

ORIGINAL

Supreme Court, U.S.
FILED

SEP 03 2021

OFFICE OF THE CLERK

UNITED STATES OF AMERICA
IN THE SUPREME COURT

MICHAEL J. WAPPLER,
PETITIONER,

v.

No.:

21-5721

RON DESANTIS, GOVERNOR,
OF THE STATE OF FLORIDA;
MARK SHERWIN INCH., SEC.,
FLORIDA DEPT. OF CORRECT-
IONS; DAQUARI DUNCAN,
WARDEN, TAMOKA C.I.,
RESPONDENTS.

VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS

BY: MICHAEL J. WAPPLER
PETITIONER PRO SE
E48429
TAMOKA CORR INST.
3950 TIGER BAY RD.
DAYTONA BEACH, FL.

32124

I. QUESTION PRESENTED

IS PETITIONER WHO HAS TWICE
SUFFERED COVID-19 INFECTIONS
WITH RELATED DUAL PNEUMONIA
WHO IS AMONG A GROUP OF PRI-
SONERS IDENTIFIED BY THE CDC
AS A VULNERABLE PERSON AT
IMMINENT RISK OF COVID-19'S
MORE CONTAGIOUS VARIANT
'D' STRAIN ENTITLED TO EARLY
RELEASE TO PROBATION WHICH
WILL OCCUR WITHIN TEN MONTHS
OR SOONER REGARDLESS?

II. PARTIES

1. PETITIONER MICHAEL JAMES WAPPLER IS A CITIZEN OF THE UNITED STATES WHO HAS COMPLETED 45 OF A 60 MONTHS STATE FLORIDA (D.C.), PRISON SENTENCE, * AND IS UNDER RESPONDENTS CARE AND CUSTODY AT TOMOKA C.T., IN DAYTONA, FL.

2. RESPONDENT RON DESANTIS IS A CITIZEN OF THE UNITED STATES, THE GOVERNOR OF FLORIDA WITH FINAL AUTHORITY OVER THE F.D.C., RESPONDENT INCH AND PETITIONER, WHO'S ADDRESS IS THE CAPITAL BUILDING, TALLAHASSEE, FLORIDA

3. RESPONDENT MARK S. INCH IS A CITIZEN OF THE UNITED STATES, SECRETARY OF THE F.D.C., WITH FINAL AUTHORITY OVER ITS FACILITIES, STAFF INCLUDING RESPONDENT DUNCAN (AND PETITIONER) WHO'S ADDRESS IS 500 SOUTH PALMWAY STREET, TALLAHASSEE, FLORIDA, 32399.

4. RESPONDENT DAQUARI DUNCAN IS A CITIZEN OF THE UNITED STATES RESPONSIBLE FOR PETITIONERS CARE, AND IS WARDEN OF TOMOKA C.T., (WHERE PETITIONER IS IN CUSTODY) WHO'S ADDRESS IS 3950 TIGER BAY RD., DAYTONA BEACH, FL 32124

* PETITIONER IS EARNING TEN DAYS A MONTH GAIN TIME CALCULATED TO ADVANCE HIS RELEASE TO MAY, 2022, AFTER WHICH A 60-MONTH PROBATIONARY PERIOD BEGINS.

III. JURISDICTION

5. ORIGINAL JURISDICTION ARISES UNDER ART. III, CONSTITUTION OF THE UNITED STATES OF AMERICA AS RESPONDENT DESANTIS IS GOVERNOR OF FLORIDA, AND UNDER TITLE 28 USC § 1651 AND § 2241 (C) (3).

IV. CONSTITUTIONAL PROVISIONS

6. THE CONSTITUTION OF THE UNITED STATES AMENDMENT VIII: "NOR SHALL CRUEL ... PUNISHMENT BE INFLICTED;" AMENDMENT XIV: "NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE [OR] ... LIBERTY WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS."

V. STATEMENT OF THE CASE

7. PETITIONER IS INCARCERATED AT TOMOKA C.I., SERVING A 60-MONTH SENTENCE, 45 MONTHS COMPLETED TO DATE, WITH 60-MONTHS PROBATION TO FOLLOW PURSUANT TO A PLEA AGREEMENT * FOR AGGRAVATED ASSAULT AND POSSESSION OF A FIREARM BY A FELON; HIS CALCULATED EARLIEST RELEASE DATE WITH GAIN TIME APPLIED IS MAY 20, 2022; WITHOUT GAIN TIME, PETITIONER WILL BE RELEASED TO PROBATION ON NOVEMBER 6, 2022.

* STATE V. WAPPLER, BREVARD COUNTY FLORIDA
CASE NO.: 05-2017-CF-050501.

8. RESPONDENTS CONTINUE TO HOUSE PETITIONER IN OPEN-DORMATORIES EVEN AFTER BECOMING AWARE OF THE IMMINENT DANGER COVID-19 'D' STRAIN SUBJECTS PETITIONER TO AFTER DECLARING AN EMERGENCY,¹ KNOWING THEY ARE UNABLE TO PROTECT HIM FROM THE MORE CONTAGIOUS 'D' STRAIN VARIANT² AS EVIDENCED BY TWO PRIOR CERTIFIED TEST RESULTS BOTH CONFIRMING SEPARATE COVID-19 INFECTIONS³ WITH RESULTANT DUAL-PNEUMONIA IN SEPTEMBER, 2020.

9. RESPONDENTS KNEW AS EARLY AS JANUARY, 2020, WAS, IS, AND CONTINUES TO BE AMONG A GROUP OF PRISONERS IDENTIFIED BY THE C.D.C., THE FLORIDA DEPT. OF HEALTH, AND THE WORLD HEALTH ORG. AS PARTICULARLY VULNERABLE - AT ESPECIALLY HIGH RISK OF INFECTION (NOW BY THE EVEN MORE CONTAGIOUS 'D' STRAIN VARIANT) THE CDC SPECIFIC-

1. RESPONDENT INCH'S DECLARATION OF A DOC EMERGENCY MARCH 12, 2020, FOLLOWED GOVERNOR DESANTIS'S.

2. IN AN APRIL 2020 EMAIL RESPONDENT INCH ADMITTED PRISONERS IN "OPEN" DORMS CANNOT PROTECT THEMSELVES BY SOCIAL DISTANCING DUE TO CLOSE PROXIMITY.

3. SPECIFICALLY TESTS DONE MAY 28TH AND JULY 21, 2020, VERIFIED SEPARATE INFECTIONS. A THIRD INFECTION BY THE RAMPANT 'D' STRAIN IS ALMOST A CERTAINTY.

4. A SEPT. 3, 2020 X-RAY DIAGNOSED PETITIONER HAD BEEN SUFFERING DUAL-PNEUMONIA RESULTING FROM COVID-19 THAT WAS LEFT UNTREATED FOR OVER A MONTH BY RESPONDENTS¹.

SPECIFICALLY IDENTIFYING PERSONS WITH CHRONIC
ASTHMA AND LUNG DISEASE.⁵

10. PETITIONERS UNDERLYING MEDICAL ISSUES
CAN BE SUMMARIZED AS: CHRONIC ASTHMA C.O.P.D, AS
WELL AS CHRONIC HYPERTENSION, MIGRAINE HEADACHES.
PETITIONER HAS A HISTORY OF NUMEROUS SPONTANEOUS
PNEUMOTHORACIES OF BOTH LUNGS REQUIRING DUAL
THORACOTOMIES, AND BISECTION UPPER LEFT LOBE,
REQUIRING MECHANICAL PLEURODESIS.⁶

11. PETITIONER ASKS THE COURT TO TAKE
JUDICIAL NOTICE OF PUBLIC FACTS AS TO THE IMMI-
NENT DANGER COVID-19 AND ITS VIRUS VARIANTS ROSE
TO PETITIONER; VIRTUALLY IDENTICAL CONDITIONS AS
DESCRIBED IN THE OHIO PRISONS EXIST AT TOMPKA
(AND OTHER FLORIDA PRISONS LIKE EVERGLADES, WAP-
PLER V. CELESTINE, 1:20-CV-23206-UU (S.D. FLA, NOV.
2, 2020)). (NO IMMINENT DANGER, THREE STRIKES,
DISMISSED). SEE SMITH ET AL. V. DEWINE, ET AL.⁷

5. "PEOPLE AT HIGHEST RISK...", CDC.GOV (APRIL
15, 2020) AVAILABLE AT WWW.CDC.GOV/VIRUS/2019.

6. IN PLAIN ENGLISH, PETITIONER HAS ENDURED
NUMEROUS COLLAPSES OF BOTH LUNGS FOR NO KNOWN
REASONS DOCTORS COULD IDENTIFY REQUIRING SURGERY
ON BOTH LUNGS, REMOVAL OF "BLEBS", REPAIR, AND
CHEMICAL ADHESION OF LUNGS TO CHEST CAVITY.

7. No. 2:20-CV-02471 (S.D. OHIO, MAY 15, 2020).

12. ON APRIL 12, 2021, AND MAY 13, 2021, THE PETITIONER REQUESTED AND RECEIVED THE TWO MODERNA VACCINATIONS AT TOMOKA CORR INST. IN THE BELIEF IT WILL PROTECT AGAINST FUTURE REINFECTIONS BY CORONA-19 AND ITS VARIANT STRAINS.

13. ONLY AN ESTIMATED 38% OF THE PRISONERS AT TOMOKA C.I. RECEIVED BOTH VACCINATION SHOTS.

14. RESPONDENTS DID NOT SEPARATE PETITIONER OR OTHER FULLY VACCINATED PRISONERS FROM PRISONERS REFUSING VACCINATIONS AFTER RECEIVING THE VACCINATION.

15. IN AUGUST, 2021, FLORIDA HAS ONCE AGAIN BECOME THE NATION'S IN CARONA-19 "DELTA" VARIANT INFECTIONS WHICH IS AFFECTING THE NON-VACCINATED AT A HIGH RATE OF MORBIDITY, AND ALSO INFECTING THOSE WHO ARE VACCINATED POSING AN IMMINENT DANGER.

16. RESPONDENTS HAVE NOT, TO DATE, REQUIRED NON VACCINATED (OR VACCINATED) COMING IN OFF-THE-STREET, OR SYMPTOMATIC PRISONERS TO WEAR FACE COVERINGS IN THE OVERCROWDED DORMS, AND IT WAS NOT UNTIL AUGUST 14, 2021, FOLLOWING A EASILY FORSEEABLE, PREDICTABLE COVID-19 "DELTA" VARIANT OUTBREAK THROUGHOUT TOMOKA'S OVERCROWDED DORMS THAT RESPONDENTS ISSUED A LIMITED FACE COVERINGS DIRECTIVE CONFINED TO MEDICAL, DENTAL INPATIENT, TREATMENT AND WAITING AREAS, OMITTING THE LIVING, SLEEPING, AND OTHER COMMON PRISONER HOUSING AREAS.

17. ON AUGUST 25, 2021 RESPONDENTS INCH TO MORA WARDEN PLACED PETITIONERS OVERCROWDED DORM (D-2) ON COVID-19 QUARANTINE DUE TO DORM HOUSING UNKNOWN PRISONER(S) TESTING POSITIVE.

18. PRISONERS INFECTED WITH COVID LIVE WITH IT AND SPREAD COVID BECAUSE REPORTING SYMPTOMS TO MEDICAL STAFF GETS THE ENTIRE DORM LOCKED-DOWN ⁸ UNDER DRACONIAN CONDITIONS, 100°F PLUS TEMPS, NO OUT OF CELL TIME FOR REC, ALL LAW-LIBRARY, GENERAL LIBRARY, VISITATION WITH FAMILY, RELIGIOUS SERVICES CANCELLED, PUNITIVE CONDITIONS WITHOUT QUESTION, MEALS SERVED IN A BATHROOM

19. IT IS UNQUESTIONABLE PETITIONERS LIFE IS IN IMMINENT DANGER, A COUGH OR SNEEZE AWAY FROM BEING REINFECTED A THIRD TIME WITH A MORE VIRULENT DEADLY "DELTA" STRAIN; UNQUESTIONABLE PETITIONER IS AT HIGH RISK; UNQUESTIONABLE RESPONDENT DESANTIS HAS NOT ORDERED MASKS BE WORN, DECLARED NO EMERGENCY, AND EVEN LESS IS BEING DONE TO PROTECT PETITIONER THAN WAS IN 2020.

20. IT IS UNQUESTIONABLE RESPONDENTS HAVE NOT SEPARATED THOSE PRISONERS VACCINATED FROM THOSE REFUSING VACCINES PUTTING PETITIONER IN MORE IMMINENT DANGER. IT IS UNQUESTIONABLE PETITIONER CANNOT PROTECT HIMSELF BY SOCIAL DISTANCING AND HAND SANITIZERS NOT ALLOWED.

8. FOR A PERIOD OF A WEEK TO A MONTH, TO MONTHS.

21. RESPONDENT INCH'S PROBATION OFFICERS CAN ADEQUATELY SUPERVISE PETITIONER EARLY ON RELEASE. PETITIONER HAS REMAINED MAJOR MIS-CONDUCT FREE UNDER EDOC CUSTODY TO DATE.

22. WHILE PETITIONER IS NOT REQUIRED TO EXHAUST DEFENDANT'S "UNAVAILABLE" ADMINISTRATIVE REMEDIES PRIOR TO FILING THIS PETITION, ANY SUCH REQUIREMENT WOULD USURP THIS COURT'S JURISDICTION AND AUTHORITY. THE AUGUST 25, 2021 QUARANTINE AND IMMINENT DANGER PETITIONER IS IN CANNOT WAIT NINETY (90) DAYS OR MORE FOR EXHAUSTION WHICH WOULD BE FUTILE BECAUSE THE REMEDY IS EFFECTIVELY UNAVAILABLE FOR REASONS THIS COURT HAS ALREADY EXPLAINED IN ITS PRIOR DECISION (PETITIONER WITHOUT ACCESS TO LAW LIBRARY CANNOT CITE DUE TO LOCK-DOWN).

23. HOWEVER, PETITIONER HAS ATTEMPTED TO EXHAUST STATE COURT REMEDIES BY FILING A "MOTION FOR MODIFICATION OF SENTENCE" IN THE STATE TRIAL COURT FOR REASONS INCLUDING THE DANGER COVID-19 PRESENTS⁹ DUE TO HIS BEING AT HIGH RISK TO NO AVAIL; ON JUNE 5, 2020 THE STATE COURT DENIED THE "MOTION FOR MODIFICATION OF SENTENCE" WHICH IS NOT APPEALABLE TO A HIGHER COURT. EXHIBIT 'A'

24. IT SHOULD BE NOTED THAT RESPONDENTS PICK AND CHOOSE WHICH OF PETITIONER'S ADMINI-

⁹ SEE HIGHLIGHTED PARAGRAPHS 8-14.

ADMINISTRATIVE GRIEVANCES WILL BE RESPONDED TO, AND WHICH ONE'S WILL BE ADMINISTRATIVELY PRETEXTUALLY IMPEDED AND OBSTRUCTED TO FRUSTRATE "TIMELY" EXHAUSTION - RESPONDENTS BEING IN EXCLUSIVE CONTROL OF "RECEIVED ON..." AND "MAILED TO PRISONER ON..." DATE STAMPS. WHEN THE RESPONDENTS WISH TO BLOCK BLOCK EXHAUSTION AT STEP 1, 2, OR 3; RESPONDENTS ARE ALSO IN CONTROL OF THE MAIL AND SIMPLY STAMP A DATE THAT MAKES A GRIEVANCE OR APPEAL UNTIMELY OR "LATE".

VI REASONS DID NOT APPLY TO DISTRICT COURT

25. PETITIONER DID NOT APPLY TO DISTRICT COURT BECAUSE GOVERNOR DESANTIS IS A NAMED PARTY HEREIN WITH A DEFACTO POLICY AGAINST FACE MASKS IN THIS ROUND OF COVID-19 INFECTIONS AFFECTING FLORIDA CITIZENS EVIDENCED BY HIS "NO MASK" REQUIREMENT POLICY IN FLORIDA SCHOOLS EXTENDED DEFACTO TO FLORIDA PRISONS.

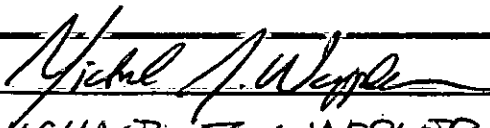
26. PETITIONER WAS NOT SENTENCED TO DEATH, BUT RATHER, FIVE YEARS INCARCERATION (NOW ALMOST COMPLETED) AND TO FIVE YEARS PROBATION WHICH HE ASKS THIS COURT TO DIRECT HIS RELEASE TO EARLY BECAUSE HIS RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT UNDER THE EIGHTH AMENDMENT, AND RIGHTS TO LIFE, TO DUE PROCESS OF LAW UNDER THE FOURTEENTH AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES ARE AND WILL BE VIOLATED WITHOUT INTERVENTION

BY THIS HONORABLE COURT.

WHEREFORE, PETITIONER RESPECTFULLY
PRAYS FOR ISSUANCE OF A WRIT TO PROTECT HIM
FROM IMMINENT DANGER, FOR EARLY RELEASE TO
PROBATION, AND FOR APPOINTMENT OF AN ATTORNEY
TO ASSIST IN THIS CASE AS HE HAS NO ACCESS TO A
LAW LIBRARY, TYPEWRITER OR COPY SERVICE DUE
TO COVID-19 QUARANTINE.

DATED: SEPT. 3, 2021.

RESPECTFULLY SUBMITTED,


MICHAEL Z. WARPLER
CITIZEN PETITIONER
TOMOKA CORR INST.
3950 TIGER BAY RD.
DAYTONA BEACH, FL

30124

1. The first part of the report is a general
description of the project. It includes the
purpose, objectives, and scope of the study.
2. The second part is a literature review.
It discusses the work of other researchers
in the field and identifies the gaps in
knowledge that the current study aims to
address.

3. The third part is the methodology.
It describes the research design, data
collection methods, and statistical analysis.

4. The fourth part is the results.
It presents the findings of the study in
a clear and concise manner. This section
includes tables, figures, and text.
5. The fifth part is the discussion.
It interprets the results and discusses their
implications for theory and practice.
6. The sixth part is the conclusion.
It summarizes the main findings and
provides recommendations for future research.

**Additional material
from this filing is
available in the
Clerk's Office.**