No. 21-6995

IN THE

SUPREME COURT OF THE UNITED STATES

ADMASSU REGASSA — PETITIONER
(Your Name)

vs.

C. BRININGER, ET AL., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

ADMASSU REGASSA #09303-007
(Your Name)
FEDERAL CORRECTIONAL INSTITUTE-WILLIAMSBURG
P.O. BOX 340
(Address)

SALTERS, SC 29590
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Whether the United States District Court for the Middle District of Pennsylvania and the United States Court of Appeals for the Third Circuit erred and abused their discretion and entered decisions in conflict with decisions of other courts and relevant decisions of this Court in dismissing Petitioner's combined civil rights action against several prison officials (Bivens claims) and the United States (FTCA claims)?

2. Whether the District Court and the Court of Appeals for the Third Circuit have decided important federal question in a way that conflicts with decisions of other courts and have so far significantly departed from the ususual and acceppted course of judicial proceedings in granting summary judgments to several prison officials and the United States simply based on the Defendants' denial of guilt and lies and complete fabrications and orchestrations and machinations and manipulations and most misleading arguments and numerous deliberately falsified official governemnt records and false and perjurious testimonies at the bench trial?

3. Whether the Petitioner's unique and peculiar and exceptional and special circumstances and certain compelling reasons and extraordinary matters of great Constitutional importance would call for this Court's attention to exercise its discretionary and supervisory power to review and to grant his Petition without precedent and to restrain and to hold prison officials and the United States fully and completely liable and accountable and responsible for their actions and inactions that resulted in the most horrific civil rights violations and deprivation of federally protected fundamental Consitutional rights of the Petitioner [Regassa]?

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: UNITED STATES OF AMERICA

CODY BRININGER

ADAM KRANZEL

ERIC KULP

SCOTT BUEBENDORF

GWYNN WISE

M. EDINGER

ANGELO JORDAN

LT. J. SHERMAN

LT. D. DOWKUS

S. ARGUETA

M. OLDT

M. ERB

LT. P. CARRASQUILLO

LT. MATTHEW SAYLOR

LT. J. SEEBA

LT. A. MILLER

B. CHAMBERS

GREGORY GEORGE

FRANCIS FASCIANA

DR. KEVIN PIGOS

N. BEAVER

D. JOHNSON

J. ECK

RELATED CASES

1. Medina v. Napoli, No. 15-3396, United States Court of Appeals for the Second Circuit. Judgment entered Feb. 28, 2018.

2. Myles v. Miami-Dade CO. Corr. & Rehab. Dept., No. 11-14775, United States Court of Appeals for the Eleventh Circuit. Judgment entered April 19, 2012.

3. Whatley v. Smith, No. 13-15117, United States Court of Appeals for the Eleventh Circuit. Judgment entered Sept. 23, 2015.

4. Williams v. Priatno, No. 14-4777, United States Court of Appeals for the Second Circuit. Judgment entered July 12, 2016.

5. Surles v. Andison, No. 09-1825, United States Court of Appeals for the Sixth Circuit. Judgment entered May 8, 2012.

6. Pyles v. Nwaobasi, No. 14-3289, United States Court of Appeals for the Seventh Circuit. Judgment entered Jan. 13, 2016.

7. Days v. Johnson, No. 02-10064, United States Court of Appeals for the Fifth Circuit. Judgment entered Feb. 21, 2003.

8. Ellis v. Vadlamudi, No. 07-10773, United States District Court for the Eastern District of Michigan. Judgment entered July 10, 2008.

9. Kaba v. Stepp, No. 03-3531, United States Court of Appeals for the Seventh Circuit. Judgment entered Aug. 16, 2006.

10. Miller v. Norris, No. 00-1053, United States Court of Appeals for the Eighth Circuit. Judgment entered Jan. 8, 2001.

11. Nixon v. Sanders, No. 06-1013, United States Court of Appeals for the Eighth Circuit. Judgment entered Aug. 7, 2007.

12. Clemmons v. United States of America, No. 17-1886, United States Court of Appeals for the Third Circuit. Judgment entered Jan. 25, 2019.

13. Quinette v. Reed, No. 18-10607, United States Court of Appeals for the Eleventh Circuit. Judgment entered Oct. 23, 2020.

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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

[X] 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

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] 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

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

The date on which the United States Court of Appeals decided my case was October 12, 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 12, 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 _____ (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

Petitioner's Constitutional rights are guaranteed by the cruel and ususual punishment clause of the Eighth Amendment to the United States Constitution and the due process clause of the Fifth and Fourteenth Amendments. His Bivens claims are authorized by 28 U.S.C.§ 1331 and 1343(a)(3), and his FTCA claims are authorized by 28 U.S.C.§ 1346(b) and 2671 - 2680(h). Pursuant to 28 U.S.C.§ 1291, appellate courts have jurisdiction over final decisions of federal district courts. 28 U.S.C.§ 1254 confers supervisory power on the Supreme Court of the United States to review cases in the courts of appeals. Pursuant to 18 U.S.C.§ 4042, the government has a duty of care towards federal prisoners to keep prisoners safe and free of harm. The Prison Litigation Act requires prisoners to exhaust only "such administrative remedies as are available" to them before commencing a suit. BOP grievance procedures are set forth in 28 C.F.R.§ 542.13 et seq. which the courts use as a yardstick for measuring compliance with the PLRA's mandatory and proper exhaustion requirements. In its decision in Ross v. Blake, the Supreme Court identified and clarified three kinds of circumstances that render administrative remedies "unavailable" to prisoners. The Bureau of Prisons authorizes the use of force only as a last resort after all other reasonable efforts to resolve a situation have failed. 28 C.F.R.§ 552.20 et seq. Federal Rules of Civil Procedure Rule 6(b)(1)(B) and 6(b)(2) govern the manner and timing of filing of motion for reconsideration under Fed. R. Civ. P. 60(b)(6) and M.D. Pa. Local Rule 7.10. Torture is one of the severest human rights abuses and the most serious civil rights violations and is, as such, banned by international laws and treaties and conventions to which the United States is a signatory such as "Universal Declaration of Human Rights" and "Convention Against Torture (CAT) and Other Cruel, Inhuman, and Degrading Treatment or Unusual Punishment." Petitioner is a victim of the use of excessive force and assault and battery and malicious and sadistic torture in its worst form.

STATEMENT OF THE CASE

I. Actions and inactions of several prison officials and the United States that gave rise to multiple Bivens claims and FTCA claims of the petitioner [Regassa] under the cruel and unusual punishment clause of the Eighth Amendment to the United States Constitution and the due process clause of the Fifth and Fourteenth Amendments and Federal Tort Claims Act (FTCA).

A. The use of excessive force and assault and battery against the Petitioner.

On July 8, 2013, several prison officials at USP Lewisburg, Pennsylvania, who acted under the color of federal law (Cody Brininger, Adam Kranzel, Eric Kulp. Scott Buebendorf, Gwynn Wise, M. Edinger, and Angelo Jordan) initially bullied, harassed, mistreated, intimidated, and threatened the Petitioner [Regassa] with serious bodily harm in the hallway and on the stairs and in the shower stall and in the DHO office and then used excessive force and assault and battery against him without any provocation whatsoever on his part while he was handcuffed in black box from his back and/or expressed ordinary negligence or deliberate indifference towards him. At the conclusion of the DHO hearing, Brininger (the escorting officer) abruptly snatched the Petitioner from the DHO office and as soon as he took only a few steps and reached a blind spot near the entrance to the 2nd Floor shower of G-Block where there was no video camera, Brininger suddenly and unexpectedly lifted the Petitioner up in the air and violently slammed him to the floor. Then, several officers instantly joined Brininger and brutally and violently assaulted the Petitioner and severely beat him up, most viciously attacking him and aggressively kicking him and stomping on his back and on his shoulders several times while he was sprawled face down on the floor and being tightly held and effectively blindfolded by the officers. Because of the excessive force and assault and battery against him, Petitioner suffered severe multiple internal and external injuries and the most agonizing physical and

psychological pain and deep traumatic emotional distress.

B. The use of excessive force and assault and torture against the Petitioner.

After the officers used excessive force and assault and battery against the Petitioner, Officers Brininger, Kranzel, and Kulp most viciously lied and made a false assistance call, falsely alleging that Petitioner "turned and spit on Briniger and assaulted him." The truth was that Petitioner was very peaceable and was never a threat to anyone and never provoked anyone and never turned and spit on Brininger and never assaulted him in any type of manner. Then, several members of the immediate use of force (UOF) staff immediately responded to Brininger's false assistance call and swiftly arrived at the scene of the incident (2nd Floor shower of G-Block) and used excessive force and assault and torture (extremely tight ambulatory restraints) against the Petitioner. The UOF staff (J. Sherman, S. Argueta, J. Oldt, and M. Erb) used the ambulatory restraints (handcuffs, leg shackles, and Martin Chain) as silent weapons to assault him and extremely tightly applied the restraints on him to torture him. The UOF staff also orcherstrated and recorded a 5 - 7 minute long fake evidentiary video to make it look like his placement in ambulatory restraints was done fairly and properly and professionally in full compliance with BOP rules and regulations and policies. However, the fake evidentiary video was for the most part recorded in the briefing room after the fact and does not and cannot show who was involved in the use of excessive force and assault and battery and torture against him and how tight his ambulatory restraints were and the nature and extent and severity of his multiple injuries and pain and suffering and the three-day long conditios of his confinement in the restraint cell.

C. Ordinary negligence or deliberate indiference and torture against the Petitioner for three days (July 8 to July 10, 2013).

After the UOF staff perilously dragged him down the steep stairs backward at dangerously frightening pace and placed him in his restraint cell# G-126 and left, several lieutenants: J. Sherman, D. Dowkus, P. Carrasquillo, Matthew Saylor, J. Seeba, A. Miller; and medical staff: Gregory George, Francis Fasciana, and Kevin Pigos; and correctional officers: N. Beaver, D. Johnson, and J. Eck who came into his restraint cell or stopped at his cell door for restraints check expressed ordinary negligence or deliberate indifference towards him and repeatedly ingnored his urgent pleeas and requests for help and refused to loosen his extremely tight ambulatory restraints and also completely denied him medical treatment for severe multiple injuries and pain and maliciously and sadistically tortured him for three days under very degrading and very dehumanizing and very humiliating and very inhuman and very unsanitary, bug-infested restraint cell and cruel and unusual punishment conditions of confinement.

When he came off restraints on July 10, 2013, his body was swelling everywhere including his genitals and his skin was peeling and his multiple wounds and injuries were festering and some type of thick viscous fluid mixed with blood and dead tissue cells was oozing from his wounds. There were numerous gruesome deformities and permanent damages and physical torture marks and very worrisome persistent swellings and horrible scars and nasty skin discolorations/pigmentation/metal burns on his body where extremely tight ambulatory restraints once rested and excessive force and assault and battery was used against him.

Defendant prison officials (the lieutenants and medical staff and correctional officers) and other prison officials who were not defendants in this case (A. McCallum, J. Stroud, J. George, K. Kline, K. Ferguson, Lori Hartzel, Sara

Dees, and Matthew Barth) also completely falsified (i) his 15-minute restraints checks reports (ii) his 2-hour Lieutenant's restraints checks reports (iii) his medical records (his pain scales and his vital signs) (iv) Form 583 Report of Incident (by AW Young) (v) Form 586 After Action Review Report (by AW P. Frederick) and recorded his pain scales as 0 (zero) more than twelve times over the three-day period, whereas his actual pain scales would reach 9 or 10 on a scale of 0 to 10. The prison officials also compiled and documented highly disrespectful and most disgusting and most obnoxious obscenites and provanities and most explicit racially derogatory and sexually inflammatory langauge and very abusive and aggressive demeanor and compative and assaultive and violent behaviors and hostile attitudes that he never uttered or expressed or displayed or verbalized towards any staff member or inmate while he was in restraints or at any other time in his entire life in order to cover up staff misconduct and to justify their actions and inactions to keep him in extremely tight amvulatory restraints and to torture him with unfettered impunity.

D. Ordinary negligence or deliberate indifference and/or medical malpractice or negligence/denial of medical care towards him while he was in extremely tight ambulatory restraints for three days and after he came off restraints.

The medical Defendants: Gregory George, Francis Fasciana, and Dr. Kevin Pigos expressed ordinary negligence or deliberate indifference and/or medical malpractice/negligence/denial of medical care towards him while he was in ambulatory restraints and after he came off restraints and completely denied him medical treatment for his severe multiple injuries and pain. The medical Defendants and other prison officials who were not defendants in this case completely failed to most accurately assess and to properly document the nature and extent of his severe multiple injuries and denied all of his verbal and written requests that he submitted during sick call hours for complete medical

evaluation, x-ray, therapy, proper and adequate medical treatment and denied his requests for a referral to the outside hospital for a thorough medical examination by an independent licensed/certified health care practitioner; and completely falsified his medical records from July 8, 2013 through May 27, 2015 so as to avoid any documentation that can be used against them and agaisnt other prison officials and so as to deny him true and correct information and accurate medical data and concrete evidences for his civil rights action.

E. Constitutional due process violations by DHO B. Chambers

On August 21, 2013 during a DHO hearing, DHO B. Chambers completely sided with the Defendants and constantly argued on their behalf and highly discriminated against the Petitioner and most viciously attacked his character and his credibility and completely discredited his honest and truthful testimony and gave the greater weight of the evidence to the Defendants' completely false accounts and total fabrications: (i) the completely false incident report by Brininger (ii) two completely false supporting staff memoranda by Kranzel and Kulp (iii) the fake Staff-Injury-Follow-Up Form compiled by Barth and found him guilty of a completely false incident report that he never committed and imposed severe sanctions and restrictions upon him including $150 monetary fine and deprived him of property interest and liberity interest. In the DHO report dated August 29, 2013, the DHO clearly and unequivocally expressed gross bias and discrimination towards him and highly distorted his honest and truthful testimony and strongly advocated on behalf of the Defendants and fully accepted and simply rubber-stamped their false accounts and complete fabrications and most vicious lies as if they were true and correct and accurate statements.

II. Actions and inactions of several prison officials and the United States that thwarted his attempts at exhaustion and rendered administrative remedies effectively unavailable to him for his Bivens claims.

A. DHO appeals (BP-10 & BP-11) and Bivens claims (BP-8, BP-9, BP-10, & BP-11).

(see Appendix E)

For several weeks, Petitioner was too sick and too weak and physically incapable of preparing administrative remedies because of his severe multiple injuries, and he also did not have access to the necessary grievance forms because his former counselor, Mr. R. Bingaman was transferred to another unit and it took him several more weeks to see his new counselor, Mr. J. Diltz and to request and to obtain the necessary administrative remedies forms. On August 29, 2013, after he gradually begun to recover from his severe injuries and pain through the natural healing process, he requested Counselor Diltz to give him a BP-10 and B his DHO appeal and 3 BP-8s and 3 BP-9s for his Bivens claims. However, Diltz only issued a BP-10 to him for his DHO appeal and refused to give him the 3 BP-8s and 3 BP-9s that he requested for his Bivens claims. Subsequently, Petitioner completed his BP-10 and filed his Regional Appeal which was later denied and his BP-11 for his Central DHO Office DHO Appeal which was also denied, so he exhausted his administrative remedies for his DHO appeals. However, prison officials deliberately and selectively rendered administrative remedies unavailable to him for his Bivens claims. Petitioner filed his BP-8 on September 5, 2013, his BP-9 on October 9, 2013, his BP-10 on October 19, 2013, and his Bp-11 on November 6, 2013. However, he never received any response for his BP-8 & BP-11 and so he considered the absence of any response for his BP-8 & BP-11 as a denial at those levels. His BP-9 & BP-10 were rejected and returned to him for being untimely even though he had strong valid and compelling reasons that prevented him from submitting his administrative remedies within the established time frame.

B. FTCA Claims (SF-95) (see Appendix E)

On December 2, 2013, Petitioner completed and filed his SF-95 for his FTCA Administrative Claims which was received in the Office of Northeast Regional Counsel on December 9, 2013. However, his Administrative Claim was denied by the Regional Counsel on June 6, 2014.

III. Judicial proceddings of the lower courts.

A. Decisions and Orders and Judgments of the District Court (see Appendix B).

On June 11, 2014, Petitioner filed his Original Complaint (Doc. 1) which was later amended. In his Amended Complaint (Doc. 45), he asserted five counts of Bivens claims against several prison officials and four counts of FTCA claims against the United States. Over the course of several years, the United States District Court for the Middle District of Pennsuylvania erred and abused its discretion and applied double standards and completley sided with the Bivens Defendants and the United States and expressed gross judicial bias and prejudice and blatant discrimination towards the petitioner and entered partial summary judgments in favor of the Bivens Defendants and the United States and dismissed his combined civil rights (Bivens) and FTCA action in its entirety; and the United States Court of Appeals for the Third Circuit entered decisions which unfairly and improperly and erroneously affirmed the District Court's dismissal of the Petitioner's multiple Bivens claims and FTCA claims.

In Memoranda and Orders entered (a) August 26, 2016 (Docs. 91 & 92); (b) December 20, 2016 (Docs. 111 & 112); (c) September 27, 2018 (Docs. 200 & 201); (d) August 14, 2019 (Docs. 230 & 231); (e) July 29, 2020 (Docs. 339 & 340), the District Court erred and abused its discretion and granted partial summary judgments to the Bivens Defendants and the United States and unfairly and improperly and erroneously dismissed all of his Bivens claims and FTCA claims.

B. Decisions of the United States Court of Appeals for the Third Circuit.

(see Appendix A)

Petitioner timely filed a notice of appeal and appealed the decisions and Orders and summary judgments and final judgment of the District Court. However, in an Opinion and Order entered October 12, 2021, the Court of Appeals for the Third Circuit denied his appeal. On October 28, 2021, Petitioner timely filed a petition for a panel rehearing and a rehearing en banc. However, his petition for a rehearing was also denied on November 12, 2021. (see Appendix C)

REASONS FOR GRANTING THE PETITION

1. The United States District Court for the Middle District of Pennsylvania and the United States Court of Appeals for the Third Circuit erred and abused their discretion and entered decisions in conflict with decisions of other courts and relevant decisions of this Court in dismissing Petitioner's multiple Bivens claims against several prison officials and his related multiple FTCA claims against the United States.

A. Bivens Claims

In its Memoranda and Orders entered (a) December 20, 2016 (Docs. 111 & 112) (b) September 27, 2018 (Docs. 200 & 201), and (c) August 14, 2019 (Docs. 230 & 231), the district court improperly granted partial summary judgments to defendant prison officials and unfairly and erroneously dismissed all of the Petitioner's Bivens claims for failure to exhaust administrative remedies. see Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971).

(a) The district court's decisions (Docs. 111 & 112) were in conflict with decisions of other courts and relevant decisions of this Court because the district court erred and completely failed to treat the Petitioner's allegations as true or to make specific fact findings to address and to resolve highly relevant and important matters and disputed "genuine issues" of material fact concerning exhaustion of administrative remedies and erroneously granted partial summary judgments to prison officials. Courts have held that summary judgment is inappropriate when there existed disputed material fact issues as to whether a prisoner exhausted adminsitrative remedies and vacated and remanded cases that were dismissed for failure to exhaust administrative remedies. see Medina v. Napoli, 725 Fed. Appx. 51 (2d Cir. 2018); Myles v. Miami-Dade CO. Corr. & Rehab. Dept., 476 Fed. Appx. 364 (11th Cir. 2012); Whatley v. Smith, 802 F.3d 1205 (11th

Cir. 2015); Williams v. Priatno, 829 F.3d 118 (2d Cir. 2016); White v. Staten, 672 Fed. Appx. 919 (11th Cir. 2016); Whitemore v. Jones, 456 Fed. Appx. 747 (10th Cir. 2012); Mitchell v. Estrada, 225 Fed. Appx. 737 (10th Cir. 2007).

Exhaustion of administrative remedies is a question of law and pursuant to 42 U.S.C.§ 1997e(a), a prisoner is required to exhaust only "such administrative remedies as are available" to him. The district court's decisions were in conflict with statutory procisions of the PLRA and with decisions of other courts because the district court required the Petitioner to exhaust administrative remedies that were "unavailable" to him for a variety of reasons. Courts have held that dismissal of inmate's complaint agaisnt prison officials for failure to exhaust administrative remedies is erroneous when administrative remedies were actually "unavailable" to the inmate. see Tuckel v. Grover, 660 F.3d 1249 (10th Cir. 2010); Little v. Jones,607 F.3d 1245 (10th Cir. 2010); Johnston v. Maha, 460 Fed. Appx. 11 (2d Cir. 2012); Turner v. Burnside, 541 F.3d 1077 (11th Cir. 2008); Macias v. Zenk, 495 F.3d 37 (2d Cir. 2007); Hemphill v. New York, 380 F.3d 680 (2d Cir. 2004).

After the decision of the U.S. Supreme Court in Jones v. Bock, 499 U.S. 199 (2007), most courts viewed failure to exhaust as affirmative defense, and under the usual practice of Federal Rules of Civil Procedure, prison officials bear the heavy evidentiary burden of pleading and proving exhaustion as affirmative defense. see Surles v. Andison, 678 F.3d 452 (6th Cir. 2012); Pyles v. Nwaobasi, 829 F.3d 860 (7th Cir. 2016); Larson v. Meek, 240 Fed. Appx. 737 (10th Cir. 2007); Fisher v. Primstaller, 215 Fed. Appx. 430 (6th Cir. 2007); Herndon v. Ortiz, 222 Fed. Appx. 797 (10th Cir. 2007); Peoples v. Chopler, 216 Fed. Appx. 858 (6th Cir. 2008).

Courts apply a two-step process and use the BOP grievance proccedures set forth in 28 C.F.R.§ 542.13 et seq. as a yardstick to determine failure to exhaust administrative remedies, that is, the court must decide whether (1) administrative

remedies were available to the inmate (2) the inmate exhausted available administrative remedies in compliance with BOP grievance procedures. The U.S. Supreme Court decision in Ross v. Blake, 136 S. Ct. 1850 (2016) underscored the statutory provisions of the PLRA and identified and clarified three kinds of circumstances that render administrative remedies "unavailable" to a prisoner, i.e., although on the books, but incapable of use to obtain relief. In relevant part, this Court held "(1) Administrative remedy procedure is unavailable when it operates as a simple dead end--with officers unable or consistently unwilling to provide relief to aggrieved inmates. (2) An administrative scheme might be so opaque that it becomes, practically speaking, incapable of use --, i.e., some mechanism exists to provide relief, but no ordinary person can navigate it. (3) Grievance process is rendered unavailable when prison administrators thwart inmates from taking advantge of it through machination, misrepresentation, or intimidation."

All the three exceptional circumstances that this Court recognized as compelling reasons to render administrative remedies "unavailable" to an inmate applied to the petitioner because (1) prison officials were consistently unwilling to provide relief to him -- they denied or rejected all of his requests and grievance forms for relief. (2) The BOP grievance process was so vague when it comes to the Petitioner's unique and peculiar and exceptional and special circumstances in regards to how to address and deal with broad institution-wide conspiracy and retaliation and discrimination and lies and complete fabrications and orchestrations and deliberate falsification of numerous official government records by prison officials in order to cover up and to justify the use of excessive force and assault and battery and torture against him. (3) Prison officials thwarted all his attempts at exhaustion through machination, misrepresentation, threats, intimidation, and active interference with his administrative remedies.

The district court's decisions to dismiss all of his Bivens claims for failure to exhaust his remedies were erroneous and in conflict with decisions of other courts and relevant decisions of this Court because the district court completely failed (1) to use the BOP grievance procedures as a yardstick for measuring his compliance with the PLRA's "mandatory and proper" exhaustion requirements. (2) to apply a new two-pronged analysis that became available in Ross. (3) to determine whether administrative remedies were available to the Petitioner or whether he exhausted grievance procedures that were available to him.

The district court has decided important federal question in a way that conflicts with decisions of other courts and relevant decisions of this Court on multiple issues concerning valid and compelling reasons that render administrative remedies "effectively unavailable" to a prisoner. Courts have denied prison officials' motions seeking dismissal or summary judgment based on failure to exhaust administrative remedies. However, the district court completely disregarded some of the Petitioner's strong valid and compelling circumstances that prevented him from timely filing his grievance forms and as such rendered administrative remedies "unavailable" to him for his Bivens claims.

In support of his numerous attempts at exhaustion, Petitioner avers the following. He properly exhausted dministrative remedies that were available to him for his DHO appeals and for his FTCA claims, but prison officials deliberately and selectively rendered grievance procedures "unavailable" to him for his Bivens claims, i.e., prison officials allowed the Petitioner to exhaust his administrative remedies for his DHO appeals and for his FTCA claims but thwarted and prevented him from exhausting grievance procedures for his Bivens claims. Most courts attributed "unavailable" administrative remedies to a variety of factors which included, inter alia, the following, but the district court erred and completely failed to consider some of the actions and inactions of prison officials

and the Petitioner's strong valid and compelling reasons that rendered administrative remedies unavailable to him for his Bivens claims:

(i) serious physical and emotional injuries of the Petitioner and deliberate indifference to his medical needs

(ii) lack of access to the necessary grievance forms

(iii) improper screening of his grievances, refusal to accept and process his grievances, and prison officials' failure to respond to his grievances

(iv) machination, misrepresentation, retaliation, threats, intimidation, and active interference of prison officials/tampering with his administrative remedies to thwart all of his attempts at exhaustion.

(i) Serious physical and emotional injuries of the petitioner and deliberate indifference to his medical needs.

Prison officials used excessive force and assault and battery and torture (extremely tight ambulatory restraints) against him and inflicted severe multiple internal and external injuries and deep traumatic emotional distress upon him and made him too sick and too weak and physcally incapable of preparing administrative remedies for several weeks. Consequently, administrative remedies were "unavailable" to him because of prison officials' actions and inactions. Pursuant to 28 C.F.R.§ 542.14(b), being too sick and physically incapable of preparing administrative remedies are strong valid and compelling reasons for submitting untimely grievances. Courts have decided that administrative remedies were deemed "unavailable" to a prisoner when (1) his untimely filing of a grievance was because of physical injury (2) his untimely grievance was rejected or denied or returned unprocessed. see Days v. Johnson, 372 F.3d 863 (5th Cir. 2003); Berry v. Klem, 273 Fed. Appx. 1 (3d Cir. 2009); Ellis v. Vadlamudi, 568 F. Supp. 2d 778 (E.D. Mich. 2008); Dukes -v- Dep. Sup. of Sec., 153 Fed. Appx. 772 (2d Cir. 2005); Spruill v. Gillis, 372 F.3d 18 (3d Cir. 2002); the district court erred and

completely failed to act as an impartial fact finder because it has never applied the newly available analysis scheme in Ross and well-established provisions and procedures of the BOP Administrative Remedy Program to resolve genuine issues of material fact and improperly dismissed his multiple Bivens claims for failure to exhaust administrative remedies. The truth was that prison officials thwarted all of his attempts at exhaustion and rendered administrative remedies unavailable to him for his Bivens claims.

Prison officials completely failed to satisfy their heavy evidentiary burden of pleading and proving exhaustion as affirmative defense because they never clearly and unequivocally established that (1) administrative remedies were available to the Petitioner for his Bivens claims (2) he failed to exhaust administrative remedies that were available to him for his Bivens claims in compliance and consistent with the PLRA's mandatory and proper exhaustion requirements and relevant decisions of this Court and well-established provisions and procedures of the BOP grievance process even after they most desperately resorted to lies, cover ups, complete fabrications, orchestrations, masterful deceptions, most misleading arguments, fraud and forgery and deliberate falsification of mumerous official government records.

More than two years after the events of July 8 to July 10, 2013, the Defendants solicited and obtained and submitted under oath numerous false and incorrect and inaccurate and inconsequential and irrelevant and baised and contradictory and discriminatory and perjurious Declarations and statements and opinions and conclusions of several prison officials who were not defendants in this case including Dr. Andrew Edinger, Michael S. Romano, J. Diltz, R. Bingaman, and Susan Stover. However, Dr. Edinger never personally assessed or medically treated Petitioner's severe multiple injuries and pain, never had any first-hand knowledge of the nature and extent and severity of his injuries. Dr. Edinger only

reviewed the Petitioner's completely falsified medical records and inconsequential clinical encounters between the period of time from July to December 31, 2013. To the extent that Dr. Edinger's Declaration, dated September 25, 2015, was based on his review of the Petitioner's completely falsified medical records and irrelevant clinical encounters, his opinion was totally irrelevant and insufficient to establish that the Petitioner's serious injuries did not "preclude him" from submitting timely administrative remedies nor under any circumstances could Dr. Edinger's erroneous statements and biased opinion convert the "lies and complete fabrications" of the Defendants into pure truths or "undisputed records" or authentic facts. Romano only reviewed the BOP SENTRY INDEX and administrative remedy data, and Diltz, Bingaman, and Stover submitted false and perjurious statements in reference to grievance forms; their Declarations were totally irrelevant and insufficient to refute the fact that Petitioner's serious injuries prevented him from submitting his administrative remedies within the established time frame.

Petitioner's concrete evidentiary materials that he presented to the court as exhibits highly controvert and also totally contradict and strongly dispute and completely refute the Declarations and statements and opinions and conclusions of Romano, Diltz, Bingaman, and Stover. However, the district court completely disregarded the Petitioner's factual information and concrete evidences and statements of material fact and Declarations under oath with verification and dismissed all of his Bivens claims.

(ii) Lack of access to the necessary grievance forms

The Defendants vaguely contend that administrative remedies were available to the Petitioner for his Bivens claims because he exhausted his grievances for his DHO appeals and for his FTCA claims before he commenced filing grievances for his Bivens claims and he did not ask his unit team for grievance forms. However, the

Defendants' contentions were completely false and as such, were meticulously designed to abuse and to misuse and to highly manipulate the BOP grievance procedures and the statutory provisions of the PLRA and relevant recent decisions of this Court and to provide most misleading arguments and completely fabricated evidences in support of exhaustion as their affiramtive defense and to persuade the court most deceptively and to dismiss Petitioner's Bivens claims for failure to exhaust administrative remedies. The district court erred and failed to make highly plausible inferences from circumstantial evidences and a plethora of factual information and exhibits and Declarations under oath with verification that the Petitioner provided to the court over the course of several years because if the Petitioner exhausted his administrative remedies for his DHO appeals and for his FTCA claims, the only reason he was unable to submit timely grievances for his Bivens claims must have been because of the prison officials' actions and inactions. Because of his serious injuries, Petitioner did not have access to the necessary grievance forms. He was also in the Special Management Unit (SMU) Program on 24/7 lock down. Then, on August 29, 2013, Counselor Diltz refused to issue 3 BP-8s and 3 BP-9s that the Petitioner requested for his Bivens claims and only gave him one BP-10 for his DHO appeal. On September 5, 2013, Diltz again refused to issue 3 BP-8s and 3 BP-9s that he requested and only gave him one BP-8 and told him to wait twenty (20) calendar days to receive a respsonse for his BP-8 before requesting and obtaining and filing a BP-9.

Pursuant to 28 C.F.R.§ 542.14(b), lack of access to the necessary grievance forms and an unusually long period taken for informal resolution attempts are valid and compelling reasons for extension of time, so Petitioner was entitled to extension of time per BOP Program Statement: Administrative Remedy Program. Courts have held that threats and lack of access to the necessary grievance forms render administrative remedies unavailable to a prisoner. see Kaba v. Stepp, 458 F.3d 678 (7th Cir. 2006); Miller v. Norris, 247 F.3d 736 (8th Cir. 2007);

Nixon v. Sanders, 243 Fed. Appx. 197 (8th Cir. 2007); Russo v. Honen, 755 F. Supp. 2d 313 (D. Ma. 2010).

(iii) Prison officials' improper screening of his grievances, refusal to accept and process his grievances, and failure to respond to his grievances.

Institutional and Regional Administrative Remedy Coordinators improperly screened the Petitioner's BP-9 and BP-10 and denied him the opportunity to resubmit his grievances even though some of his Bivens claims were timely because ongoing deliberate indifference to his serious medical needs was "continuing violation" that was not captured by the statute of limitation as long as the medical need remained untreated. see Ellis v. Vadlamudi.

On October 4, 2013, AW David Wilson refused to accept Petitioner's BP-9; and Petitioner never received any response for his BP-8 and BP-11; his BP-9 and Bp-10 were rejected and returned to him for being untimely even though the untimeliness was because of serioue physical and emotional injuries of the Petitioner. Courts have ruled that prison officials' failure to respond to the inmate's grievance may render administrative remedies unavailable to the inmate. see Zarco v. McQueen, 185 Fed. Appx.638 (9th Cir. 2006); Brengettcy v. Horton, 423 F.3d 647 (7th Cir. 2007); Robinson v. Superintendent Rockview SCI, 831 F.3d 148 (3d Cir. 2016); Small v. Camden County, 728 F.3d 265 (3d Cir. 2013).

(iv) Machination, misrepresentation, retaliation, intimidation, and active interference of prison officials to thwart all of the Petitioner's attempts at exhaustion of administrative remedies.

Prison officials used corrupt and malicious and abusive and manipulative tactics and practices and machination, misrepresentation, retaliation, threats, and intimidation to discourage, to disappoint, to obstruct, to impede, to hinder;

to frustrate, and to thwart all of the Petitioner's attempts at exhaustion at every stage and rendered administrative remedies effectively unavailable to him for his Bivens claims. Petitioner was very fearful for his safety and requested prison officials to place him on protective custody. On August 24, 2013, prison officials retaliated against him and confiscated all his postage stamps so as to prevent him from filing administrative remedies and then gassed him with OC spray so as to intimidate him. On October 6, 2013, four correctional officers (D. Johnson, B. Molek, B. Mottern, and B. Missigan) confiscated his completed and signed BP-9 for his Bivens claims and refused to return it to him or to mail out for him and tamperred with his administrative remedies. Several prison officials including Diltz, the Institutionsl Administrative Remedy Coordiantor, Ms. J. Slaybaugh, and Harrell Watts, National Inmates Appeal Adminidtrator, used misrepresentation and gave misleading statements to the Petitioner about his administrative remedies for his Bivens claims.

Decisions of other courts and relevant decisions of this Court held that "grievance process is rendered unavailable when prison administrators thwart inmates from taking advantage of it through machination, misrepresentation, and intimidation." see Ross v. Blake, 36 S. Ct. 1850 (2016); Dillon v. Rogers, 596 F.3d 260 (6th Cir. 2010); Connor v. CO 1 Box, 667 Fed. Appx. 558 (8th Cir. 2016).

The court erred and dismissed the Petitioner's Bivens claims against DHO B. Chambers for failure to state a claim. However, the DHO highly discriminated against the petitioiner and found him guilty of a completely false incident report Code 224, IR# 2465348 that he never committed and imposed severe sanctions and restrictions upon him including $150 monetary fine and violated his due process rights and deprived him of property interest and liberty interest.

(b) In its Memorandum and Order (Docs. 200 & 201), the district court significantly deviated from the usual and accepted course of judicial proceedings and, based on completely false official government records, granted partial summary judgment to two prison officials and dismissed Petitioner's Bivens claims against Scott Buebendorf and Gwynn Wise for lack of personal involvement. However, none of the falsified records that the court relied upon would exonerate Buebendorf and Wise from liability because there were no reasonable expectations or obligations for them (i) to submit a memo about the incident (ii) to be listed on Form 583 Report of Incident (iii) to appear on the 5 - 7 minute long fake evidentiary video which was for the most part recorded in the briefing room after the fact.

On July 8, 2013, Buebendorf and Wise were working as regular officers in G-Block and were present at the Petitioner's DHO hearing when [redacted] incident happened. Buebendorf and Wise were not members of the UOF staff whose names were listed on Form 583. The evidentiary video was recorded by the UOF staff to show Petitioner's placement in ambulatory restraints. The UOF staff arrived at the scene of the incident and recorded the video after excessive force and assault and battery was used against the Petitioner, so the video does not show individuals who were involved in the use of excessive force. Similarly, Buebendorf and Wise were not required to submit a memo about the incident. The district court erroneously and improperly concluded "records show" Buebendorf and Wise were not involved in the incident because none of those false and completely fabricated and orchestrated records would in any type of way conclusively prove or justify lack of personal involvement of Buebendorf and Wise in the use of excessive force and assault and battery and/or ordinary negligence or deliberate indifference against the Petitioner. see Montalvo v. Park Ridge Police Dept., 170 F. Supp. 2d 800 (N.D. Ill. 2001).

(c) In its Memorandum (Doc. 230) and Order (Doc. 231), the district court erred and abused it discretion and applied double standards and completely sided with the Defedants and expressed gross judicial bias and prejudice and blatant discrimination towards the Petitioner and entered decisions in conflict with decisions of other courts and relevant decisions of this Court and Federal Rules of Civil Procedure Rule 6(b)(1)(B), 6(b)(2), 60(b)(6), 60(c)(1), and Middle District of Pennsylvania Local Rule 7.10 and dismissed all of the Petitioner's Bivens claims for failure to exhaust administrative remedies. Specifically, the court erroneously granted the Defendants' motion for reconsideration (Doc. 223) which was filed under Fed. R. Civil. P. 60(b)(6) and M.D. Pa. Local Rule 7.10 eight hundred twenty-five (825) days after the court's December 20, 2016 Order (Doc. 112) without providing any excusable neglect for their failure to timely file their motion. see Dripp v. Tabelinsky, 604 F.3d 778 (3d Cir. 2010). Because exhaustion is an affirmative defense which has a default component, the Defendants should have been estopped and prevented from asserting exhaustion as affirmative defense because they forfeited the statutory provisions of that defense by failing to timely file their motion for reconsideration so as to reassert exhaustion as affirmative defense. Accordingly, Defendants were estopped from raising exhaustion as affirmative defense because of being untimely to file their motion for reconsideration. The Defendants baselessly argue that there was a clear error of law as provided by the decision of the Supreme Court in Ross v. Blake that would justify their untimely motion for reconsideration. However, the decision of this Court in Ross v. Blake was available to the Defendants at the time when the district court issued its December 20, 2016 Order (Doc. 112). The court erred and abused its dsicretion by overriding well-established statutory provisions of the PLRA and Federal Rules of Civil Procedure and Local Court Rules and Standing Practice Order in granting Defendants' excessively untimely motion for reconsideration (Doc. 223).

B. FTCA Clims

In its Memoranda and Orders entered (a) August 26, 2016 (Docs. 91 & 92); (b) September 27, 2018 (Docs. 200 & 201); and (c) July 29, 2020 (Docs. 339 & 340), the district court granted partial summary judgments and entered final judgment in favor of the United States and unfairly and erroneously dismissed all of the Petitioner's FTCA claims.

(a) The district court's decisions (Docs. 91 & 92), dismissing the Petitioner's medical FTCA claims against the United States, without prejudice for failure to timely file a COM, was erroneous and in coflict with Pennsylvania substantive law for the following reasons.

(i) The Defnedant's notice requirement dated November 13, 2015 was untimely and in conflict with Pennyslvania Rules of Civil Procedure Rule 1042.7(a)(4) because the Defendant filed its motion (Doc. 47) to dismiss, and/or in the alternative, for summary judgment on October 22, 2015 and the notice requirement was sent to the Petitioner twenty-two (22) days after filing of its motion (Doc. 47) instead of thirty (30) days before filing its motion as required by Pennsylvania substantive law. Petitioner filed his Amended Complaint (Doc. 45) on September 21, 2015. Pennsylvania Rule 1042.6 only allows a defendant to move for dismissal under COM sixty (60) days after the Complainmt is filed. The Defendant sent another copy of notice requirement dated November 13, 2015 at his new addreess. However, merely making a copy of the already deficient notice requirement and remailing it to the Petitioner was not sufficient to rectify the clear error of law that was inherent in the notice requirement. In Pennsylvania, notice requirement is a substantive law. see Schmigel v. Uchal, 800 F.3d 113 (3d Cir. 2015).

(ii) The Petitioner filed two COM and provided detailed explanations of the issues involved in his medical FTCA claims and expressed his intent to proceed without expert testimony. Pennsylvania Rule 1042.3(a)(3) allows a plaintiff to proceed on medical malpractice/negligence claims without expert testimony. see Liggon-Redding v. Estate of Sugarman, 659 F.2d 258 (3d Cir. 2011); Clemmons v. United States of America, 793 Fed. Appx. 109 (3d Cir. 2019). Because the Clemmons case was not available to the district court on August 26, 2016, reversal of Petitioner's medical negligence FTCA claims is necessary and appropriate.

(iii) In its Memorandum (Doc. 91), the court concluded that "Plaintiff did not meet a Com requirement under Pennsylvania Rule 1042.3 because he alleged severe multiple injuries which require expert testimony." However, the court failed to resolve the issue in the best interest of justice by duly exercising its discretion to appoint a counsel or a medical expert or both on behalf of the Petitioner. The district court denied the Petitioner's motion (Doc. 178).

(iv) Petitioner's medical FTCA claims against the United States consisted of two components (a) ordinary negligence or deliberate indiffenrence medical FTCA claims which do not require a COM for their prosecution (b) medical malpractice or negligence FTCA claims which require a COM for their prosecution. The court improperly applied the COM requirement to his ordinary negligence medical FTCA claims and erroneously dismissed them.

(v) In the Defendant's notice requirement dated November 13,2015, which was sent to the Petitioner twice, it was abundantly clear that the Defendant intended to file a motion for dismissal under M.D. Pa. Rule 1042.6. However, the court erred and improperly converted a motion for dismissal into a motion for summary judgment without providing the Petitioner the opportunity to respond.
see Berry v. Klem, 283 Fed. Appx. 1 (3d Cir. 2009).

(vi) The Petitioner was and still is an indigent pro se litigant and did not have sufficient financial resources to acquire a private lawyer or a medical expert on his own, and his health care providers, some of whom were defendant medical staff, denied all of his requests for a COM or a referral to the outside hospital. The Petitioner and others in a similar situation are highly prejudiced and are left without any protection or recourse to get justice and to be fairly and properly redressed for the wrongs done unto them by prison officials because their meritorious claims are simply dismissed on technical and procedural grounds coupled with ineffective judicial oversight and abuse of discretion and machinations and misrepresentations of corrupt prison officials who leave no stone unturned to render "COm unavailable" to a prisoner in the same exact fashion they thwart a prisoner's attempts at exhaustion and render administrative remedies "unavailable" to him. Petitioner respectfully requests this Court to grant his Petition and also to review and to revise and to make some changes in Pennsylvania substantive law as it relates to COM requirement and its application to federal courts, specifically to pass decisions that would (1) make a COM requirement an affirmative defense (2) identify and clarify circumstances that render "COM unavailable" to a prisoner quite analogous to the decisions of this Court in Jones v. Bock and in Ross v. Blake, respectively, in regards to exhaustion of administrative remedies (3) allow prisoners to obtain a COM from health care facilities within the BOP or to get a referral to the outside hospital so as to obtain a COM (4) make provisions for appointment of counsel or medical expert on behalf of indigent prisoners.

(b) The district court's decisions (Docs. 200 & 201), dismissing the Petitioner's intentional tort FTCA claims related to the use of excessive force and assault and torture (extremely tight ambulatory restraints) and ordinary negligence or

deliberate indifference against him by prison officials, was in conflict with the state and federal statutes and Constitution of the United States and international laws and treaties and conventions such as "Universal Declaration of Human Rights" and "Convention Against Torture (CAT) and Other Cruel, Inhuman, and Degrading Treatment or Cruel and Unusual Punishment" to which the United States is a signatory. The court erred because it only relied on the fake demeanor of the UOF staff after it reviewed the 5 - 7 minute long fake evidientiary video; the court completely ignored Petitioner's significant injuries and significant amount of blood on his face. However, based on the demeanor of the UOF staff from the evidentiary video alone, the court cannot determine how tight his ambulatory restraints were, how severe his internal injuries were, and the cruel and unusual punishment conditions of his confinement in the restraint cell# G-126 while he being maliciously and sadistically tortured for three days (July 8 to July 10, 2013) because the evidentiary video only shows a very brief portion of the entire spectrum of events. see Lewis] v. Mollette, F. Supp. 2d 233 (N.D. N.Y. 2010); Zimmerman v. Schaeffer, 654 F. Supp. 2d 226 (M.D. Pa. 2009); Sanchez v. Hialeah Police Dept., 357 Fed. Appx. 229 (11th Cir. 2009).

(c) In its Memorandum (Doc. 339) and Order (Doc. 340), the district court erred and abused its discretion and entered final judgment in favor of the United States and dismissed the Petitioner's sole surviving intentional tort FTCA claims related to the use of excessive force and assault and battery on July 8, 2013. The district court has so far significantly departed from the usual and accepted course of judicial proceedings so as to call for an exercise of the supervisory power of this Court for the following reasons.

(i) The district court denied Petitioner's numerous pretrial motions including motions for reconsideration (Docs. 170, 252, 258), motions for appointment of

counsel (Docs. 13, 149, 267), motions to call material witnesses, character witnesses, and expert witnesses and to present evidences at the bench trial in support of his claims, and motion for appointment of a medical expert (Doc. 178).

(ii) The district court relied on unsubstantiated assumptions and literally reduced judicial proceedings to some type of chance game such as throwing dice or flipping a coin -- futile procedures that can neither reveal the truth nor render justice because in the usual and accepted course of judicial proceedings any person(s) accused of criminal wrongdoings or civil rights violations is not entitled to acquittal just based on the person's denial of guilt and completely false statements and testimonies and fabricated evidences that the person presents in support of his denial of guilt; however, that was exactly what the Defendants did, and the district court let them get away with it. In its findings of fact and conlusions of law (Doc. 339), the court only relied on the Defendants' completely false and perjurious testimonies at the bench trial and numerous completely falsified official government records, and at the same time, the court completely discredited the Petitioner's honest and truthful testimony and totally ignored Petitioner's significant injuries and significant amount of blood on the Petitioner's face and physical torture marks on his body. The court found the Defendants' account "credible" and the Petitioner's account "incredible." To the extent that the court's findings were based on credibility determinations, its final judgment (Doc. 340) was erroneous and improper. Most courts and legal experts in civil rights law agree that summary judgment is inappropriate when it relies on credibility issues. Therefore, this Court should grant the Petition.

2. The district court and the Court of Appeals for ther Third Circuit erred and abused their discretion and have decided important federal question in a way that conflicts with decisions of other courts and have so far significantly departed from the usual and accepted course of judicial proceedings so as to call for an exercise of the supervisory power of this Court. The district court and the Court of Appeals erroneously concluded that Defendant prison officials were justified to use force against the Petitioner because police officers are privilede to use force when making arrests. However, the circumstances under which excessive force and assault and battery and torture was used against the Petitioner were completely differrent from the circumstances under which police officers are privileged to use force when making arrests. Police officers can only use reasonable amount of force even when making arrest. Petitioner was very peaceable and was already handcuffed from his back in black box, never provoked anyone and was never a threat to anyone and never turned and spit on Brininger and never assaulted him in any type of manner. Under such circumstances, any amount of force used against the Petitioner was unreasonable and unnecessary. Prison officials were not entitled to summary judgment and were not privileged to use excessive force and assault and battery and torture angainst the Petitioner simply based on their denial of guilt. Several prison officials (Defendants and non-defendants in this case as a whole) highly manipulated BOP Program Statements: PS 5566.06: Use of Force and Application of Restraints; and PS 1330.18: Administrative Remedy Program; and Federal Rules of Civil Procedure and Local Rules and Pennsylvania Rule 1042.3 et seq. and statutory provisions of the PLRA and relevant decisions of this Court and resorted to vile and repugnant and unconstitutional acts and immoral and unlawful and unprofessional conducts and lies and complete fabrications and orchestrations and machinations and masterful deceptions and most misleading, fallacious arguments and fraud and forgery and deliberate falsification of numerous official government records in order to cover

up and to justify their wrongdoings and to mislead the court and to dismiss the Petitioner's civil rights action in its entirety and to freely walk away without facing any consequences for their actions and inactions that caused malicious and sadistic infliction of severe injuries and incalculable amounts of pain and unnecessary and wanton suffering upon the Petitioner. Police officers and prison officials are not "privileged" or "justified" under any circumstances to use excessive force and assault and battery and malicious and sadistic torture against a defenseless innocent federal prisoner [Petitioner Regassa] and then heavily capitalize on human ingenuity and unsurpassed intelligence and unprecedented brain power and complex functional structure of the human mind and to meticulously engineer and intiricately interweave and impeccably weaponize and effortlessly utilize "lie and law" in order to effectuate their malicious intentions and to cover up and to justify their horrible wrongdoings and the crudest and cruelest acts of injustice and the most horrific civil rights violations and barbarous acts of crime that they perpetrated against the Petitioner. see Hinshaw v. Doffer, 725 F.2d 1260 (5th Cir. 1986); Dole v. Chandler, 483 F.3d 804 (7th Cir. 2006); Classon v. Krautkramer, 451 F. supp. 12 (E.D. Wis. 1977); Hope v. Pelzer, 122 S. Ct. 2508 (2002); Clem v. County of Fairfax, 150 F. Supp. 2d 888 (E.D. Va. 2001); Quinette v. Reed, 805 Fed. Appx. 696 (11th Cir. 2020); Murphy v. Bitsoih, 320 F. Supp. 2d 1174 (D. N.M. 2004); United States of America v. Carson, 560 F.3d 566 (6th Cir. 2009); Weirstak v. Hofferman, 789 F.2d 968 (1st Cir. 1986); Abney v. County of Nassau, 237 F. Supp. 2d 278 (E.D. N.Y. 2002).

3. **WHEREFORE,** Petitioner respectfully requests this Court to exercise its power and authority and mandate and jurisdiction and discretion and Constitutional prerogatives and to take into full consideration the reasons and explanations and arguments and clarifications provided in the foregoing paragraphs and Petitioner's unique and peculiar and exceptional and special circumstances and certain compelling reasons and extraordinary matters of great Constitutional importance and to review and to grant his Petition without precedent and to restrain and to hold prison officials and the United States fully and completely liable and accountable and responsible for their actions and inactions that resulted in the most horrific civil rights violations and deprivation of federally protected fundamental Constitutional rights of the Petitioner [Regassa]. Amen!!!

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Admassu Regassa

Date: January 10, 2022