

21-7011

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

JAN 12 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

[Signature]
(Your Name) PETITIONER

[Signature] vs.
(RESPONDENT(S))

ON PETITION FOR A WRIT OF CERTIORARI TO

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

[Signature]
(Your Name)

50 EVANG RIND
(Address)

CARROLL, MO, 64601
(City, State, Zip Code)

(Phone Number)

RECEIVED

JAN 27 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

1. Plaintiff ask the supreme Court did the district Court abuse their descretion regarding Issue 1 and Issue 2?
Or was the District Court clearly erroneous?
2. Plaintiff ask the Supreme Court was district Court / Court of Appeals judgment incorrect and if so what other actions could have been taking regarding Issue 1 and 2?
3. Plaintiff ask the Supreme Court was District Court / Court of Appeals judgment incorrect in which what grounds did the District Court fail to consider?
4. Plaintiff ask the Supreme Court to take action in Plaintiffs case by remanding the case back to District Court?
5. The Plaintiff also request an Oral Argument take place in the intrest of Justice.

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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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

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

☐ reported at order; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

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

☐ reported at order dismissing case; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 11/23/21.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

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

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

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

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

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

sep
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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

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OTHER

STATEMENT OF THE CASE

1. From 10/2020-current date Kathleen McGuire have been told by Jabari Johnson's family that his life is in imminent danger as he cannot come out of his cell due to staff lying calling him a child molester to current date, yet she does nothing as Johnson continuously complained to the regulations Counsel Catherine S. Shea of McGuire's incompetence causing McGuire to retaliate even further due to Johnson exposing her actions, but Shea fails to act due to retaliation for exposing McGuire's actions.
2. From 10/2020-current date Kathleen McGuire have not provided request of any request of exculpatory evidence in which Jabari Johnson expressed that he wanted the documents to be subpoenaed Duces Tecum. Kathleen McGuire refused one person in particular Durian Weaver, refusing to provide Jabari Johnson with his mother's statement in which Leslie Powell wrote declarations indicating that the Warden of Fiman Correctional Facility Faulk was told that Jabari Johnson's life is in imminent danger, but failed to act. Also failed to provide Jabari Johnson's mother statement of Jabari Johnson's mother indicating she has told the Warden of DOC Little that Jabari Johnson's life is in imminent danger as he is unable to come out of his cell. McGuire refuses to rewrite Plaintiff subpoena Duces Tecum of Request of exculpatory evidence Plaintiff requested on 2/17/21, 2/18/21, and 2/19/21 regarding case 18-CR-84 Kathleen McGuire also refused to provide the court with ADA coordinators mandate for wheelchair which states Jabari Johnson has a wheelchair for walking impairment for housing and daily living continuously indicating from 2/25/21 indicating from 2/25/21-current date. Kathleen McGuire also refused to provide the Jabari Johnson with help of retrieving his court documents that was stolen by Donald Nunez, James Johnson, and Gonzalez, in which numerous Kathleen McGuire further stated that Jabari Johnson doesn't have an ADA accommodation as Jabari Johnson provided her the document before the legal paperwork was stolen in retaliation, due to Plaintiff's intent to prove that he is required to have a wheelchair for Plaintiff to meet with Kathleen at visits and attend court denying access.
- Medical Records Provided To McGuire
4. 8/12/17 mandated medical boot request by Dr. Laura Allen stating Plaintiff can't wear state issued boots as medical boot will be required until surgery is commenced.
5. 12/11/18 ADA Health care contract state wheelchair Permanent use provided by USA Dutton.
6. 12/13/18 CSP medical slip states item wheelchair expiration date none provided by USA Dutton, as Ashley Albury Nurse III state Plaintiff is in cripple state.
7. 2/11/19 Grievance from Ashley Albury stating wheelchair for cell use.
8. 3/5/19 Dr. Richard Kodge stating wheelchair and shower cell until physical therapy is complete.
9. 6/11/19 Janet Smith ADA coordinator appointed ADA accommodation of wheelchair stating walking impairment for housing and daily living with no end date.
10. 8/11/21 Dr. Martin of Colorado Mental Institute of Pueblo provided Jabari Johnson a wheelchair for housing and daily living.
11. On 2/11/21 Jabari Johnson requested evidence on numerous occasions then once more on 2/11/21. McGuire stated that she had not and would not provide the evidence causing Plaintiff's family to text her, stating we need a conflict of interest due to her failure to retrieve Jabari Johnson's request,

afterwards McGuire then filed for a competency hearing in retaliation due to Labari Johnson expressing to her that she was incompetent.

Americans with Disability Act under Title II 42 U.S.C. subsection 12102
(A) To state a claim under Title II of ADA Plaintiff must allege he is a qualified individual with disability (21) who was excluded from participation or denied of benefits or discrimination was by reason of disability.

Definition of Disability Under 42 U.S.C. subsection 12102
A disability is defined for ADA as 92 U.S.C. subsection 12102

- (1) Disability
(A) A physical or mental impairment that substantially limits one or more major life activities of individual.
(B) A record of such impairment

12. On 3/22/21 Labari Johnson then filed a Motion Proving Labari Johnson need for a wheelchair, due to documentation of disability under Title II of the American with Disability Act for Court and meetings with attorney see witness declaration under Exhibit A attached.

13. On 3/24/21 Labari Johnson filed motion proving Labari Johnson has mandated Dr's order by Dr. Laura Allen on 9/26/17 to not wear Doc issued boots required to have a medical boot for right foot until surgery which have been deprived from 2018-2022 by Dr. Nedge and Boyd proving ADA 12101 is being violated as Labari Johnson is required to have a wheelchair by ADA coordinator Janet Smith stating Labari Johnson needs a wheelchair due to walking impairment with no expiration date for housing and daily living in Exhibits A, B, C, D and E attached to this motion.

14. On 8/11/2021-8/18/2021 Plaintiff Labari Johnson provided CHAMP facility Doctors and Nurse's multiple medical documents of right foot and ADA documented wheelchair evidence by Dalton and ADA coordinator Janet Smith in which they copied as Dr. Martin prescribed Labari Johnson a wheelchair, in which CSP and medical staff took, in which CHAMP copied as Dr. Martin prescribed Labari Johnson a wheelchair, in which CSP and medical staff took forcing Labari Johnson to scoot and crawl on floor again and deprived of showers as open sores form on Plaintiff's body once more.

Clayhurst have yet to respond as Plaintiff provided clear and convincing evidence proving Labari Johnson is entitled to have a wheelchair forcing Plaintiff to scoot and crawl on floor Plaintiff is also entitled to medical boot and physical therapy as Plaintiff is also discriminated against by Clayhurst due to disability and race, as Doc staff members have stated Clayhurst knows you can't walk but hate niggers, we all hate niggers, as Clayhurst have been provided ADA documents, exhibits and witness declarations proving Labari Johnson is in need of ADA accommodation to attend court and attorney visits. Johnson sent Harold Clayhurst on 8/22/21 Janet Smiths 6/17/19 ADA accommodation of wheelchair for housing and daily living with no end date.

From 11/19/19- current date Plaintiff Labari L. Johnson have notified Janet Smith ADA coordinator that Dalton took Plaintiff's wheelchair depriving Plaintiff of wheelchair forcing Plaintiff to scoot and crawl on floor depriving Plaintiff of his ADA showercell from 12/4/19- current date, yet Janet Smith have failed to act as Janet Smith on 6/17/19 mandated Plaintiff is required to have a wheelchair for housing and daily living due to walking impairment. Plaintiff have been deprived of showers as open sores form on Plaintiff's body and injury to Plaintiff's right foot due to scooting and crawling around cell. The Plaintiff is also deprived of court dates, and attending attorney visits for case's 18-CR-84 and 15-CR-2337 depriving Plaintiff of visiting with his attorney's Kathleen McGuire and Patrick Gentzler, retaliating against Plaintiff because of disability intent to sue and race.

Due to Janet Smith's actions Plaintiff suffers from continual pain as Janet Smith violates the Americans with Disability / Rehab Act, Cruel And Unusual Punishment, Deliberate Indifference, Equal Protection Clause and Retaliation for Speech.

On 4/19/21 Plaintiff's family members stated David Lisac threatened Jabari Johnson's life indicating that if the Plaintiff doesn't stop litigation he will end up in a wooden box, indicating that he will have Plaintiff killed in which Plaintiff's life is already in imminent danger, due to staff members lying calling Plaintiff a child molester and snitch as David Lisac has full knowledge of it, were as he stated the Plaintiff should not be at the Colorado State Pen placing Plaintiff's life in imminent danger failing to act in continual known danger.

None the less Clayhurst deprives Plaintiff of filing lawsuits against Kathleen Boyd and Stephanie Dalton along with his clerk Kimberly Graham in retaliation discriminating against Plaintiff due to race and disability of wheelchair to attend trial violating Plaintiff's rights of Equal Protection Clause, Liberty Clause, Due Process clause, Confrontation Clause, Americans with Disability / Rehab Act and retaliation for Speech.

Dean Williams have known of such safety issues since 4/12/19 and have yet to provide safety deeming him liable violating the 8th Amendment Cruel And Unusual Punishment and Deliberate Indifference.

William Cambell was also told of the denial of wheelchair etc. yet he failed to act.

Issue 1: Illicit 3 strikes to Plaintiff by Judge Lewis Babcock of District Court

In respect to the previous appeals court decision indicating that the Plaintiff has acquired 3 strikes under the Prison Litigation Reform Act (PLRA), 28 U.S.C. subsection (9), couldn't be more wrong, as the Plaintiff is retaliated against due to his unequivocally profound understanding of law, in which the Plaintiff is placed under unreasonable restrictions, due to his intellect regarding the law, and the rules of Federal Procedure, indicating that the Plaintiff can only file a complaint if his life is in imminent danger. Were as the court of appeals state verbatim:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has on 3 or more occasions, while incarcerated or detained in any facility brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious or fails to state a claim upon which relief may be granted unless the prisoner is under imminent danger of serious physical injury, 28 U.S.C. subsection 1915(g).

Court of Appeals indicated that the Plaintiff has acquired (3) strikes under PLRA, in which Lewis Babcock, illicitly labeled legally frivolous, regarding cases Johnson v. Hill, 20-cv-00188
2) Johnson v. Hampton, 20-cv-00161
3) Johnson v. Ponce, 20-cv-00014

in retaliation to hinder the Plaintiff from filing cases because the Plaintiff is exceptional when litigating.

Plaintiff notifies the Supreme Court that Judge Lewis Babcock was totally unreasonable due to indicating that these cases were legally frivolous when:

A. 1) Johnson v. Hill, 20-cv-00188 was not legally frivolous, in which Plaintiff was refused of food which caused physical injury of headaches, dizziness, also feeling faint which violates the 8th Amendment (Cruel And Unusual Punishment) Deliberate Indifference, were, due to deprivation of food, Plaintiff sustained an injury, an injury that should have never occurred initially, which violates the basic necessity of prison confinement, such as adequate food, clothing, recreation, sanitation, medical care and reasonable safety from bodily injury/harm.

Further, if the staff members fail to provide such necessity's staff are deemed liable.

see Estate v. Gamble 429 U.S. 326, 355-57 108 S. Ct 2413 (1976)
(chief purpose of Cruel And Unusual Punishment, is to prevent the unnecessary and wanton infliction of pain).

see Tafaya v. Salazar, 516 F.3d 836, 839 (10th Cir 2008) (inhumane conditions of confinement including deprivation of adequate food, clothing, shelter, sanitation, recreation, medical care and reasonable safety from bodily harm is an 8th Amendment violation under the Cruel and Unusual Punishment Clause).

B. Johnson v. Hampton 20-cv-00161 was not legally frivolous, in which Plaintiff was forced to scoot and crawl on the floor, demeaned called cripple niggers as the Plaintiff is required to have a wheelchair; per mandated medical documentation, in which Sgt Hampton of 20-cv-00161 knew but failed to act which violates the 8th Amendment Cruel And Unusual Punishment / Deliberate Indifference.

see Ashcroft v. Iqbal 11. S. 129, S.Ct 1937 (1949/2009) (showing that a defendant knows of a serious risk and fails to take reasonable action to correct it does show deliberate indifference).

see Merritt v. Hawk, 153 F.Supp.2d 1216/1227-28 (D. Colo 2002) (Plaintiff's allegation that he had informed various supervisory officials about his problems sufficiently pleaded their personal involvement).

see Davis v. GEO, Grp., Corr., Inc., 696 F.Appx 851, 855 (10th Cir 2017)

(Allegations that defendants had displayed a deliberate indifference toward a prisoner's serious medical need and denied him of adequate medical treatment sufficient to facially establish imminent danger and serious danger requirement).

see Sealock v. Colorado, 218 F.3d 1205, 1210 (10th Cir 2000) (a medical need is serious if it is mandated by a doctor diagnosis that even a lay person can even see the necessity of treatment).

see Fuller v. Wilcox, 2008 WL 2961388*1 (10th Cir Aug 4/2008) (denial of wheelchair meaning Plaintiff must crawl and could not walk to shower or lift himself to his bed could result in a number of serious physical injuries).

C. Johnson v. Ponce 20-cv-00014 was not legally frivolous were as she had full knowledge of Plaintiff's cripple state disability finding as painful open sores formed on Plaintiff's body due to the lack of shower as Ponce indicated Plaintiff will not get a shower, also not providing Plaintiff a shower.

see Tafaya v. Salazar, 516 F.3d 836, 839 (10th Cir 2008) (inhumane conditions of confinement including deprivation of adequate food, clothing, shelter, sanitation, recreation, medical care and reasonable safety from bodily harm is an 8th Amendment Violation).

Pursuant To The 8th Amendment Cruel And Unusual Punishment Clause along with Deliberate Indifference Clause was violated within case A, B and C, were as was not frivolous which was proven pursuant to case law above and the legal citing's of The United States Constitution of the 8th Amendment.

Judge Lewis Babcock Illicitly Placed The Plaintiff under the 3 Strike sanction to hinder filings a future filings in retaliation violating Plaintiff 1st Amendment Right Freedom of Speech.

Issue 2 Abuse Of Desecration Under Rule 11 Sanction / Violating Actual Injury requirement and Violating The 1st Amendment Retaliation For speech Also Violating The 8th Amendment Cruel And Unusual Punishment

On 3/4/2020 in case 19-cv-03730-LTB Judge Lewis Babcock abused his discretion placing unreasonable sanctions upon Plaintiff in which were to file a notarized document indicating the lawsuit is not interposed for any improper purpose, follow rule 8 of the Federal Rules of Civil Procedures, also provide 6 month account statements along with 1983 and 1915 together.

Plaintiff Jabari Johnson has told Babcock on numerous occasions that the Plaintiff is denied of postage by DOC's warden Little and Taylor of mailroom denying Plaintiff of sending legal mail out unless \$2.00 a month. Plaintiff explained he is unable to send out more than 8 pages per envelope due to the postage requirement and postage Restriction by DOC's Thomas Little and mailroom Taylor.

As Warden Little on 2/19/21 Placed Plaintiff on postage restriction in which such action that inhibits Plaintiff 1st Amendment Right is a violation. Plaintiff does not have any money or material to send out legal mail. Plaintiff also told Babcock on numerous occasions that he is denied of notary's by the assistants of the law library Reginald Johnson and Carolyn Hansen. The law librarians on different occasions have also denied Plaintiff of 6 month account statement which Plaintiff has informed the law librarians of such need as they intentionally deny in retaliation, the requirement for Babcock's sanction order.

None the less Babcock dismisses complaints even when told of the actions by the law librarians, which frustrates and impedes upon Plaintiff's access to the courts, in which Babcock has intentionally placed barriers upon the Plaintiff to cause him not to prosecute, as the Plaintiff have attempted and have conveyed such defects and retaliation by DOC's law librarians.

Yet Babcock does not act from 2019-2021.

Plaintiff have also requested that Babcock provide all cases filed in district court regarding his sanction request of section E of the 1983, due to the law librarians failure to provide, were as on 2/25/21 Plaintiff was told he has 21 legal boxes and that he would have to walk down stairs to retrieve his property or he will be given any property Donald Nunez, James Johnson, and Sgt Cronzales stole medical records, disciplinary reports, law library records, personal pictures, lipays, cases, grievances, books, mail logs which was of abundance of 20,000 papers in total. The Plaintiff was then provided his legal box that did not include civil cases or criminal cases and all other items mentioned above, in which they stole all Plaintiff's personal, medical, and legal items to current date.

Plaintiff notified Babcock on numerous filings and cases of such theft, also notified Babcock in Plaintiff's notice of appeals and initial filings that caused ineffective filings and inability to comply to Judge Lewis Babcock's sanctioning orders in commencing Any civil action cases.

1. 21-cv-00564 filed on 3/4/21 Plaintiff indicated within his notice of appeal stating Plaintiff has told Babcock on numerous occasions/cases that law librarian Reginald Johnson would not provide the adequate amount of paper to complete section E, and would

not notarize any papers to comply with Babcock's sanctioning orders. The Plaintiff also notified Babcock of the postage restriction of \$2.00 a month, put in place on 2/19/21 by Warden Little upheld by mailroom Taylor. Plaintiff requested that Babcock respond to the the injustice, and illicit restrictions that inhibits the Plaintiff's 1st Amendment right to access of the courts, yet Babcock dismisses the case/complaint.

2. See case's 20-cv-03068, 20-cv-02613, and 20-cv-02663 Plaintiff filed a Petition of Rehearing on 5/12/21. Plaintiff states: The Plaintiff did comply to all Babcock's sanctioning orders from 2017-2021, in which in 2019 Babcock would continuously would intentionally deny Plaintiff of filing suits because Plaintiff would attempt to comply to section E of 1983, as Babcock make up additional requests to add to section E so that the Plaintiff could not comply in order to commence a lawsuit. The Plaintiff then attempted to comply to additional sanction orders, yet the law librarian Reginald Johnson would not provide request to do so, nor would Babcock when told of the denial.

see Motion Requesting Relief from Judgment in case 20-cv-03068-LTB Declaration 4/17/21 Witness Declaration By Christopher Taylor Under Exhibit A.

I have witnessed Jabari Johnson attempt to comply to section E in alot of documents from 2021, but denied access by Babcock. In 2020 Johnson was sanctioned and tried to comply to orders but was denied needs to fulfill the orders by Babcock. I have written several statements in 2021 stating that the law librarians is denying Jabari Johnson of complying to sanctioning orders. Babcock then still deny him of access to file his suits denying Jabari Johnson showers and medical care subjecting him to inhumane conditions making him scoot and crawl on the floor when he needed an ADA accommodation as evidence proves.

3. See case's 21-cv-05130, 21-cv-01037, 21-1171, 21-cv-00911, and 21-cv-00992 Notice of Appeal all lay out facts regarding several erection of barriers to prevent Plaintiff from prosecuting lawsuits, yet Babcock would intentionally dismiss lawsuits, as the Plaintiff would prove that he is unable to meet any sanctioning requirements due to either Babcock not providing section E and 6 month account statement or not providing notarized documents not providing adequate amount of paper or unable to send out documents due to postage restriction, as all documents if sent together will be over \$2.00 a month in which Plaintiff monthly allotment granted by the warden Little which was put in place to prevent Plaintiff from filing lawsuits.

4. See case 21-cv-05254 filed on 2/22/21 Notice of Appeal in ECF# 18 3 days before staff stole his legal filings of this case. Concluding Plaintiff filed a motion requesting copies of ECF document #11. Yet in document #12 of their case Babcock states on 3/18/21 Plaintiff filed a request for photo copy of ECF No. 1 see ECF No. 11, Plaintiff asserts Doc staff has taken the documents from him and he needs ECF No. 1 so he can file a motion to show cause and an opening brief, in which Plaintiff need the actual complaint filed in that case to know what the complaint is actually detailed about in order to show cause.

The same actions took place in case's 21-cv-00344, 21-cv-00226, 21-cv-00320, 21-cv-00293, 21-cv-00246. Plaintiff also failed to prosecute other case's because of the fact Nunez, James, and Gonzales stole the initial filings of the complaint as the notices of Appeal were filed before 2/25/21, such as case's

20-CV-00253, 20-CV-03852, 21-CV-00014, 21-CV-00051, 21-CV-00119, 21-CV-00246, 21-CV-00657, 21-CV-00180, 21-CV-001570, 21-CV-00761. Case's 20-CV-02061, 21-CV-03068, 20-CV-03263 are additional complaints of Babcocks retaliation causing Plaintiff to be frustrated and impeded from access to the courts abusing his discretion.

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

see Simkins v. Bruce, 406 F.3d 1234, 1243 (10th Cir. 2005) (The Principle that an unimpeded transmission of inmate legal mail is the most obvious formal manifestation of right to access to the courts has been established for some time now).

see Lewis v. Casey, 518 U.S. 343, 355, 116 S.Ct 2174 (1996) (Lewis said the tools Bounds v. Smith requires to be provided are things that inmates need in order to challenge the conditions of their confinement).

see Lewis v. Casey, 518 U.S. 343, 355, 116 S.Ct 2174 (1996) (Retaliation depriving access to the courts depriving access to civil actions and condition of confinement violate the 1st Amendment).

see Bounds v. Smith 430 U.S. 812, 825-826 97 S.Ct 1491 (1977) (If the right of court access include with filing of a complaint rebutting the states response would not be part of the right as one court pointed out the inmate ability to post filing needs, such as research tools necessary to efficiently rebut authorities cited by an adversary in responsive Pleadings should be met.

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

Lewis v. Casey made (2) examples of frustrated and impeded such as:

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

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

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

see U.S. v. Taylor, 487 U.S. 326, 355-57, 108 S.Ct 2413 (1976) (abuse of discretion is defined as a firm conviction that the trial court commits a clear error of judgment).

Babcock denied access to the courts, along with law librarian's Reginald Johnson and Carolyn Hansen refusing to provide adequate legal assistance etc.; as Warden Little and Taylor renege denying postage for Plaintiff's filings, in which Nunez, James, and Gonzales stole records to cause Plaintiff to fail to prosecute, as Plaintiff is suffering from actual injury for years 2017-2021, in which Plaintiff could not be sought, or retrieve relief from the court due to Babcock and others actions of frustration and impediment, which proves abuse of discretion of this complaint violating the following case law.

see Estelle v. Gamble, 429 U.S. 326, 355-57, 108 S.Ct 2413 (1976)

(intentionally interfering with treatment once prescribed violate the 8th Amendment).

see Estelle v. Gamble, 429 U.S. 326, 355-57, 108 S.Ct 2413 (1976) (Chief

Purpose of Cruel And Unusual Punishment Clause is to prevent unnecessary wanton infliction of pain).

see Fuller v. Wilcox, 2008 WL 2961388 (10th Cir Aug 4, 2008) (unpublished denial of wheelchair meaning that plaintiff must crawl and could not walk to the shower or lift himself to be could result in a number of serious physical injuries).

see Davis v. G.F.O. Corp. Corp., Inc., 696 F.Appx, 851, 855 (10th Cir 2007) (Allegation that Defendants have displayed deliberate indifference to a prisoners serious medical needs and denied him adequate medical treatment are sufficient to facially establish imminent and serious danger requirement).

see Mead v. Croubbs 841 F.2d 1512, 1513 (10th Cir. 1988) (The failure of the state commissioner to carry out statutory duties would be deliberate indifference).

see Kikumura v. Osagie, 467 F.3d 1269, 1291, 1296 (10th Cir 2006) (Holding delay must be shown to have caused substantial harm including pain suffered while awaiting treatment two to three and a half hours delay in treating painful condition started a claim).

see Merritt v. Hawk, 153 F.Supp.2d 1216, 1227-28 (D. Colo. 2001) (Plaintiff alleged that he informed various supervisory officials about his problems sufficiently pled their personal involvement).

see Ashcroft v. Iqbal, ___ U.S. ___, 129 S.Ct 1937, 1949 (2009) (showing that a defendant knows of a serious risk and fails to take reasonable action to correct it does show deliberate indifference).

see McBride v. Deer, 240 F.3d 1187, 1290-91 (10th Cir. 2001) (loss of full function in leg constitutes long handicap, or permanent loss or pain suffered violates the 8th Amendment).

see Sealock v. Colorado, 218 F.3d 1205, 1218 (10th Cir. 2000) (a medical need is serious if it is mandated by Dr. or diagnosis that even a lay person can see the necessity of treatment).

see Helling v. McKinney, 509 U.S. 25, 33, 133 S.Ct 2475 (1993) (a

remedy for unsafe conditions need not wait a tragic event other examples cited by the courts included exposure to risk of infectious diseases, unsafe drinking water and assault).

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

see Farmer v. Brennan, 511 U.S. 825, 842, 114 S.Ct 1970 (1994)

(Prison officials knowledge of a risk of assault may be inferred from the fact the risk was obvious).

such abuse violate the actual injury requirement as the plaintiff violated no part of the sanction order, were as initially he was retaliated against by Babcock for plaintiff filing adequate lawsuits in which Babcock actions were intentional violating Rule 11 sanctions:

see Rule 11 Sanction (4) Notice of Sanction. A sanction imposed under this rule must be limited to what suffices to deter repetition of the conduct or comparable conduct by others similarly situated. The sanction may include non-monetary directives, an order to pay a penalty into the courts or if imposed on motion and warranted for effective deterrence, an order directing payment to the amount of part or all of the reasonable attorney fees and other expenses directly resulting from this situation.

Babcock violated Rule 11 section 4 due to the fact he made sanctions because of Plaintiff's adequate filings, not because of repetition. His attempts were to stop Plaintiff's Civil Actions in which he set into motion events to attempt to erect barriers then would sanction Plaintiff when he would try to remedy his action violating the 8th Amendment Cruel And Unusual Punishment / Deliberate Indifference and 1st Amendment Violation Retaliation For Speech, in which Babcock made up numerous orders after another, as the Plaintiff would complete each order so that he could try to try to sanction Plaintiff from filing lawsuits violating Plaintiff's 1st Amendment Rights.

1st Amendment Of U.S. Constitution states:

Congress Shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press or of the right of the people to peaceably assemble and to petition the government for redress of grievances.

Babcock has and still currently to this day attempts to try to stop Plaintiff from petitioning the government for redress of grievances namely lawsuits violating (the 1st Amendment).

8th Amendment Of U.S. Constitution states:

Excessive bail shall not be required, nor excessive fines imposed, nor and cruel And Unusual Punishment inflicted.

Pursuant to the 8th Amendment and case Tahara v. Salazar 516 F.3d 912, 916 (10th Cir 2008) (inhumane conditions of confinement, including deprivation of adequate food, clothing, shelter, sanitation, recreation, medical care, and reasonable safety from bodily harm is an 8th Amendment Violation).

Babcock has caused actual injury violating the 8th Amendment Cruel And Unusual Punishment

REASONS FOR GRANTING THE PETITION

Judge Babcock abused his discretion due to the fact Plaintiff life is in imminent danger, as the Plaintiff is deprived of access to the courts by the bias Judge and others who have erected barriers just as Judge Babcock frustrated and impeded upon Plaintiff's access to the courts when Plaintiff is injured suffering from injury which causes pain subjecting the Plaintiff to cruel conditions of confinement.

None the less due to the severe oppressive acts to deny the Plaintiff of his 1st Amendment Right to Petition the Government for redress of grievances regarding Cruel And Unusual Punishment of the 8th Amendment.

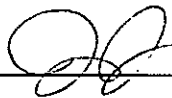
Further the United States Supreme Court Considers governing review On Certiorari when one is sanctioned to such a deprivation / departure by a lower court, as to call for an exercise of the courts supervisory power.

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

CONCLUSION

The petition for a writ of certiorari should be granted. For the reasons stated previously Plaintiff request the U.S. Supreme Court to remand this case back to the district court in the interest of justice

Respectfully submitted,



Date:

1/12/22

Law Librarian Carolyn Hansen holds filings this will be provided to her on 1/12/22 then when its returned by her it will be sent to the U.S. Supreme court