

21-6666 ORIGINAL
No. 21-192

FILED
NOV 03 2021
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

Jabari V. Valmorgen — PETITIONER
(Your Name)

James Valmorgen vs. RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Colorado Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jabari V. Valmorgen
(Your Name)

70 EVANS BLVD.
(Address)

CANON CITY, CO, 81215
(City, State, Zip Code)

(Phone Number)

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Plaintiff ask the supreme Court did the district court abuse their discretion regarding issue A?
Or was the District Court Clearly Erroneous?
2. Plaintiff ask the Supreme Court was district Court / Court Of Appeals judgment incorrect and if so what other actions could have been taken regarding issue A?
3. Plaintiff ask the Supreme Court was District Court / Court of Appeals judgment in correct in which what grounds did the district court fail to consider?
4. Plaintiff request the Supreme Court take action in Plaintiffs case by remanding the case back to district Court?
5. The Plaintiff also request an Oral Argument take Place in the interest of Justice

TABLE OF CONTENTS

OPINIONS BELOW..... 1
List of parties . . . pg 2

JURISDICTION..... 3

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 4
Table of Authorities cited . . . pg 5

STATEMENT OF THE CASE 637

REASONS FOR GRANTING THE WRIT 8

CONCLUSION..... 9
*questions pg 10
proof of service . . . pg 11*

INDEX TO APPENDICES

APPENDIX A *15-21*

APPENDIX B *12-14*

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

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 order dismissing case; 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 is unpublished.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 order and Judgment; 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 is unpublished.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.

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

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 12/6/21.

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

8th Amendment . . . pg 7

1st Amendment . . . pg 7

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

<i>Ashcroft v. Iqbal</i> , 129 S.Ct. 1437, 1449 (2009) . . .	pg 6 d 7
<i>Bounds v. Smith</i> , 430 U.S. 825-26, 975 S.Ct. 249 (1977) . . .	pg 7
<i>David v. CTEC, Corp., Carr, Inc.</i> , 696 F.Appx 851, 855 (10th Cir 2017) . . .	pg 6 d 7
<i>Estelle v. Cramble</i> , 419 U.S. 326, 355-57, 108 S.Ct. 2413 (1976) . . .	pg 6 d 7
<i>Fuller v. Brennan</i> , 511 U.S. 825, 842, 114 S.Ct. 1410 (1996) . . .	pg 7
<i>Fuller v. Wittcox</i> , 2008 WL 7461348 (10th Cir Aug 2008) . . .	pg 6 d 7
<i>Helling v. McKinney</i> , 509 U.S. 25, 33, 133 S.Ct. 2475 (1993) . . .	pg 7
<i>Kikumura v. Osborne</i> , 467 F.3d 1269, 1291, 1296, 110th Cir 2006) . . .	pg 7
<i>Lewis v. Casey</i> , 518 U.S. 343, 355 116 S.Ct. 1491 (1997) . . .	pg 7
<i>Mead v. Croubss</i> , 841 F.2d 1512, 1513 (10th Cir 1988) . . .	pg 7
<i>Merritt v. Hawk</i> , 153 F.Supp. 2d 1216, 1227-28 (D.Colo. 2001) . . .	pg 6 d 7
<i>McBride v. Deer</i> , 240 F.3d 1187, 1290-51 (10th Cir 2001) . . .	pg 6 d 7
<i>Saulo v. Colorado</i> , 218 F.3d 1205, 1116 (10th Cir 2000) . . .	pg 6 d 7
<i>Sinkov v. Bruce</i> , 406 F.3d 1234, 1243 (10th Cir 2005) . . .	pg 7
<i>Talbot v. Salazar</i> , 516 F.3d 836, 839 (10th Cir 2008) . . .	pg 6 d 7
<i>U.S. v. Tyler</i> , 487 U.S. 326, 355-57, 102 S.Ct. 2413 (1986) . . .	pg 7

STATUTES AND RULES

<i>Rule 11 sanctions</i> . . .	pg 7
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OTHER

STATEMENT OF THE CASE

From 2019-2021 Defendant James Johnson failed to provide safety continuously placing Plaintiff around known enemies... Issue A Abuse of discretion By Lewis Babcock Creating Inadequate Inadequate Barriers To Prevent Plaintiff's Right To File Civil Actions Which He Commits Actual Injury Placing Plaintiff In Imminent Danger

Illust 3 strikes To Plaintiff By Babcock

In respect to previous appeals court judge Bacharach, Murphy, and Larsen indicated A Plaintiff has 3 strikes under the Prison Litigation reform Act PLRA, 28 U.S.C. subsection 1915 (A) None the less is not true, see the April 20, 2021 order indicates verbalism:

It appears that appellant has at least three "prior occasions" under PLRA:

- 1. Johnson v. Hampton, 20-cv-00183 (D. Colo., March 6, 2020) dismissing action as legally frivolous
2. Johnson v. Hampton, 20-cv-00183 (D. Colo., March 6, 2020) dismissing action as legally frivolous
3. Johnson v. Hampton, 20-cv-00183 (D. Colo., March 6, 2020) dismissing action as legally frivolous
4. Johnson v. Hampton, 20-cv-00183 (D. Colo., March 6, 2020) dismissing action as legally frivolous
5. Johnson v. Hampton, 20-cv-00183 (D. Colo., March 6, 2020) dismissing action as legally frivolous

Abuse of discretion under Rule 1 sanction/ Violating Actual Injury Requirement & Violating the 1st Amendment Retaliate For

Abuse of discretion under Rule 1 sanction/ Violating Actual Injury Requirement & Violating the 1st Amendment Retaliate For

On 3/1/2020, in case 19-cv-03730-LTB Judge Lewis Babcock, abused his discretion placing unreasonable sanctions upon Plaintiff in which were to file a Notarized document indicating the lawsuit is not in interest for any improper purpose... Plaintiff James Johnson has told Babcock on numerous occasions that the Plaintiff is denied of postage by DOC's... Plaintiff notified Babcock on numerous occasions and cases of such that also notified Babcock in Plaintiff's notice of appeal...

To know what the complaint is actually detailed about in order to show cause.

The same actions took place in cases 21-cv-0344, 21-cv-0226, 21-cv-03320, 21-cv-03320, 21-cv-03243, 20-cv-03246. Plaintiff also failed to prosecute other cases because of the fact names, names and Gonzalez the fact stealing the inmate filing of the complaint as the notices of Appeal were filed before 2/25/12, such as cases 20-cv-03253, 20-cv-03252, 21-cv-00114, 21-cv-00051, 21-cv-03119, 21-cv-00246, 20-cv-00128, 21-cv-00089, 21-cv-03349, 21-cv-03057, 21-cv-00113, 21-cv-001870, 21-cv-00751, cases 20-cv-03261, 21-cv-03268, 20-cv-03263 are all additional comments at Babcock retaliation causing Plaintiff to be frustrated and impeded, from access to the courts abusing his discretion.

see Bounds v. Smith, 430 U.S. 825-26, 975 S.Ct. 249 (1977) (The Lewis v. Casey case which acknowledged that the bounds right was limited to challenges of convictions, sentences - and prison conditions, but cautioned that all types of civil actions states may not erect barriers that impede the right of access of the incarcerated person.

see Swannick v. Bruce, 406 F.3d 1234 (10th Cir 2005) (The principle that an unimpeded transmission of inmate legal mail is the most obvious formal manifestation of right to access to the courts has been established for some time now).

see Lewis v. Casey, 518 U.S. 343, 355 (2001) (Lewis said the tools (Bounds v. Smith) requires to be provided are things that inmates need in order to challenge the conditions of their confinement).

see Lewis v. Casey, 518 U.S. 343, 355 (2001) (Petitioner, when depriving access to the courts depriving access to civil actions and conditions of confinement violate the 1st Amendment).

see Bounds v. Smith, 430 U.S. 817, 825-26, 975 S.Ct. 249 (1977) (If the right of court access include with filing of a complaint or putting the state, response would not be part of the right, as one court pointed out. The inmate ability to post filing needs, such as research tools necessary to efficiently rebut authorities cited by an adversary in responsive pleadings should be met.

The actual inquiry required Lewis v. Casey said it is not enough for prisoners to show that prison officials do not provide adequate law libraries, legal assistance or legal supplies or that they impose unreasonable restrictions on prisoners who try to use them. Prisoners must show that the inadequacies or restrictions caused them actual injury that a non-frivolous legal claim had been frustrated and impeded.

Lewis v. Casey gave 2 examples of frustrated and impeded such as:

The inmate might show for example that a complaint he prepared was dismissed for failure to satisfy some technical requirement that he had suffered arguably actionable harm that he wished to bring before the courts, but was so frustrated by the inadequacies because of the deficiencies in the prison legal assistance facilities caused him to do so, or that he suffered arguably actionable harm that he wished to bring before the court.

Some courts seem to assume that prisoners cases must be dismissed preventing them from being filed to be frustrated and impeded others assume that obstacles that impair the ability to present one's case effectively are actionable.

The Supreme Court said in a later decision that a case, that were inadequately tried or settled, or where a particular kind of relief could not be sought as a result of officials actions could support a claim of denial of court access in addition to those that were dismissed or never filed.

see U.S. v. Tuller, 487 U.S. 326, 355-57, 108 S.Ct. 2413 (1988) (A abuse of discretion is defined as a firm conviction that the trial court commits a clear error of judgment).

Babcock denied access to the courts, along with law librarians Reginald Johnson and Carolyn Johnson refusing to provide adequate legal assistance etc., along with Linn librarians James and Taylor refuse to provide for Plaintiff's filing, to which names, names and Gonzalez state reports to cause Plaintiff to fail to prosecute, as Plaintiff is suffering from actual injury for years, while 2011, in which Plaintiff could not retrieve relief from the court due to Babcock and other actions of frustration and impediment, which prove abuse of discretion of this complaint violating the following case law.

see Estelle v. Gumble, 442 U.S. 326, 355-57, 108 S.Ct. 2413 (1976) (intentionally interfering with treatment once prescribed violate the 8th Amendment).

see Estelle v. Gumble, 442 U.S. 326, 355-57, 108 S.Ct. 2413 (1976) (Chief Purpose of Cruel And Unusual Punishment Clause is to prevent unnecessary winter infliction of pain).

see Estelle v. Wiley, 426 U.S. 461, 471 (1975) (Unpublished denial of wheelchair meaning that Plaintiff must crawl and could not walk to the shower, or left himself to be could result in a number of serious physical injuries).

see Davis v. GEO, 711 F.3d 1187, 1190-91 (10th Cir 2013) (Affirming that defendants have displayed deliberate indifference to prisoners serious medical needs and denied him adequate medical treatment are sufficient to violate 8th Amendment and serious due 9th Amendment).

see Ward v. County of Los Angeles, 512 F.3d 1317, 1318 (10th Cir 2007) (The failure of the state commissioner to carry out statutory duties would be deliberate indifference).

see Kumara v. Otago, 407 F.3d 1166, 1171, 1196 (10th Cir 2006) (holding delay must be shown to have caused substantial harm including pain suffered while awaiting treatment two to three and a half hours delay in treating painful condition violate a claim).

see Alford v. Blank, 153 F. Supp. 2d 1210, 1227-28 (D. Colo, 2001) Plaintiff alleged that he informed various supervisors officials about his problem sufficiently plead their personal involvement).

see Alford v. Blank, 153 F. Supp. 2d 1210, 1227-28 (D. Colo, 2001) (showing that a defendant knows of a serious risk of pain is a reasonable action to correct it does show deliberate indifference).

see Alford v. Blank, 153 F. Supp. 2d 1210, 1227-28 (D. Colo, 2001) (showing that a defendant knows of a serious risk of pain is a reasonable action to correct it does show deliberate indifference).

see Sealock v. Colorado, 218 F.3d 1255, 1262 (10th Cir 2000) (a medical need is serious if it is mandated by a Dr. or diagnosis that even a lay person can see the necessity of treatment).

see Helling v. McKinney, 509 U.S. 25, 33, 123 S.Ct. 2975 (1993) (a remedy for unsafe conditions need not wait a tragic event - examples cited by the courts included exposure to risk of infectious disease, unsafe drinking water, and assault).

see Furman v. Brennan, 511 U.S. 825, 842, 114 S.Ct. 1970 (1994) (Whether prison officials had the requisite knowledge of a substantial risk is a question of fact subject to demonstration in the usual ways including inference from circumstantial evidence of documents, reports by officers and the events that have occurred).

see Furman v. Brennan, 511 U.S. 825, 842, 114 S.Ct. 1970 (1994) (Prison officials knowledge of a risk of assault may be inferred from the fact the risk was obvious).

such abuse violate the actual injury requirement as the plaintiff violated no part of the sanction order, were as initially he was retaliated against by Babcock for Plaintiff filing adequate lawsuits in which Babcock actions were intentional violating the 8th Amendment.

see Rule 11 sanction (4) Notice of Sanction. A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated. The sanction may include non-monetary orders or directives, payment to the United States or its courts, or if imposed on motion and warranted for effective deterrence, resulting from the violation.

Babcock violated Rule 11 section 4 due to the fact he made sanctions because of Plaintiff's adequate filings, not because of repetition. His attempts were to starve Plaintiff's civil actions, in which he set into motion events to attempt to create a barrier to Plaintiff's filing, to which names, names and Gonzalez state reports to cause Plaintiff to fail to prosecute, as Plaintiff is suffering from actual injury for years, while 2011, in which Plaintiff could not retrieve relief from the court due to Babcock and other actions of frustration and impediment, which prove abuse of discretion of this complaint violating the following case law.

8th Amendment of U.S. Constitution states:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

1st Amendment of U.S. Constitution states:

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 namely lawsuits violating Plaintiff's 1st Amendment right.

Babcock tried to stop Plaintiff from petitioning the government for redress of grievances namely lawsuits violating Plaintiff's 1st Amendment rights.

Plaintiff's 1st Amendment and case Tafazzal Salazar 510 F.3d 912, 916 (10th Cir 2008) (inhumane conditions of confinement including denial of adequate food, clothing, shelter recreation, medical care and reasonable safety from bodily harms an 8th Amendment violation, in which Babcock violated).

REASONS FOR GRANTING THE PETITION

Judge Babcock abused his discretion due to the fact Plaintiff's life is in imminent danger housed around Colorado inmates who state they will kill the Plaintiff due to staff whom defamed Plaintiff's character lying calling the Plaintiff snitches and child molesters playing Plaintiff's life in imminent danger as Plaintiff is deprived of access to the courts by the bias judges and others who have erected barriers just as Judge Babcock frustrate and impede upon Plaintiff's access to the courts where Plaintiff's forced to stay in his cell unable to come out due to risk of assault especially due to Plaintiff's inability to work regarding his life long handicap disability as Plaintiff have notified the defendant of the circumstances on numerous occasions, yet defendant James Johnson fails to act.

None the less due to the severe oppressive acts to deny the Plaintiff of his 1st Amendment right to petition the government for redress of grievances regarding Cruel And Unusual Punishment of the 8th Amendment the United States Supreme Court Considered Governing Decision on Certiorari when one is sanctioned to such a departure by a lower court, as to call for an exercise of this court's Supervisory power.

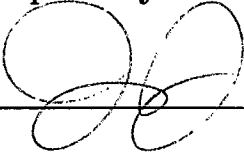
More so the district Court made numerous errors continuously erecting barriers to stop Plaintiff from litigating while physically injured as Plaintiff is and was in imminent danger further causing actual injury.

CONCLUSION

For the reasons stated previously Plaintiff request the U.S Supreme court to remand this case back to District Court in the interest of justice.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 11/3/21