOTICED BECAUSE COVID - 19 VIRUS HAS ONCE AGAIN MADE A VICTIM OUT OF HIM, HERE THERE IS NO CASH STIMULUS THAT WILL BRING RELIEF, RELIEF CAN ONLY BE REACHED THROUGH A ONE TIME JUDICIAL STIMULUS OF THE UNITED STATES SUPREME COURT. THIS PETITIONER IS CLEARLY NOT EDUCATED IN THE LABYRINTHS OF LAW NOR HAS HE RECEIVED ANY FORMAL EDUCATION IN THE LEGAL FIELD, BUT SHOULD HIS CRY FOR FUNDAMENTAL FAIRNESS NOT JUST FOR HIMSELF BUT FOR THE MANY HUNDREDS IF NOT THOUSANDS THAT MAY HAVE SIMILAIR CIRCUMSTANCES IN THIS GREAT NATION OF OURS AND THE MANY CIRCUIT BE HEARD.

ALTHOUGH THERE HAS REALLY BEEN LITTLE OF NO HISTORICAL BACKGROUND TO ADDRESS FUNDAMENTAL UNFAIRNESS TO BOTH A PLAINTIFF AND RESPONDENT THAT SUFFERED AS THE RESULT OF THE PENDENCY OF THE COVID-19 VIRUS SHOULD NOT THIS SUPREME COURT OF THE UNITED STATES MAKE ROOM ON ITS ALREADY CROWDED DOCKET TO TAKE REVIEW SIMULTANEOUSLY OF THE

FINDING OF FACT

(CONTINUED)

EXCEPTIONAL CIRCUMSTANCES THAT SHOULD BE CONSIDERED THAT BROUGHT ABOUT THE COLLATERAL CONSEQUENCES TO WHAT NOW CAN BE REFERED TO AS NEWLY RECOGNIZED COLLATERAL DAMAGES AFFIRMED AS A RESULT OF COVID -19 VIRUS.

IN SUCH RARE GIVEN AND RECOGNIZED PREVIOUSLY LEGITIMATE IDENTIFIED CIRCUMSTANCES SUCH AS THOSE DICLOSED IN PETITIONER (O'NEALS) CASE SHOULD NOT CONSIDERATION BE REVIEWED BY ANY CIRCUIT COURT OF SUCH JURISDICTION FROM WHERE THE PETITION AROSE, AND SHOULD NOT PROPER AUTHORITY AND RECOGNITION BE ENACTED UNDER SUCH CONDITIONS BY THE UNITED STATES SUPREME COURT AS TO ALLOW ACHIEVEMENT FOR THE SERVICE CONSIDERATION AND ACCEPTANCE AS A RECIPROCAL FIT THE CHARACTER OF THE RECOGNITION TO BE HEARD AND CONSIDERED FOR A FEDERAL (COA) .AT THE CIRCUIT LEVEL AND CIRCUIT THAT HOLDS SUCH JURISDICTION OF FITTING ASSIGNMENT. WHEN A CALAMITOUS EVENT OF CATACLYSM DISASTER SUCH AS THE WORLD WIDE UPHEAVAL OF UNPARALLEDED CATACLYSM THAT TURNED OUR LIVES IN A NEW DIRECTION AS UNFORTUNATE AS THOSE IN CONNECTION WITH THE COVID - 19 VIRUS. AND SHOULD NOT WE AS A NATION LOOK BEYOND THE ACT OF AN INSTANCE OF DISBURSING JUST MONEY IN A TIME SUCH AS THIS AS TO NOT DISCOUNT OTHER DAMAGE THAT IS OF EQUALIZATION OF A DIFFERENCE OF POTENTIAL DISCONNECT FROM THE RESPONSIBILITIES TO THE HUMANITARIAN--TO THE INTERVENTION OF MANKIND.ALL FOR THE FUNDAMENTAL FAIRNESS AND FUNDAMENTAL JUSTICE FOR ALL, WOULD WE NOT PREVENT FUNDAMENTAL DEFECT DURING SUCH TIMES AS THIS.

FINDING OF FACT

(CONTINUED)

PETITIONER HAS DISCUSSED WITH DILIGENCE THAT UNDER THESE EXTREMELY RARE NEVER BEFORE COMBATANT CIRCUMSTANCES OF COVID-19 THE INSTANCES THAT OBSTRUCTED PETITIONERS TIMELY REQUEST FOR APPEAL AND COA AT THE NINTH CIRCUIT COURT OF APPEALS, THE NOTICE OF APPEAL THAT WAS TO BE SERVED TIMELY IN THE IDAHO FEDERAL DISTRICT COURT THAT FAILED TO BE SERVED FOR THE SAME REASON PETITIONER WAS UNABLE OPPOSITION TO THE RESPONDENTS RESPONSE, BEFORE THE DISMISSAL AS SHOWN IN APPENDIX (A). (Attached)... PETITIONER ASSERTS THE MECHANICAL NATURE OF HIS PRINT WHEEL ON HIS TYPE WRITTER SUFFERS FROM A MALFORMATION OPERATIVE BREAK DOWN AND THEREFORE HE IS FORCED TO USE CAPITALIZED UPPER CASE LETTER OF THE ALPHABET, BUT HAS NOT OTHER CHOICE AS PRINT WHEELS ARE NOT OBTAINABLE FOR REPLACEMENT, KNOWING IN THE ABSTRACT IT IS INSTRUMENTAL THAT LEGIBLE READING IS ESTABLISHED. NO DISRESPECT TO THIS RESPECT COURT OR ITS JUSTICES.

THESE ARE THE PLAIN SIMPLE FACTS AND IF NO MAN SPOKE OUT WOULD WRONGS OR DEFECTS UNADDRESSED GO ON FOREVER, IS IT NOT WHY IN OUR GREAT NATION WE HAVE SUCH PROFESSIONALIZED EXPERTS OF LEGAL OCCUPATION TO ENGAGE INSTRUCTION TO AVOWAL THE CHARACTERISTICS OF THE BELIEFS AND UNDERSTANDING TO THE SENTIMENTS AND PROTECTIONS OF OUR CITIZENS UNDER THE UNITED STATES CONSTITUTION, AND ITS OCCUPATON OF PROTECTION MORE SO IN TIMES LIKE THIS WHEN IT ABUNDANTLY EFFECTS EVERY JUDICIAL DISTRICT ACROSS THIS GREAT LAND OF OURS.

REASONS FOR GRANTING THE PETITION

ALTHOUGH THERE IS QUESTION AS TO WHETHER OR NOT THE 9TH CIRCUIT SHOULD HAVE CONSIDERED THE MERITS OF THE PETITION ON APPEAL, AND THERE IS QUESTION AS TO WHETHER IT WAS ERRONEOUS, UNDER THE CIRCUMSTANCES OF COVID-19 THAT WAS ARGUED IN THE FORMAT OF THE PETITION, AND UNDER THOSE CIRCUMSTANCES THERE IS A NATIONAL IMPORTANCE THAT SHOULD BE GIVEN THAT IS CONSISTENT WITH THE IMPORTANCE OF OUR CONSTITUTIONAL PROTECTIONS, AS THIS PETITION IS WITHIN THE PROPER JURISDICTION OF THIS COURT AND THEREFORE PETITIONER HAS ESTABLISHED THE TIMELINESS OF HIS PETITION FOR WRIT OF CERTIORARI.

PETITION SEEKS TO HAVE THE COURT REVIEW THE DECISION OF THE 9th Cir. DENYING HIS APPEAL AND PETITION FOR (COA) in the 9th Cir., WITHOUT FIRST HEARING THE MERITS OF REASONING AS TO WHY PETITIONER WAS LADTE UNDER THE CIRCUMSTANCES OF COVID -19, A PROBLEM NEVER DELT WITH BEFORE IN OUR JUDICIAL HISTORY, A PROBLEM AND ISSUE APPROPRIATE THAT CAN ONLY PERTAIN TO THE DISCRETIONARY REVIEW BY THE UNITED STATES SUPREME COURT, AS THE DECISON'S TO BE RENDERED IS OF SUCH GREAT IMPORTANCE THERE IS NO OTHER OR HIGHER COURT AUTHORITY OF THE LAND SITUATED TO ADDRESS THE ARGUMENT MADE HEREIN THIS PETITION AND THE ISSUE RAISED IS NOT ABOUT THE PETITIONERS MERITS OF HIS CRIMINAL CASE BUT REATHER OF DISCRETIONARY MERITS COMPELLING CONSTITUTIONAL PROCEDURAL PROTTECTIONS UNDER SUCH CIRCUMSTANCES AS WHAT HAPPEN WORLD WIDE AND WITHIN OUR NATION AND THE JUDICIAL PERFORMANCE.

REASONS FOR GRANTING THE PETITION

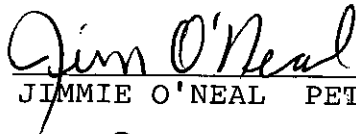
(CONTINUED)

PETITIONER CAN ACCURATELY STATE THAT THE ISSUES OF HIS PETITION BEFORE THIS COURT PERTAIN TO MORE THAN SUPERFICIAL COMPLAINTS AND IN REALITY SEEK THE EXHAUSTION OF THE STRENGTH AND ENDURANCE TO ALLOW THIS COURT TO TEST THE IMPORTANCE OF UP HOLDING THE PROTECTIONS OF THE UNITED STATES CONSTITUTION AND ITS CRITICAL IMPORTANCE TO PROTECT ITS CITIZENS FROM THE DOMINEERING EXTREMES THE COVID 19 VIRUS INFLICTED NOT JUST ON THE ECONOMY, BUT THE JUDICIAL SYSTEM AND THE UNREASONABLE HURDLES EXPECTED OF US TO BE PERCEIVED AS ACCEPTABLE WHEN COVID MADE THE PROCEDURES PLACED BEFORE US IM-POSSIBLE TO MEET.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



JIMMIE O'NEAL PETITIONER (Pro/se)

Date: 5/31/ 2021