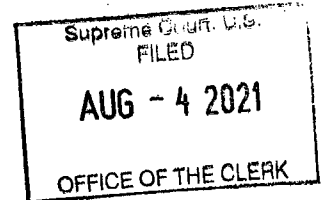


21-5376 ORIGINAL
No. _____

IN THE
SUPREME COURT OF THE UNITED STATES



Samuel Roy Abram — PETITIONER
(Your Name)

vs.

David Lev, A. Chantz, K. Barker — RESPONDENT(S)

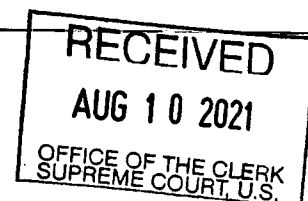
ON PETITION FOR A WRIT OF CERTIORARI TO
only on the PLRA Exhaustion Requirement
Eleventh Circuit United States Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Samuel Roy Abram
(Your Name)
C/O Temporary Mailing Location
C/O P.O. BOX 4050
(Address)

Pollock, Louisiana [Zip Exempt]
(City, State, Zip Code)

(Phone Number)



QUESTION(S) PRESENTED

- 1) Was petitioner Samuel Roy Abram required under the PLRA to request consideration of an untimely grievance for a valid reason due to staff interference?
- 2) Was petitioner Samuel Roy Abram required to exhaust administrative remedies that the Eleventh Circuit Court of appeals questioned the availability of due to the allegations and evidence presented?
- 3) Should the Court have taken Judicial Notice of the administrative remedies filed within the two years of the date of incident?

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:

Bentley A. Lee III former United States Attorney, Bole Bradley M, Former United States Attorney, Corrigan, Timothy J United States District Judge, Grand Todd B. Assistant United States Attorney, Hodges, William Terrell, United States District Judge, Lammers Phillip R, United States Magistrate Judge, Lopez Maria Chapa, United States Attorney, Posterraro Julie, Assistant United States Attorney, Rhodes, David Assistant Attorney Chief

RELATED CASES

5:14-cv-142 Middle District of Florida

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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 B to the petition and is

☒ reported at United States District Court Middle District of Florida; 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 March 25th 2021.

☐ 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: May 21, 2021, 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

This case involves 42 U.S.C. § 1997e(a) ("No action shall be brought with respect to prison conditions under Section 1983...until such administrative remedies as are available are exhausted.")

Amendment I - to the United States Constitution which provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment V - No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law, nor shall private property be taken for public use, without just compensation.

Amendment VIII - Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Article I § 2 ¶ 2 of the Constitution of the United States

Article IV § 2 of the Constitution of the United States

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Overton v. Bazletta, 539 U.S. 126, 132 (2003)	126/132
Bryant v. Rich 530 F.3d 1368, 1373 (11 th Cir. 2008).	1368, 1373
Jones v. Bock 549 U.S. 199, 212-213, 221-224 127 S.Ct	212-13/221-24
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Ross v. Blake, 136 S.Ct at 1858	1858
Miller v. Donald, 541 F.3d 1091, 1099 (11 th Cir. 2008)	1091, 1099
Hill v. Snyder, 817 F.3d 1037, 1041 (7 th Cir. 2016)	1037, 1041
Dale v. Lappin, 376 F.3d 652, 656, (7 th Cir. 2004)	652/656
Mitchell v. Horn, 318 F.3d 523, 529 (3 rd Cir. 2003)	523, 529
Miller v. Norris, 247, F.3d 736, 738-40 (8 th Cir. 2001)	736; 738-740
Chatham v. Adcock, 207 WL 2904117, *14 (N.D. GA SEPT 2007) AFF'd 334 F.2d App. 281 (11 th Cir. 2009) (Unpublished)	334 F.2d App. 281
STATUTES AND RULES	
Prison Litigation Reform Act [42 U.S.C. § 1983]	
Chancery Rules - Judicature Act of 1873	
28.C.F.R. §§ 542.10, et seq.)	

OTHER

Judicature Act of 1873 - "When there's a conflict between the Rules of Law and of Equity... the Rules of Equity shall prevail"

Am Jur 27A 2d - Equity will not suffer a wrong to be without a remedy.

STATEMENT OF THE CASE

The petitioner's Complaint was originally dismissed to the extent for failure to exhaust administrative after the District Court inquired of the defendants whether they intended to plead that they were entitled to dismissal due to the petitioner failing to exhaust (See Appendix D for Case 5:15-cv-00375-WTH-PRL). The petitioner appealed to the Eleventh Circuit Court of Appeals concerning the availability of administrative remedies. The Eleventh Circuit took notice of the evidence and allegations questioning whether or not the administrative remedies allegedly/unexhausted were "available". The Eleventh Circuit recognized that the District Court concluded that Abram had not demonstrated that he should be excused from the exhaustion requirement. The Eleventh Circuit ultimately remanded the case for proper analysis and to give Abram the opportunity to be heard (See Appendix C). While the case was on remand the Court again did dismiss without prejudice for failure to exhaust administrative remedies (See Appendix B). The petitioner then appealed to the Eleventh Circuit Court of Appeals again. The Eleventh Circuit concluded that Abram like in Bryant may have been prevented from filing a grievance timely due to prison officials refusal to provide him the necessary forms, the record reflected that he "could have exhausted his administrative remedies by filing a grievance ... and then by showing good cause for its tardiness". Bryant, 530 F.3d at 1373.

REASONS FOR GRANTING THE PETITION

A. Conflicts with Decisions of Other Courts

The holding of the Eleventh Circuit Court of Appeals in Bryant v. Rich 530 d. 1368, 1373 (11th Cir. 2008) saying that the petitioner like Bryant could have filed a grievance and then by showing good cause for its tardiness could have exhausted his administrative remedies is directly in conflict and contrary to the holding of three Federal Circuits and the Supreme Court (See APPENDIX A pg 8). See Hill v. Snyder 817 F.3d 1037, 1041 (7th Cir. 2016), Dale v. Lappin, 376 F.3d 652, 656 (7th Cir. 2004), Mitchell v. Horn, 318 F.3d 523, 529 (3rd Cir. 2003) and Miller v. Norris 247, F.3d 736, 738-40 (8th Cir. 2001). The Eleventh Circuit's holding in Bryant v. Rich is actually contrary to Chatham v. Adcock, 207 WL 2904117*14 (N.D. GA Sept 2007) Aff'd 334 Fed Appx 281 (11th Cir. 2009) [Unpublished]. In addition the Supreme Court of the United States has held that "an administrative remedy may be unavailable when prison officials interfere with a prisoners pursuit of relief", Ross v. Blake, 136 S.Ct. 1850, 1860 (2016), and Ross, 136 S.Ct. at 1858 ("An inmate, that is, must exhaust available remedies, but need not exhaust unavailable ones.").

B. Importance of the Question Presented

This case presents a fundamental question of the interpretation of this Courts decision in Jones V. Boock 549 U.S. 199, 212-213, 221-224 127 S.Ct. (2007). This question presented is of great public importance because it affects the operations of the prison systems in the Eleventh and Fifth Circuit and hundreds of city and county jails. In view of the large amount of litigation over requirements of the PLRA to exhaust administrative remedies, guidance on the is also of great importance to prisoners because the affects of using a Non-Requirement of the Federal Bureau of Prisons Administrative Remedy Program "Specifically, 28 C.F.R. § 542.14 (b), titled Extension" to foreclose prison inmates from filing lawsuits or being excused from the exhaustion requirement would be an anomalous result denying Justice, simply because of a non-prerequisite under the PLRA.

REASONS FOR GRANTING THE PETITION

The issue's importance is enhanced by the fact that lower courts in this case have not applied and have seriously misinterpreted Jones v. Bock. This Court held in Jones v. Bock, 549 U.S. 199, 212-13, 221-224, 127 S.Ct. 910 (2007) "lower courts should not interpret the PLRA exhaustion requirement to depart from the usual practices under the Federal Rules of Civil Procedure or accepted litigation practice, except to the extent that the PLRA actually says to do so. Accord, Miller v. Donald, 541 F.3d 1091, 1099 (11th Cir. 2008). The Court touched on this point in Ross v. Blake 136 S.Ct. 1850, 1862 (2016) and added "an administrative scheme might be so opaque that it becomes, practically speaking, incapable of use, and 1850" an inmate, that is, must exhaust available remedies, but need not exhaust unavailable ones.")

Nothing in Jones or Ross suggests that a prisoner is required to present a valid reason for an untimely grievance or otherwise seek an extension of time as permitted under the grievance / Administrative Remedy Program of the Federal Bureau of Prisons. The lower courts themselves quote the PLRA requirement of BOP Administrative Remedy Program (Appendix A pg 4 and Appendix B pg 16). The Eleventh Circuit acknowledges that staff refused to provide the plaintiff with the forms to initiate the grievance procedure (Appendix A pg 6). The District Court acknowledges that the petitioner filed Administrative Remedies once transferred to a new prison between February 2015 and April 2015, claiming that it was more than two years past the October 2013 incident. [Note: the time lapse was less than two years. The petitioner arrived at the New Prison in March of 2014... free of the staff interference to exhaust at Coleman USP-2].

REASONS FOR GRANTING THE PETITION

Bryant v. Rich 530 F.3d 1368, 1373 (11th Cir. 2008)

The lower courts reasoning that the petitioner or prisoner was required to file a grievance... and then by showing good cause for its tardiness is unconvincing. The Eleventh Circuit relies on Specifically, 28 C.F.R. § 542.14 (b) titled "extension", states that "Where the inmate demonstrates a valid reason for delay an extension in filing time may be allowed. In general, valid reason for delay means a situation which prevented the inmate from submitting the request within the established time frame."

However neither Jones, Bock, three other Federal Circuits, the Eleventh Circuit in Chatham v. Adcock 207 WL 2904117 and in this case (See Appendix C pg 9) contain that holding. Again the Eleventh Circuit in Appendix A pg 4 See 2 quotes what the requirement of BOP administrative-remedy program is, 28 C.F.R. § 542.10. This Court ruled that "The burden is not on the State to prove the validity of prison regulations but on the prisoner to disprove it." Overtan v. Bazzetta, 539 U.S. 126, 132 (2003). The Federal Bureau of Prisons Administrative Remedy program is not valid and contains an opaque section, Specifically, 28 C.F.R. § 542.14 (b) titled "Extensions" that subsequently allows prison officials in the BOP to foreclose prisoners from filing administrative remedies, meeting the exhaustion requirement under the PLRA and filing federal Civil Rights Lawsuits. The Federal Bureau of Prisons should've required all untimely filed Administrative Remedies to contain the reason for delay in filing the remedy. This would've satisfied the [Y] requirement under the PLRA 42 U.S.C. § 1997e (a). As it stands the Eleventh Circuit's use of a non-requirement in the BOP Administrative Remedy Program in 28 C.F.R. § 542.14 (b) to foreclose selective prisoners from filing federal Civil Rights lawsuits giving prisoners the runaround, is what has happened here.

REASONS FOR GRANTING THE PETITION

thus the Court below went beyond the requirement of the PLRA in applying 542.14.(b), under 28 C.F.R. to foreclose the petitioner from being excused from exhaustion requirement under the PLRA due to interference by staff. The Court should correct the lower courts application of Bryant v. Rich and make it clear that the Federal Bureau of Prisons must make it a requirement that all untimely filed grievances contain the reason for its tardiness if it chooses to foreclose prisoners from satisfying the exhaustion requirement under the PLRA see 42 U.S.C. 1997e (a). This action by this court would clarify the Administrative Remedy Program of the BOP and give guidance to local state courts, Federal District Courts and the Eleventh Circuit to which prisoners file. This Court should also move the lower Court to accept the administrative remedies filed at the New Prison since it was well within the two years of the incident and the petitioner being removed from the staff interference at Coleman USP-2.

Lastly... at the onset of the case the Court alerted the defendants that allegations were deemed sufficient to alert them of the basis and nature of the claims. The Courts Equity powers took jurisdiction of the case. The crimes committed and property destroyed by the defendants against Private Citizen Samuel Roy Abram demands a remedy. The District Court has my prima facie claim of Private Citizen Status. My status is protected by Article I § 2 41 2 and Article IV § 2 of the Constitution for the United States. It is treasonous for a Private Citizen to be treated as a Public U.S. Citizen. The Judiciary Act of 1873 states "When there is a conflict

It is common knowledge that this Court accept only 1% of cases submitted to it for review... and rarely does it accept prisoner cases. However, the plaintiff has no adequate remedy at law nor ~~will~~ will equity suffer a wrong to be without a remedy. It is the duty of this Court to uphold the rights of a Private Citizen to be heard on the merits of his claims. The lower Courts refused to do this.... so the petitioner pleads and prays for this Court to see the equitable cause of action presented by the petitioner.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Samuel Roy Abram / Beneficiary

Date: August 3rd, 2021