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No. Appeals 20-20381

USDC 4:20cv2028

IN THE
SUPREME COURT OF THE UNITED STATES

Michael Cardora Roberson — PETITIONER
(Your Name)

vs.

Joe Morgan ET. AL., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S Fifth Circuit Appeals Courts
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

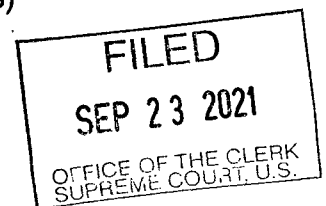
Michael Cardora Roberson
(Your Name)

Allred Unit 2101 FM 369 North
(Address)

Iowa Park, TX 76367
(City, State, Zip Code)

(Phone Number)

ORIGINAL



QUESTION(S) PRESENTED

Section 1983 Lawsuits

"Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory, or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any right, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress..."

"Under Color of State Law"

The "Under color of state law" requirement does not mean that the action has to have been legal under state law. This is very important, and was decided in a case called *Monroe v. Pape*, 365 U.S. 167 (1961).

Defendants Tiffany Bowens Nurse, Joe Morgan Senior Practice Manager, Angela Cooling Cluster Nurse Manager deliberate indifference to plaintiff's serious medical needs violated plaintiff rights, and constituted cruel and unusual punishment under the Eighth Amendment of the United States Constitution.

Defendant Bridge E. Payne Correctional officer failed-to-protect Plaintiff from the assault of the inmate, violated Plaintiff Michael Cordora Roberson rights and constituted cruel and unusual punishment, under the Eighth Amendment to the United States Constitution by the Negligent and Deliberate indifference.

Defendants) Both Thomas H. Butler, Timothy C. Knott threatening me with physical violence retaliating against Plaintiff Michael Cordora Roberson unlawfully. Violated Plaintiff Michael Cordora Roberson rights and constituted cruel and unusual punishment, under the Eighth Amendment to the United States Constitution.

Defendants) Both ~~Richard~~ Richard A. Gunnels, Debra R. Booker deliberate indifference violated Plaintiff rights and constituted cruel and unusual punishment under the Eighth Amendment to the United States Constitution. It was clearly established Both Wardens directly participated in the violation and learned of the violation of Plaintiff rights and failed to do anything to fix the situation, their illegal acts also they both failed to adequately train and supervise his or her subordinates.

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:

MICHAEL CARDORA ROBERSON, plaintiff
VS

JOE MORGAN Senior Practice Manager
ANGELA COOLING cluster Nurse Manager
TIFFANY BOWENS (RN) Nurse
BRIDGE E. PAYNE Correctional officer
THOMAS H. BUTLER Lieutenant
TIMOTHY C. KNOTT Sergeant
RICHARD A. GUNNELS Warden I.
DEBRA R. BOOKER Asst. Warden

RELATED CASES

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CASES

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STATUTES AND RULES

The imminent danger exception is supposed to be assessed based on the plausible allegations in the prisoner's Complaint. (Andrews v. Cervantes, 493 F.3d 1047, 1055 (9th Cir. 2007)).

See Gresham v. Meden, 938 F.3d 847, 850 (6th Cir. 2019)

Bontemps v. Sotak, 2015 WL 812360, *3 n.2 (E.D. Cal., Feb. 25, 2015), report and recommendation adopted, 2015 WL 1469870 (E.D. Cal., Mar. 30, 2015), order vacated, 699 Fed. Appx. 653 (9th Cir. 2017) (unpublished)).

Brown v. Edinger, 2018 WL 527421, *2-3 (M.D. Pa., Jan. 24, 2018)

Robinson - Bey v. Calloway, 2017 WL 6813678, *1 (C.D. I 11., Oct. 13, 2017)

Parham v. Johnson, 126 F.3d 454, 461 (3d Cir. 1997)

Monell v. Dept. of Social Services of the City of New York, 436 U.S. 659 (1978).

Smith v. Wade, 461 U.S. 30 (1983).

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 _____.

☐ 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: September 17, 2021, and a copy of the order denying rehearing appears at Appendix B.

☐ 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

"Equal Justice Under Law"

Prison Litigation Reform Act (PLRA). The PLRA, proposed as part of the Republicans' 1994 Contract with America, was signed into law by President Bill Clinton after passing through Congress, including the Senate Judiciary Committee — of which Joseph R. Biden was the ranking minority member — with nary a peep from Democrats.

Section 1983 Lawsuits

"Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory, or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress..."

"Under Color of State Law"

The "Under color of State law" requirement does not mean that the action has to have been legal under state law. This is very important, and was decided in a case called *Monroe v. Pape*, 365 U.S. 167 (1961). All you need to show is that the person you sue was working for the prison system or some other part of state or city government at the time of the acts you're suing about.

The decision in *Monroe v. Pape* that state government officials can be sued under Section 1983 was expanded in a case called *Monell v. New York City Dep't of Social Services*, 436 U.S. 658 (1978). In that case, the Supreme Court allowed for 1983 claims

against municipal and city governments.

Federal law also allows federal prisoners to bring these types of claims in federal court. 28 USC 1331 states that the federal district courts have the power to hear "all civil actions arising under the Constitution, laws, or treaties of the United States." The courts have taken this language to mean that federal courts can order federal prisons to stop acting in an unconstitutional way.

Injunctive Relief

18 U.S.C. § 3626 limits the "injunctive relief" (also called "prospective relief") that is available in prison cases.

Plaintiffs Michael Cardora Roberson in Civil Action No. Appeals 20-20381 USDC No. 4:20cv2028. Claims for injunctive relief are authorized by 28 U.S.C. Section 2283 & 2284 and Rule 65 of the Federal Rules of Civil Procedure.

The Supreme Court in *Lewis v. Casey*, 518 U.S. 343 (1996), stated that in order to get an injunction, a prisoner must show "actual or imminent injury." In this context, "injury" does not have to mean physical damage to your body.

"Three strikes provision" of the PLRA states:

In this Civil Action No. Appeals 20-20381 USDC No. 4:20cv2028 plaintiffs claims for "imminent danger of serious physical injury." To meet this requirement, the threatened injury does not to be so serious as to be an Eighth Amendment violation.

STATEMENT OF THE CASE

At all times relevant to this case, plaintiff Michael Cardora Roberson, was assaulted by Offender Branford in Dayroom E3 building and Bridget E. Payne Correctional officer Failed-to-protect me. See Supreme Court Case called Farmer v. Brennan, 511 U.S. 825 (1994), which found that "prison officials have a duty...to protect prisoners from violence at the hands of other prisoner" under the Eighth Amendment. I told her ahead of time that I was about to be endanger she knew that there was a substantial risk that I would be seriously harmed and failed to respond reasonably to protect me. Which is a "Deliberate Indifference" ~~See the Farmer v. Brennan case~~ I was negligented by Tiffany Bowens she is a UTMB Medical Nures She showed deliberate indifference to my serious medical needs. See Estelle, 429 U.S. at 104, Gutierrez v. Peters, 111 F.3d 1364 (7th Cir. 1997). Nurse knew about my serious medical need, and she failed to respond reasonably to it. On the day of 1-8-2018 at 6:30am Location: NF Dayroom E3 at Holliday Unit a inmate jumped on me in the middle of the Dayroom his last name is offender Branford # 2167913 he was punching me repeatedly in my ribs and kicking me in the ribs. I was then taking to Medical on the same day of 1-8-2018. I told the nurse which was Tiffany Bowens that I was in real bad pain and that I needed a X-ray. Lt. Thomas H. Bulter and also Sgt. Timothy C. Knott curse me out and told me stop bitching for they give me something to cry about. The nurse said I was not in pain and that there was not result of any injuries after the fight. So they refused me a x-ray on 1-8-2018. Also which they showed a deliberate indifference to requested of serious medical needs. The Sgt and also Lt. officer both told me to get up ain't nothing wrong with you. And had me to be lock up in Seg. for 10 days but in all I stayed 15 days due to the show. I was in real bad pain back there I could not get up to pick up my tray's to eat for day's. I just stayed in the bed I finally got the strenght to write a I-60

back to Medical for a x-ray for my side's. It took almost a month to get
When I finally got it my x-ray's for my side showed I had 2 Fracture
Ribs on the right side. I could of died of a puncture lungs and
bleed to death.

REASONS FOR GRANTING THE PETITION

Plaintiffs Claims for "Imminent danger of serious physical injury."
In the beginning of this civil Action No. USAP5 20-20381
USDC No. 4:20cv 2028 and has been subject to Agg. Sexual
Assault, which prompted a criminal investigation. The alleged
suspect is Sierra-Ibarra, Fabian. Subject: OIG Criminal
Case # 2100001664 / I-23428-12-20.

Plaintiffs Claims for "Injunctions relief" See in the Supreme
Courts in Lewis v. Casey, 518 U.S. 343 (1996), stated that in
order to get an injunction, a prisoner must show "actual
or imminent injury." In this context, "injury" does not
have to mean physical damage to your body.

I was denied my rights for claims above from the
United State Appeals Fifth Circuit and I have showed
proof for the "three strikes provision" does not apply when
a prisoner is in "imminent danger of serious physical
injury." With the attached document.

Plaintiffs shows proof of "Imminent danger of serious physical injury." For the "three strikes provision" of the PLRA states:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael Cardona Rolison

Date: October 26, 2021 Tuesday