

ORIGINAL

No. _____

21 - 5688

IN THE

SUPREME COURT OF THE UNITED STATES

FILED
SEP - 3 2021

OFFICE OF THE CLERK, SUPREME COURT, U.S.

LARRY DONNELL DUNLAP

— PETITIONER

(Your Name)

vs.

CORIZON HEALTH INC — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES DISTRICT COURT OF ARIZONA

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

PETITION FOR WRIT OF CERTIORARI

LARRY DONNELL DUNLAP Adoc #124173

(Your Name) 4374 Butte Ave - Cook Unit Prison
Florence AZ 85132

Arizona Department of Corrections Rehabilitation Re-entry

(Address)

Florence AZ 85132

(City, State, Zip Code)

520 868 0201

(Phone Number)

QUESTION(S) PRESENTED

Did the trial Court Judge of the United States District Court abuse its discretion by granting the Respondents in this Case Summary Judgment, When Facts Were Unavailable to Petitioner in order to defeat the Respondents Motion for Summary Judgment against him ?

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:

RELATED CASES

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING THE WRIT	5
CONCLUSION.....	6

INDEX TO APPENDICES

APPENDIX A NO. CV-18-00295-PHX-DJH(CDMF) Order

APPENDIX B NO. 20-15532 Memorandum Decision

APPENDIX C NO. 20-15532 ORDER

APPENDIX D NO. 20-15532 MANDATE

APPENDIX E

APPENDIX F

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Polter v CBS, 368 U.S. 464. 82 Ct 486, 7 LEd 2d 458, 6
5 Fed R. Serv (Callaghan 2d 886 Callaghan 1962
U.S. Lexis 2315

STATUTES AND RULES

Fed. R. Cr. 56 6

OTHER

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[] is unpublished.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[] is unpublished.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 Feb 23, 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: _____, 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

Fed. R. Civ. P 56

Seventh Amendment Rights

14th Amendment Rights

STATEMENT OF THE CASE

On screening under 28 U. S.C. § 1915A(a), the Court determined that Plaintiff stated an Eighth Amendment claim based on deliberate indifference to serious medical needs in Count Seven against Corizon stemming from Plaintiff's allegation that Corizon Medical staff denied Plaintiff all medical treatment after he was found guilty of a disciplinary violation, and that Corizon staff told Plaintiff he would have to be "ticket free" for one year to get medical treatment and medical equipment. The Court dismissed the remaining claims and Defendants.

Plaintiff asserts that after he was transferred to Meadows Unit prison on May 8, 2017 the Medical provider for the Arizona Department of Corrections Inmate Health system was Corizon Health Inc. That on May 8, 2017, the Corizon Utilization Board Members that approves or disapprove medical treatments and medical equipment for the inmate population for ADoc, directed Corizon Medical staff to stop providing certain medical treatments and certain medical equipments that Plaintiff's needed for the treatment of Plaintiff's leukopenia and other medical conditions, due to recent disciplinary tickets Plaintiff received while incarcerated at another prison unit called South Unit prison, where Plaintiff was housed until he was moved to the Cook Unit prison in May of 2017, where he was denied adequate medication, medical treatment and medical equipment due to disciplinary tickets that he received, when he requested medical treatment. Plaintiff filed his 8th Amendment Complaint for relief in this case.

REASONS FOR GRANTING THE PETITION

Plaintiff argues that he was denied discovery when the Defendants filed early in the case their motion for Summary Judgment and that the trial Court Judge denied Plaintiff's motion for discovery even when the Court had issued a timely schedule for discovery, the Court refused to follow its own schedule due to the Defendants early filing of their motion for Summary Judgment. Plaintiff was denied due process under the 14th Amendment Rights to the Federal Constitution, and he wasn't able to get information from the Defendants in order to defeat their motion for Summary Judgment against him in this case, because of the abuse of discretion of the trial Court Judge. Plaintiff claims that when facts are unavailable to the Nonmovant, that if a nonmovant shows by affidavit or declaration that specified reasons, it cannot present essential to justify its opposition, the court may; 1) defer considering the motion or deny it; 2) allow time to obtain affidavits or declaration or to take discovery or issue any other appropriate order. In this case Plaintiff was given the opportunity that's afforded to people who are free, that engage in civil lawsuits and that Defendant withheld discovery from Plaintiff claiming that he's an inmate and that he should not have this type of information in his possession. Plaintiff was denied due process in accordance with Rule 56 - Fed. R. Civ. P. 56. Plaintiff claims that the purpose of Rule 56 is not to cut litigants off their right of trial by jury, if they have issues to try. *Poller v CBS*, 368 U.S. 464, 82 Ct. 486, 7 L. Ed 2d 458, 5 Fed. R. Serv. Callaghan 2d 886 Callaghan 1962 U.S. Lexis 2315. In this case Plaintiff's Seventh Amendment rights to jury trial was abridged in this case. This Court should consider this case to remand back to the District Court.

Plaintiff ask this Court to remand this case back to the District Court of Arizona for argument on his issue of not getting discovery in this case.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

8/30/21 Larry D Dunlap #124173

Date: 8/30/21