21-6805

No. _____

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Louis Roy Chapman, pro se — PETITIONER
(Your Name)

vs.

Phyllis Smith et. al., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court Of Appeals For The Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Louis Roy Chapman
(Your Name)

1607 Planters Road
(Address)

Lawrenceville, Virginia 23868
(City, State, Zip Code)

434-848-9349
(Phone Number)

QUESTIONS PRESENTED

WHETHER THE HONORABLE JOHN A GIBNEY, JR., UNITED STATES DISTRICT COURT JUDGE, IN THIS CIVIL RIGHTS ACTION, ERRORED WHEN HE DID NOT RECUSE HIMSELF, PURSUANT TO 42 USCA SECTIONS 144 AND 455 AS HE HAD DONE BEFORE.

(Based on Assignment of Error Number One)

WHETHER THE DISTRICT COURT MADE AN ERROR WHEN IT DENIED CHAPMAN A JURY TRIAL.

(Based on Assignment of Error Number Two)

WHETHER THE DISTRICT COURT MADE AN ERROR WHEN IT PREMATURELY DISMISSED ALL CHAPMAN'S CLAIMS BEFORE INTERROGATORIES AND DISCOVERY.

(Based on Assignment of Error Number Three)

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] 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:

See Attachment

RELATED CASES

See Attachment

LIST OF PARTIES

Phyllis Smith, Education Director (LVCC)
Dinah Kreitz, Job Coordinator (LVCC)
Shaniqua Moore, Law Library/Library Supervisor (LVCC)
(First name unknown) T. Walker, Recreation Supervisor (LVCC)
Dave Robinson, Chief Operations Officer (VDOC)
Marilyn Shaw, Chief Of Housing and Programs (LVCC)
Christy Jones, Facility Ombudsman (LVCC)
Renee Woodson, Regional Ombudsman (VDOC)
(First name unknown) K. Cosby, Regional Ombudsman (VDOC)
Laura Torgenson, Safety Officer (LVCC)
Tamika Sommerville, Officer (LVCC)
Talia Neville, Officer (LVCC)
Kiesha Thomas, Officer (LVCC)
Global Experts and Outsourcing Inc. (GEO) (LVCC)
Commonwealth of Virginia

RELATED CASES/TABLE OF AUTHORITIES CITED

Federal Rules of Discovery

Statutes and Rules

United States Coinstitution Amendments

Other

TABLE OF CONTENTS

INDEX OF APPENDICES

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,
[X] is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is

[X] reported at No. 3:18 CV 547, 2021 WL 816910, at *1-8 (E.D. Va. 3-3-2021); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[ ] For cases from **state courts**: NA

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

[X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was September 20, 2021.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 3, 2021, and a copy of the order denying rehearing appears at Appendix C.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including NA (date) on NA (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts**: NA

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

First Amendment: "A prisoner is entitled to judicial relief for a violation of his First Amendment Rights aside from any physical, mental or emotional injury he may have sustained." Shaheed-Mohammad v DiPaulo, 393 F.Supp2d 80, 107 (D. Mass 2005) accord Rowe v Shake, 196 F3d 778, 781-82 (7th Cir. 1999). Right to Petition the Government For a Redress of Grievances.

Seventh Amendment: In suites in common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be other wise reexamined in any court of the United States, than according to the rules of the common law. "Valuable as Summary Judgment is for striking through sham claims and defenses, which stand in way of direct approach to truth of case, it was not intended to, it cannot deprive litigant of, or at all encroach upon, his right to jury trial..."Whitaker v Coleman, 115 F2d 305 (5th Cir 1940)

Eighth Amendment:"Understood to protect not only the individual but the standards of society. The 8th Amendment can be violated even when "NO" pain is inflicted." Armstrong v Drahos, No OIC 2697, 2002 US Dist. LEXIS 1838 at *6 (N.D Ill.Feb. 6, 2002)

Fourteenth Amendment: The Equal Protection Clause and Prohibition of Discrimination. Johnson v California, 543 US 499, 512 (2005) "Finding a prisoner's 14th Amendment Right to Equal Protection are violated if the prison discriminates on the basis of Race."

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Federal Rules Of Civil Procedure (Fed. R. Civ. P.) 26, Chapman has a legal right to anything which is in any way relevant to the subject matter.

Fed. R. Civ. P.33, Chapman has a legal right to interrogatories, written questions which must be answered in writing under oath.

Fed. R. Civ. P. 34, Chapman has a legal right to Production of Documents relative to the subject matter.

Fed. R. Civ. P. 37, Chapman has legal right to compell discovery of interrogatories and Production of Documents relevant to the subject matter.

Fed. R. Civ. P. 56, contemplates injury in advance of trial as to whether there is genuine issue and may be invoked for purpose of striking sham claims and defenses which obstruct prompt determination of truth, but it cannot be so applied as to deprive litigant of his right to try any genuine issue by jury or otherwise"

Parmelee v Chicago Eye Shield Co. 157 F2d 582 (8th Cir. 1946)

STATEMENT OF THE CASE

May 2, 2019 Particularized Complaint, Filed with fourteen (14) defendants and fourteen (14) genuine issues of material facts indispute concerning Racial Discrimination.

September 21, 2020, The District Court in Memorandum Opinion and Order Dismissed: Commonwealth of Virginia, all claims seeking relief under Public Accommodations Act 42USC Section 2000a et. seq. claims 4, 9, 10, and 11, The 8th Amendment and due process aspect of claim 8, against defendants Jones, Woodson and Cosby. The equal protection aspect of claim 8. Granting defendant's Motion For Summary Judgment.

September 24, 2020, The District Court in Memorandum Opinion and Order Dismissed claims 1, 2, 3, 5, 6, 7, 8. Granting Defendant's Motion For Summary Judgment.

September 28, 2020, Chapman filed Motion to Amend or Alter the Judgment pursent to Fed. R. Civ. P. 59 (e).

October 16, 2020 Chapman filed Motion For Trial by Jury pursuant to United States Constitution: Amendment Seven.

March 3, 2021 The District Court in Final Order, Motion For Trial By Jury Denied as Moot. This action is Dismissed.

March 31, 2021, Notice of Appeal filed.

April 20, 2021, Appeal Filed

September 20, 2021, Affirmed

October 4, 2021, Petition for Pannel Rehearing Filed

October 4, 2021, Temporary Stay of Mandate

November 3, 2021, Mandate

REASONS FOR GRANTING THE PETITION

Assignment Of Error Number One

The Honorable John A. Gibney Jr., United States District Court Judge, In This Civil Rights Action Errored When He Did Not Recuse Himself Pursuant to 28 USCA Sections 144 And 455 As He Had Done Before

John A. Gibney Jr., Judge, "From 2003 until his conformation as a Federal Judge, has served as a **Partner** and a **Civil Litigator** in the Richmond Law firm Thompson McMullan."

(Source Wikipedia Enclosed)

Thompson McMullan P.C. 100 Shockoe Slip, Richmond, Virginia 23219; is the law firm representing the defendants in this Civil Rights Action. There was no disclosure to Chapman from Judge Gibney that he was a **Partner**.

28 USCA Section 144, the statute provides in relevant part, "Whenever a party to a proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either againsthim or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceedings. The affidavit shall state the facts and reasons for belief that bias or prejudice exists...A party may file only one such affidavit in any case."

November 29, 2018, Chapman filed such affidavit with Motion For Recusal.

28 USCA Section 455, The statute provides in relevant part, "(a) Any Justice, judge or magistrate judge of the Untied States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. (b) He shall also disqualify himself in the following circumstances: where he has a personal bias or prejudice

concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding."

Enclosed are samples of cases where John A. Gibney Jr, was Lead Attorney, Thompson McMullan.

1. Amr v Moore, 2010 U.S. Dist. LEXIS 79972 (E.D. Va.June 21, 2010)
2. Carr v Hazelwood, 2007 U.S. Dist. LEXIS 91962 (W.D. Va.Dec 14, 2007)
3. King v McMillan, 2008 U.S. Dist. LEXIS 28642 (W.D. Va. April 18, 2008)
4. Powell v Hewett, 2010 U.S. Dist. LEXIS 43218 (E.D. Va. May 3, 2010)
5. Wernet v Green,2001 U.S. App. LEXIS 5908 (4th Cir. Va. Mar. 22, 2011)

The reason the above was available but, not presented is:

1. LVCC Law Library has been closed since March 2020 because of COVID-19. Chapman had no way to research nearly two years.
2. Judge Gibney, Denied Chapman's Motion For Preliminary Injunction. March 31, 2020. (Enclosed) Chapman asked for relief to research type, save and print using the law library computers the only source of legal research.

December 6, 2021, the law library reopened. Allowing Chapman to research and discover this prima facia evidence of bias and prejudice. Placing Judge Gibney's impartiality in question. There is more than an appearance of bias and prejudice.

September 21, 24, 2020, Memorandum Opinion, for thirty-eight (38) pages Judge Gibney, "critizes, disparages, belittles and denegrates" Chapman, a White Male, while being an "Active Advocate" defending the Racism of Black Defendants.

September 24, 2020, page 2; Foot Note 5: Judge Gibney; "In his (Chapman's) "handwritten" forty-two page Particularized Complaint, which can be most generously be described as Rambling, Disjointed

and at times incoherent." Page 5 Judge Gibney; "In response Chapman submits inter alia several of his own affidavits which are mostly "handwritten" and at times difficult to decipher..."

Judge Gibney complains about Chapman's documents being "handwritten" and lengthy". He had the opportunity to allow Chapman to utalize the law library computers to research, type, save and print but DENIED Chapman's Preliminary Injunction. Chapman has had NO access to the Law Library since March 2020.

March 3, 2021, Memorandum Opinion, for eighteen (18) pages Judge Gibney continues: Page 1 : "The procedural history of this case has been somewhat cumbersome, due in no small part to the inartful nature of Chapman's pleadings." Foot Note 2: Judge Gibney, "In his (Chapman's) "hand-written" forty-two (42) page Particularized Complaint..." Page 14: Judge Gibney, "Chapman is upset because LCC has chosen to observe an event which Chapman cannot relate to and has opted not to institute an equivalent event, to which Chapman can relate."

Judge Gibndy is NOT a mind reader. Having NO way of knowing how Chapman feels.

April 1, 2021, Judge Gibney, ties this Civil Rights Action to Chapman v Jordan, Civil Action No. 3:20cv292. For eighteen (18) pages he continues to "critize, disparage, belittle and denegrate" Chapman.

Page 1 of 3:20cv292, Judge Gibney; "Accompanying his Particularized Complaint Chapman filed "yet another" Motion For Preliminary Injunction and a Motion For Recusal."

Page 5 of 3:20cv292, Judge Gibney; "Chapman's allegations are rambling and somewhat difficult to discern."

Page 10 of 3:20cv292, Judge Gibney;"...it is evident that this claim was brought by Chapman with an intent to harass the librarian because

the library is not managed to his liking."

Page 15 Of 3:20cv292, Judge Gibney; "Pursuant to these governing principles, the Court finds that Chapman fails to bring this action in good faith to vindicate his legal rights, but instead brings it maliciously to harass the law librarians and educators whom he interacts with frequently because he is a particularly litigious inmate."

Page 16 of 3:20cv292 Judge Gibney; "Moreover, the manner in which Chapman has pled his claims resounds with indignation"...The Particularized Complaint sounds more in an intent to harass Defendants for not opening the library..."

Judge Gibney does not address the Merits of this case instead he "critizes, disparages, belittles, denegrates" Chapman a pro se litigant unschooled in law.

Page 16: Foot Note 13: of 3:20cv292, Judge Gibney, "Chapman has filed at least four civil rights actions in this court over the course of several years, all of which exude a sense of ir and wrath towards the staff at LCC. At least one has been dismissed for failure to state a claim because his allegations were untimely."

Chapman v Bullock, No. 3:14cv463, 2016 WL543165, at *6 (E.D. Va. Feb.9, 2016)

Judge Gibney is in such a frenzied state. He makes an egregious error.. Chapman v Bullock, is not about the staff of Lawrenceville Correctional Center, but it is about the staff at Powhatan Correctional Center. Concerning Death Threats, Writing False Charges, Increasing Security Level, Falsely Placed in Segregation and Stopping Good Time Credits. June 10, 2013, Gary Bass, Regional Administrator "EXPUNGED" the charge from Chapman's record. Restoring his Good Time Credits; lowering his security level.

February 9, 2016, Judge Gibney Dismissed with Prejudice.

Chapman v Jordan et. al., 3:20cv292, concerns the staff at LVCC treating Chapman different than other inmates in similar situations and Jordan giving Chapman wrong legal advice.

April 1, 2021, Judge Gibney Dismissed all claims and granted sua sponte Dismissal. Defendants never responded to interrogatories or discovery. Defendants did not file Rule 12 (b)(6) Motion To Dismiss or Motion For Summary Judgment. Judge Gibney Dismissed the action as failure to state a claim, frivolous and malicious.

Chapman v Smith, No. 3:18cv597, 2021, WL816910, at *5-8 (E.D.Va. Mar. 3, 2021). This Civil Rights Action, concerning staff at LVCC, Racial Discrimination.

September 21, 24, 2020, Judge Gibney Dismissed all claims and granted Defendant's Summary Judgment. Stating "Chapman's claims were legally and factually frivolous."

Judge Gibney goes from Dismissed in Chapman v Bullock, supra

To: Dismissed as legally and factually frivolous in This Civil Rights Action.

To: Dismissed as frivolous and malicious in Chapman v Jordan, supra

Ever increasing Bias and Prejudice. Establishing a pattern, questioning Judge Gibney's impartiality.

The Following "NO" Judge Gibney

Chapman v Willis et. al.,, Civil Action No. 7:12cv389 (W.D. Va) Concerning staff at Augusta Correctional Center. Prison Rape by staff member. The Honorable Michael Urbanski, United States District Court Judge for the Western District of Virginia, Harrisonburg-Division, presided over trial by jury. The issue was resolved.

Chapman v Bacon et. al., 2016 U.S. Dist. LEXIS 35173 (E.D. Va March 17, 2016) Concerning staff of Lawrenceville Correctional Center, Failure to protect. Judge Gibney **"RECUSED"** himself because "He has a conflict in the matter". The Honorable M. Hannah Lauck, United States District Court Judge and the Honorable David Novak, United States Magistrate Judge for the Eastern District of Virginia Richmond-Division presided. This matter went to settlement and the issue was resolved.
September 21, 2020, Memorandum Opinion Pages 8-10.

Judge Gibney uses incorrect case law, Wilson v Seiter, 501 US 294, 298 (1991) and others all dealing with Medical issues NOT related to Chapman. The relevant cases are Armstrong v Drahos, No. OIC 2697 2002, U.S.Dist. LEXIS 1838 at *6 (N.D. Ill Feb 6, 2002) "The 8th Amendment is understood to protect not only the individual but the standards of society. The 8th Amendment can be violated even where NO pain is inflicted." "Worse, there is a persistant tendency in some courts; simply to declare for example, A prisoner may not maintain an action for monitary, damages against state officials based on an alleged constitutional violations without some showing of physical injury." Charles v Nance, 186 F.App'x 494, 495 (5th Cir. 2006) This is not about a Medical issue but Racial Discrimination being treated different in a similar situation.
September 24, 2020, Memorandum Order pg. 10, Judge Gibney goes haphazerd from Equal Protection Clause of the 14th Amendment to the Establishment Clause of the 1st Amendment.

Chapman did not make a 1st Amendment claim here. Chapman's claims are an 8th and 14th Amendment violations anddoes not need to plead personal injury. Even if Chapman had plead a 1st Amendment injury

he would be entitled to relief pursuant to Shaheed-Mohammand v DiPaulo, 393 F.Supp.2d 80, 107 (D. Mass. 2005) "accord" Rowe v Shake, 196 F3d 778, 781-82 (7th Cir. 1999) "a prisoner is entitled to judicial relief for a violation of his 1st Amendment rights aside from any physical, mental or emotional injury he may have sustained."

Judge Gibney's use of Moore v Bryant, 853 F3d 245, 247 (5th Cir 2017) is not relevant to Chapman, as Moore plead ,"he is unavoidably exposed to the state flag and that the flag's message is painful, threatening and offensive to him. Makes him feel[2017 US App LEXIS 4] like a second class citizen and "causes him both physical and emotional injuries."

Chapman did not plead physical and emotional injuries. Chapman plead. "This is"offensive, humiliating and degrading" a violation of the 8th Amendment understood to protect the individual and the standards of society and the 14th Amendment Equal Protection Clause and Prohibition of Discrimination." Armstrong v Drahos, supra., The 8th Amendment is understood to protect not only the individual but the standards of society. The 8th Amendment can be violated even when NO pain is inflicted." Johnson v California, 543 US 499, 512 (2005) "Finding that a prisoner's 14th Amendment rights to Equal Protection are violated if the prison discriminates on the basis of race. "

There is a huge difference between Moore and Chapman. In Moore there is only one Mississippi state flag. Which in part depicts the Confederate Battle Flag; with no options. Until Mississippi had the flag taken down because it was so offensive. New flag designs are being submitted during this Civil Rights Action.

In this Civil Rights Action, unlike Moore, there are options, for Black Authors and Spanish Language Plaques. They are Fiction,

non-fiction and others.

Judge Gibney ADMITTED, "The overwhelming majority of the Library collection is composed of American and European publications predominatly authored by caucasian writers." (Mem. Op. Sept. 24, 2020 p10) There are NO special plaques for any other race in the world. They are found in fiction, non-fiction and others. There is nothing special about Black Authors. They too must be categorized fiction. non-fiction and others.

Judge Gibney agrees with Defendants having made Blacks a Special Section setting Black Authors apart from every other race in the world.

This is offensive, humiliating and degrading to Chapman.

Judge Gibney, "...he (Chapman) seems to assert that Spanish-Speaking inmates should simply "Assimilate." (Mem. Op.Sept.24, 2020 p10) Judge Gibney should read "The Decline and Fall of the Roman Empire" by Edward Gibbin. If he wants to see a parallel. Chapman does not seem to assert Spanish-Speaking inmates should "Assimilate". Chapman infatically states "Assimilate"

This is ONE nation. The United States Of America. Not two or three of four as Judge Gibney believes it to be.

Judge Gibney, "Chapman has likewise failed to show that he had been treated any differently than anyone else who used the library." (Mem.Op.Sept. 24, 2020 p12) An indisputably meritless legal theory by Judge Gibney. Every Black and Hispanic in the library is treated different. Judge Gibney again applied the wrong case law. Moore supra Like Mississippi, LVCC must take down the "Black Authors" and "Spanish Language" plaques.

Judge Gibney hand-in-hand with Defendants.

September 24, 2020 p12 Foot Note 12, "Since Chapman filed his Particularized Complaint, Virginia has eliminated Lee-Jackson Day as a holiday." Here again Judge Gibney goes to Moore supra., the wrong case law. LVCC did not honor Lee-Jackson Day when it was in force. Both White Confederate Generals from Virginia.

The Civil War was fought because the North wanted control of shipping agricultural products from the South. The North blocked Sourthern ports. Sinking Southern ships carrying agricultural products to the Bahamas, a European trade route.

It was not about keep or free slaves. It was about money. The "Emancipation Proclamation" was over three (3) years into the war. Lincoln needed more men. He found them in Blacks. The Blacks want to change history and Judge Gibney is complicent. LVCC honored Martin Luther King Jr. Not a Virginian, but closed both days. The Library and Law Library calander did not list both. This is offensive, humiliating and degrading to Chapman.

September 24, 2020 p14, Judge Gibney ADMITS Defendants conceed they celebrate "Black History Month" There is nothing special about Black History.

Chapman's complaint is. Black History is the only History LVCC recognizes including a special program. March is Irish History Month. November is Native American History Month. No program for either.

Judge Gibney,"Chapman has again failed to state any pertinant authorities to support his argument or his position." (Mem.Op. Sept. 24,2020 p15) Defendants have only a Black History program. No other race in the world. This violates the 8th Amendment, understood

to protect the individual and the standards of society." Armstrong v Drahos, supra, and 14th Amendment Equal Protection Clause and Prohibition of Discrimination. Further supporting Chapman is; Johnson v California supra."Finding that a prisoner's 14th Amendment rights to Equal Protection are violated if the prison discriminates on the basis of race." Klinger v Dept. of Corr., 31 F3d 727, 31 (8th Cir.1994) "noting the Equal Protection Clause requires the state to treat people alike in similar situation." Judge Gibney again wrongly goes to Moore supra. Mississippi took down the flag because it was so offensive. Like Mississippi, LVCC must honor the History of all races or none. Every Black at LVCC is treated different than Chapman, Irish.

September 24, 2020 Memorandum Opinion p16, Chapman has been at LVCC since September 20, 2013. The "Ballfield" has been CLOSED the entire time except for a handfull of days. Judge Gibney has never been to LVCC but states the following as an expert. "The recreational spaces added a large perimeter area that is difficult to monitor. Consequently the "Ballfield" created opportunities for the infiltration of contraband like cellphones, drugs and other prohibited items. Individuals would throw contraband over the fences. LVCC first responded to this threat by erecting anuisance fence. However, this proved to be ineffective. LVCC, with the consent of the VDOC, decided to close the "Ballfield" indefinitely." This is flawed logic. In no way has closing the "Ballfield" stopped the flow of cell phones and drugs. Inmates call LVCC "Candy Land". Chapman also emphasizes; since March 2020, there has been no visitation. Because of COVID-19. Inmates; their families cannot be blamed.

72 POD where Chapman lives, inmates Dave Doyle cell 116 and Dave

(last name unknown) cell 108 overdosed and died.March 2021 three (3) inmates overdosed, died. There has been several more since then. Five (5) officers fired. Three (3) arrested; drugs. This list goes on. Defendants have this information, which canbe obtained through interrogatories and discovery. But Judge Gibney dismissed this Civil Rights Action prematurely. Chapman does not dispute cellphones and drugs allegedly come through the "Ballfield". But its not the only way. With visitation closed since March 2020, officers being arrested and fired for bringing in drugs and cellphone; using Judge Gibney's logic for closing the "Ballfield"; Lawerenceville Correctional Center must be completely CLOSED. Supreme Court Justice Robert Jackson in Knauff v Shaughnessy, 338 US 537 (1949) "Security is like liberty in that many are the crimes committed in its name."
Closing the "Ballfield" under the guise of security has the consequence of Racial Discrimination.

Recreation yard A and B and the gym have no place for Chapman and White men to participate in softball. They do have five (5) Basketball courts for Blacks.

September 24, 2020, p18, Defendants ADMIT they have a contract with Correctional Cable. TV ONE is a channel that includes the George Jefferson Show. Aired in 72 POD used by all men, spewing "Honkey and Cracker". To Chapman these words are "offensive, humiliating and degrading" as the N-word is to Blacks. "The use of the N-word is the kind of insult that can createan abusive working envionrment in an instant and is degrading and humiliating in the extreme." Pryor v United Airlines Inc., 791 F3d 488 (April 8, 2015)

Judge Gibney defends the Racist, venomous language for the Defendants.

Judge Gibney stated "And he (Chapman) never suggests an all White alternative TV Channel, which he seems to believe should be offered in place of or a supplement to TV ONE...Chapman further suggests that maybe Chapman does not have money to buy TV or wants to be in the POD "common area" for all men..." Again Judge Gibney, makes excuses for Defendants in his twisted logic and indisputable meritless legal theories: Not in the Record.

September 21, 2020 p12; September 24, 2020 p20

Judge Gibney refused to address the following questions:

1.) If the First Amendment gives Chapman the right to petition the government for a redress of grievances and the Prison Litigation Reform Act (PLRA) requires exhaustion of all his Administrative Remedies before he can file a Section 1983, but the Fourth Circuit and other circuits say, "There is no constitutional right to participate in a grievanceproceeding." Adams v Rice, 40 F3d 72, 75 (4th Cir. 1994); Then what vehicle does Chapman use to petition the government if not the Operating Procedure 866.1 Offender Grievance Procedure?

2.) If Prison officials failure to comply with grievance procedure is not actionable under Section 1983. Then what is their failure to comply actionable under and what relief is available? Chandler v Cordova, No. 1:09cv483 (LMB/TCB) 2009 WL1491421, at *3n3 (E.D.Va May 26, 2019) "Moreover a prison officials failure to comply with grievance procedure is not actionable under Section 1983."

3.) Then why go through the farce, in Virginia, of filing any documents related to Operating Procedure 866.1? Chapman cannot exhaust something he has no right to. Judge Gibney left these questions unresolved in conflict.

September 21, 2020 p13; Judge Gibney, Advocates for Defendants. He believes Chapman's claim concerning "unsanitary showers" an 8th Amendment violation is "Trival and Frivolous". This is in conflict with Ramos v Lamm, 639F3d559, 566 (10th Cir 1980) "holding that a state must provide prisoners with reasonable adequate food, clothing,shelter sanitation, medical care and personal safety, so as to avoid the imposition of cruel and unusual punishment.:Nichalson v Chactow County, 498 F.Supp, 295, 308-11 (S.D. Ala. 1980)"finding that 8th Amendment rights were violated through among things "unsanitary conditions". The showers had (1) Black mold; (2) Mildew; (3) Paint coming off the floors and walls; (4) concrete coming off the floors; (5) scum and; (6) bugs. "ADMITTED" to by Captain May and Sergeant Garner.

September 21, 2020 p13, Part One: Judge Gibney falsely claims no other inmates complained about the lack of cups. How would Judge Gibney know? "He was not there". Another indisputable meritless legal theory NOT in the record. There were lines of Black inmates waiting for cups and complaining. Chapman asked officer Sommerville, "Where are the cups?" She said, "Shit happens deal with it." Sommerville did not say this to any Blacks.

Part two; Judge Gibney's response here shows a complete lack of understanding prison life, stating. "Chapman does not allege that inmates were prohibited from cleaning off their own tables." Another in a series of Judge Gibney's indisputable meritless legal theories not in the record. Kitchen worker's job is to wipe all tables They carry a bucket and rag. Chapman has no access to a bucket and rag. June 4, 2018, 7:10AM, Chapman asked officer Sommerville if she would get someone to wipe the table because it was smeared with peanut butter.

Chapman was sitting at the table with three (3) White men. Chapman had asked the only kitchen worker, who was Black, instead he picked up trays and wiped the tables of Blacks only. Sommerville said, "Worker was not going to wipe "that" table." (Par. Com. p34 #97) Sommerville knew worker was picking up trays and wiping the tables for Blacks only. September 21, 2020, p14; Judge Gibney uses the same indisputable merit less legal theory, not in the record, as he did in Claim 10 above. July 17, 2018, 7:20AM, Chapman and other White men were sitting at a table that was dirty. Chapman asked officer Thomas if she could get someone to wipe the table. Thomas yelled, "I'm not going to do it" "I'm not going to do it" "My name is Thomas" Thomas knew worker was picking up trays and wiping tables for Blacks only.
September 21, 2020, p7; Judge Gibney knew Chapman used Section 2000a et. seq. for jurisdiction and exhaustion only. But wrongly dismissed Chapman's claim any way. It is clear from the record; 42 USC Section 2000a et.seq. Jurisdiction-exhaustion (Pertinant Part) (a) the District Court of the United States shall have jurisdiction...pursuant this title [42 USC Section 2000a-6]shall exercise the same with out regard to whether the aggrieved party shall have exhausted any administrative or other remedies that may be provided by law." (Par.Com. 26 #36)
Judge Gibney did not address the fact Chapman also used for Jurisdiction 28 USC Sections 1331, 1343a(3) and 1367.

LEGAL STANDARDS

"When reviewing the evidence on a matter for Summary Judgment, the court must assess the record in light most favorable to the non-movant and draw all reasonable inferences in its favor." Edmonds v Newman Chrysler Inc. Us Dist LEXIS 1692 Feb 4, 2005, See Celotex, 477 US at 342,

"The court must consider Summary Judgment proof in light most favorable to the non-movant." "On review, we examine the record as a whole, which includes depositions, documents and affidavits or declarations." Fed. R.Civ.P 56(c). And we must construe the evidence in the light most favorable to Plaintiff and draw every justifiable inference in his favor." Talon v Cotton, 571 US 650, 651, 134 S.Ct.1861, 188Led2d895, 2014 (per curim)

Judge Gibney all through his Memorandum Opinion is an Active Advocate hand-in-hand with Defendants. Using Defendant's "Handbook". Using no inference for Chapman as required. Because he was their **Partner**.

"Recusal is required under the 14th Amendment due process clause when objectively speaking, the probability of actual bias on the part of the judge or decision maker is to high to be constitutionally tolorable." Withrow v Larkin, 421 US 53, 95 S.Ct. 1456, 43 Led2d 712 (1975); See Williams v Pennyslvania, 579 US ___, ___, 136 S.Ct. 1899, 1905, 195 Led2d132 (2016).

Judge Gibney's decisions are not based on the merits, but bias and prejudice protecting his **Partners**. Judge Gibney "critizes, disparages, belittles and denegrates" Chapman a White male, unschooled in law, while being and "Active Advocate" defending the Racism of Black Defendants.

Judge Gibney is in conflict with the United States Constitution, United States Supreme Court, Appeals Courts, District Courts, United States Code and Federal Rules of Civil Procedure because he did NOT Recuse himself as he had done before. He is protecting his **Partners**.

Assignment Of Error Number Two

The District Court Made An Error When It Denied Chapman A Jury Trial

October 16, 2020, Chapman filed Motion For Trial By Jury.

March 3, 2021, District Court Denied as Moot.

March 3, 2021, Final Order District Court Dismissed this action.

"Grant of Summary Judgment pursuant to Fed.R.Civ.P 56 does not compromise Jury Trial right under United States Constitution Amendment, VII, because the right exists with respect to genuinely disputed issues of material fact." Calvin v Knox County, 470 F3d 422 (1st Cir. 2006)

Fourteen (14) Genuine Issues Of Material Fact Are In Dispute

1.) Only Black and Hispanic Law Clerks. Not a reflection of LVCC.

2.) Only Black Clerks in Unit Manager and Counselor's Office.

3.) Defendants refused to process Chapman's job applicaiton for law clerk or clerk in Unit Manager and Counselor's office.

4.)Only having a "Black Authors" and "Spanish Language" plaque with special sections. No plaque or special section for any other race in the world.

5.) Shanique Moore called Chapman a Racist in the presence of other inmates. Attempting to "chill" Chapman's First Amendment right.

7.) T. Walker and Marilyn Shaw closing the "Ballfield" under the guise of security.

8.) Having TV ONE an All Black TV channel airing Racist comments.

9.) Chapman asked Marilyn Shaw to respond to Informal Complaint LVCC-18-INF-00197, instead, Christy Jones Facility Ombudsman responded "According to Marilyn Shaw DOC determines what channels are provided to the population. Any Offender who does not like the channels on the day room set has the option to purchase a television to watch the programming of their choice." This racist statement is saying, OK Chapman because you are White; if you don't like what the Blacks are watching, "Buy a TV and go to your cell."

10.) Twenty-one (21) times Christy Jones, K. Cosby and Renee Woodson did not give a log number the Black officers and staff. But did give a log number to the only White officer. Treating Chapman different when he files a grievance concerning Black staff and officers.

11.) 82% of the time Jones, Cosby and Woodson refused Chapman a tracking number for his timely and properly filed regular grievances.

12.) L. Torgenson, Safety Officer, failed to properly maintain showers. Having Black Mold, Mildew, Scumm and Bugs.

13.) Tamika Sommerville, officer, telling Chapman "Shit Happens Deal With It". Refusing to have the table where Chapman and other White men ate, wiped clean. Stating; "Worker was not going to wipe "that" table."

Talia Neville, officer. laughed at Sommerville's Racist remarks.

14.) Kiaeshia Thomas, officer, Racist act of not getting a Kitchen worker to wipe off the table where Chapman and White men ate. Yelling "I'm Not Going To Do It" "I'm Not Going To Do It" "My Name Is Thomas".

The District Court's statement; "Chapman could have wiped the tables shows; the court knows nothing about how prison works.

The above establishes a pattern and culture of Racial Discrimination.

LEGAL STANDARDS

"Purpose of Rule 56 is not to cut litigants off from their right to Trial by Jury if they have issues to try." Poller v CBS, 368 US 464, 82 S.Ct. 486, 71 Led2d 458, 5 Fed.R.Serv. (Callaghan) 2d 886, 1962 US LEXIS 2315 (US 1962)

"Plaintiff's Seventh Amendment Right to jury trial was not abridged because his complaint failed as matter of law to present issues for trial." Christensen v Ward, 916 F2d 1462 (CA 10 UTAH 1990)

"No matter how enticing, Summary Judgment cannot short-circuit trial by Judge or Jury of fact questions." Bros Inc. v W.E. Grace Mfg. Co., 261 F2d 428, 1 Fed. R. Serv.2d (Callaghan) 862, 119 U.S.P.Q. (BNA) 401 (5th Cir. 1958) app. after remand, 320 F2d 594, 7 Fed.R.Serv.2d (CALLAGHAN) 1143, 138 U.S.P.Q. (BNA) 357 (5th Cir 1963)

"Rule 56 contemplates injury in advance of trial as to whether there is genuine issue and may be invoked for purpose of striking sham claims and defenses which obstruct prompt determination of truth, but it cannot be so applied as to deprive litigant of his right to try any genuine issue by Jury or otherwise."

Parmelle v Chicago Eye Shield Co., 157 F2d 582 (8th Cir. 1946)

"Valuable as Summary Judgment is for striking through sham claims and defenses which stand in way of direct approach to truth of case, it was not intended to, it cannot deprive litigant of, or at all encroach upon, his right to jury trial."

Whitaker v Coleman, 115 F2d 305 (5th Cir. 1904)

"Plaintiff's are not deprived of Jury Trial when as a matter of law they have no triable issues." Butterman v Walston Co.,50 F.R.D. 189, 14 Fed.R.SERV. 20 (Callaghan) 661 (E.D. Wis 1970)

The premature granting of Defendant's Motion For Summary Judgment before Interrogatories and Document Discovery by the District Court and Denying Chapman's right to Jury Trial is in conflict with the United States Constitution VII Amendment, United States Supreme Court, District Courts and Appeals Courts.

The District Court Errored when it Denied Chapman a Trial by Jury.

Assignment of Error Number Three

The District Court Made An Error When It Prematurely Dismissed All Of Chapman's Racial Discrimination Claims Before Interrogatories And Discovery

Chapman has presented fourteen (14) genuine issues of material fact in dispute; establishing a pattern and culture of Racial Discrimination.

The Court did not enforce and is in conflict with pertinent Federal Rules Of Civil Procedure. (Fed.R.Civ.P)

May 26, 2020, Chapman filed First Motion For Production Of Documents Fed.R.Civ.P 26 (b)(1) and 34; for Defendants, Shanique Moore, T.Walker, Marilyn Shaw, Christy Jones, Renee Woodson, K. Cosby and Dave Robinson.

July 13, 2020, Chapman filed Motion Compelling Discovery, Production of Documents Fed.R.Civ. P 37(a), 37(a)(4) because Defendants did not respond.

June 10, 2020, Chapman filed First Motion For Production Of Documents; Fed.R.Civ.P

26(b)(1) and 34; for Defendants, Phyllis Smith, Dinah Kreitz, Tamika Sommerville, Talia Neville, Kiesha Thomas, Laura Torgenson.

July 23, 2020, Chapman filed; Motion Compelling Discovery, Production of Documents Fed.R.Civ.P 37(a), 37(a)(4) because Defendants did not respond.

June 10, 2020, Chapman filed, First Set Of Interrogatories Fed.R.Civ.P. 33 for Defendants Dave Robinson, Marilyn Shaw, Christy Jones, T. Walker, Shanique Moore.

July 13, 2020, Chapman filed Motion Compelling Discovery; Interrogatories Fed.R. Civ.P. 37(a), 37(a)(4) because Defendants did not respond.

June 10, 2020, Chapman filed First Set Of Interrogatories Fed.R.Civ.P. 33 for Defendants, Phyllis Smith, Dinah Kreitz, Tamika Sommerville, Kiesha Thomas, Talia Neville and Laura Torgenson.

July 13, 2020, Chapman filed Motion Compelling Discovery; Interrogatories Fed.R.Civ.P. 37(a), 37(a)(4) because Defendants did not respond.

July 13, 2020, Chapman filed Motion For Production Of Documents Fed.R.Civ.P. 33 for Defendants, Phyllis Smith, Dinah Kreitz, Tamika Sommerville, Kiesha Thomas Talia Neville, and Laura Torgenson.

July 13, 2020, Chapman filed Motion Compelling Discovery; Interrogatories Fed.R.Civ.P. 37(a), 37(a)(4) because Defendants did not respond.

July 13, 2020, Chapman filed Motion For Production of Documents Fed. R.Civ.P 26(b)(1) and 34. For Defendants Tamika Sommerville, Talia Neville and laura Torgenson.

July 14, 2020, Chapman filed, Motion Compelling Discovery, to provide names, street addresses and phone numbers "under seal" of people who have Discoverable Information ,Fed.R.Civ.P 26(a)(1)(A), 26 (b)(1) E.D. Va.Loc Civ. R 7 (f)(1), for sister of Phyllis Smith and husband of Dinah Kreitz, employees at LVCC.

Because the District Court did not enforce the above Federal Civil Rules Phyllis Smith, and Dinah Kreitz, Defendants have not been served.

No Defendants have responded to interrogatories or discovery.

Fed.R.Civ.P 56 (c)(e) "When the motion is properly supported. The non-moving party must go beyond the pleadings by citing affidavits or depositions, answers to interrogatories and admissions on file, designate specific facts showing there is a genuine issue for trial."

Because the District Court did not enforce the above Federal Civil Rules there are No Interrogatories, No Discovery for Chapman to show.

The District Court made an error when it prematurely dismissed all of Chapman's Racial Discrimination claims before interrogatories and discovery and is in conflict with Federal Rules of Civil Procedure listed above

-CONCLUSION

The petition for a Writ of Certiorari should be granted.

Respectfully Submitted

Louis Roy Chapman

Louis Roy Chapman pro se

December 30, 2021