

FEB 07 2022

OFFICE OF THE CLERK

No. _____

21-7250

IN THE

SUPREME COURT OF THE UNITED STATES

Michael Ray Fortuna — PETITIONER *Pro-Se*
(Your Name)

vs.

Mr. Hudgins, warden — RESPONDENT(S) *et al*

ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. court of Appeals For The Fourth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

~~U.S. Court of Appeals For The Fourth Circuit~~
PETITION FOR WRIT OF CERTIORARI

Michael Ray Fortuna
(Your Name)

P.O. Box 85 Peach Creek,
(Address)

WV 25639
(City, State, Zip Code)

304-590-0486
(Phone Number)

ORIGINAL

QUESTION(S) PRESENTED

- ① Is the safety of an Inmate's physical being a violation?
- ② Is putting an Inmate in harms way a constitutional violation?
- ③ If an Inmate has paperwork that shows he is suppose to be on a bottom bunk, but is put on a top bunk and left there in harms way a constitutional violation?
- ④ If an Inmate Falls From a Top Bunk and is taken to the Hospital and is sent back to the prison with several injuries to the head, neck shoulder and hip ect and put back on the same top bunk he or she fell from even though he has a bottom bunk pass and shouldn't be on a top bunk to start with, is that a constitutional violation?
- ⑤ If an inmate can't work in a prison because he has a bottom bunk pass but yet is put on a top bunk and left there for several months until he gets hurt and even after he gets hurt he is put back on a top bunk with injuries and could fall again and his safety is ignored a constitutional violation?
- ⑥ And do you think the way an Inmate is treated could cause mental distress?

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:

Mr. Hudgins, Warden
 Dr. Anderson, Doctor at medical Services
 Mrs. Wilson, Physicians Assistant
 Nurse, Brehm, Nurse at medical Services

RELATED CASES

Earl Wilkins v. Robert Granger # 90-6143
 US Court of Appeals For the Fourth Circuit, ~~Jan 15~~ 15, 1991

Clarence Bill McCord v. Ross Maggio Jr. # 88-3205
 US Court of Appeals For the Fourth Circuit April 2 1991

Thomas Powers v. Donald Snyder # 04-1961
 US Court of Appeals For the Seventh Circuit April 4 2007

Anthony Shelton Clink Scales v. Pontiac Corr. Facility # 00-6798
 US Court of Appeals For the Fourth Circuit Oct 26, 2000

Eric Joseph Depaula v. Harold W. Clarke # 16-7360
 US Court of Appeals For the Fourth Circuit Dec 6 2017

Frank Lee Garrett v. Diane Eiko # 95-7939
 US Court of Appeals For the Fourth Circuit June 4 1997

Roy L. Smith v. Amy L. Smith # 08-7139
 US Court of Appeals For the Fourth Circuit Oct 27, 2009

Cleolis Hunt v. Dental Department # 87-2661
 US Court of Appeals For the Ninth Circuit Oct 27, 1988

Clarence R. Edwards v. John B. Duncan # 10469
 US Court of Appeals For the Fourth Circuit Feb 2, 1966

Michael McGowan v. Donald A. Hulick # 09-2991
 US Court of Appeals For the Seventh Circuit May 26, 2010

Van Johnson v. Dr. Richard K. Bowers # 88-2641
 US Court of Appeals For the Eighth Circuit June 16, 1989

David Fields v. Gerald Gander # 83-2360
 US Court of Appeals For the Eighth Circuit May 23, 1984

Clarence Eugene Jones v. Dr. Johnson # 83-3637
 US Court of Appeals For the Ninth Circuit Sept 3, 1985

W.J. Estelle Jr v. J.W. Gamble # 75-929
 US Court of Appeals For the Fifth Circuit Oct 5, 1976

Joseph Stilwell v. Conceco, med. Contractor
 # 99-7090 US Court of Appeals For the Fourth Circuit Feb. 29, 2000

Edward E. Westlake v. William Lucas
 # 75-2177 US Court of Appeals For the Sixth Circuit April 6, 1976

Nathaniel Williams v. Leon J. Vincent
 # 73-2781 US Court of Appeals For the Second Circuit Oct, 29 1974

Jerre Bishop v. Kent R. Stoneman # 74-1326
 US Court of Appeals For the Second Circuit Nov. 13, 1974

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CASES

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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 _____ to the petition and is

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

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

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

☐ For cases from **state courts**:

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

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

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

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

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was ~~April 23, 2021~~.

Nov. 12 2021

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

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

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

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

☐ For cases from **state courts**:

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

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

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

①

8th amendment constitutional violation

②

civil Rights violation confinement conditions

STATEMENT OF THE CASE

I was in federal prison and because i have alot of physical injuries to my body i was given a bottom bunk pass, i have had lower back surgery, i have a pin in my left femur, my leg is numb from my knee down to my toes and my right shoulder is hurt to the point that i might lose the use of using it. I ~~have~~ have been on a bottom bunk for several years while in the BOP and the half-way house, but i was put on a top bunk at FCI Gilmer camp in June 2019 and was left on the top bunk even after i fall and was hurt. I begged the medical staff to move me long before i fall and they chose to leave me in harms way until i wrote a BP on the medical staff then and only then did i get moved to a bottom bunk and because of the fall i took injured my head, neck, back, eye, hip, and other parts of my body. I have the paper work that shows i shouldnt have been on a top bunk but they put me there anyway, and even after i fall, i was put back on the same top bunk for another 6 days before i was moved to a lower bunk and from the first day i got to the prison until i left there they had at least 10 or more bottom bunks open at all times. And the staff at FCI Gilmer camp put guys on the lower bunks that didnt have a lower bunk pass and put me and left me in harms way thank you.

REASONS FOR GRANTING THE PETITION

- ① Because my constitutional Rights was violated when i was put in harms way and then put back in harm way even after i fell and got hurt for another 6 days.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Michael Ray Tortorella

Date: 2-3-2022