

21-7469

No. 21-3169

ORIGINAL

Supreme Court, U.S.
FILED

MAR 08 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

Jermeal White — PETITIONER
(Your Name)

vs.

Dominique C. Stringer — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals for the Sixth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Jermeal White #054-040
(Your Name)

P.O. Box 45699
(Address)

Lucasville, Ohio 45699
(City, State, Zip Code)

—
(Phone Number)

RECEIVED

MAR 21 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTION(S) PRESENTED

Did the district court and the united states court of appeals fail to consider petitioner opposition to respondent cross-motion for summary judgment?

Was petitioner's opposition to respondent cross-motion for summary judgment consistent with the Law under Fed. R. Civ. P. 56(c)4 to support his Verified complaint as evidence in this matter?

Did the District court and the united states court of appeals fail to honestly ~~and~~ review the video recordings in this matter under the Law?

Was the District court required to appoint petitioner counsel upon his request that he was proceeding pro se, and that this entire use of force incident was captured on video, recordings which he could not provide him-self to the court?

Did the District court and the united states court of appeals put petitioner's safety in danger by not addressing his opposition to respondent cross-motion for summary judgment being that this entire incident of the August 9, 2019 use of force against petitioner was captured on video recordings?

LIST OF PARTIES

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

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

RELATED CASES

White V. Erdos case No. 19-CV-1009

White V. Erdos case No. 21-3169

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Anderson v. Liberty Lobby, Inc. 477 U.S. 424 248 (1986)	7
Cobell v. Norton, 310 F. Supp. 2d 77 (D.D.C. 2004)	9
Savinno v. City of New York 331 F. 3d 63, 71 (2nd circuit, 2003)	8
Scott v. Harris 550 U.S. 372, 380, 127 S.Ct. 1769 L. Ed 2d 686 (2007)	10
Citing in Research Warrants issued August 29, 1994, 889 F. Supp. 296, 298 (S.D. Ohio 1995)	11

STATUTES AND RULES

42 U.S.C. Section 1983	
Fed. R. Civ. P. 56	5-9

OTHER

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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 _____; 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 _____; 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 January 28, 2022.

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

This case involves constitutional violations to the Eighth Amendment United States Constitution under 42. U.S.C. Section 1983, and Fed. R. Civ. P. 56

STATEMENT OF THE CASE

Petitioner filed this civil rights action in this matter to the United States District claiming an Eighth Amendment violation, that excessive force was used against him on August 9, 2019 for no reason at all by Respondent. Petitioner made it clear in his motion for Summary Judgment that the ~~the~~ video camera will prove that while petitioner was walking to the cafeteria to eat, that force was used against him for no reason and that he was refused medical attention. Petitioner supported his motion for Summary Judgment with his evidenced Verified Complaint that was signed under penalty of perjury - and with his Opposition to respondent cross-motion for Summary Judgment, with the district court ruled on all at one time, on December 10, 2020 that magistrate judge issued her report and recommendation that petitioner motion for Summary Judgment be denied. That magistrate judge concluded that petitioner's Verified complaint failed to comport with the requirements on Summary Judgment that a Supporting Affidavit or declaration be made on Personal Knowledge under Fed. R. Civ. P. 56(c). The magistrate judge also found that petitioner did not introduce Affidavits or declarations or other evidence that refutes respondent evidence and creates a genuine dispute to any material fact. The district court accepted and adopted the magistrate's report and recommendation on February 1, 2021. Petitioner filed an Appeal to the United States court of appeals addressing the same facts he did ~~to~~ to the District. The Appeals Court did not address the facts of the video or consider petitioner's opposition to ~~the~~ respondent cross motion for Summary Judgment. The Appeals court Affirmed the district court decision on January 28, 2022. 4

REASONS FOR GRANTING THE PETITION

The cogent reasons why this court should grant certiorari, is because the United States District court and the United States Court of Appeals has put petitioner's safety in danger by not honestly reviewing the facts of the video recordings in this matter which will prove that excessive force was used against petitioner for no reason on August 9, 2019. Even more the District court and the United States Court of Appeals failed to address any of the facts in petitioner's opposition to Respondent cross-motion for summary judgment which was supported with enough evidence to meet the requirements under (Fed. R. Civ. P. 56(c)(4)) in which petitioner provided an detailed declaration, making it clear that the video will prove that while petitioner was walking to the cafeteria to eat Respondent was standing at the first cafeteria doors, as petitioner was walking respondent turned toward petitioner and called his name. That's when petitioner stopped and respondent walked up to petitioner pointing his finger telling him to go back to the unit. That's when petitioner only kept walking to the second chow hall telling respondent he was allowed to eat. That's when respondent followed petitioner to the second chow hall, as petitioner was about to enter the cafeteria, respondent told petitioner to put both of his hands on the wall in which petitioner immediately complied. As petitioner had his hands on the wall, respondent started playing tricky games of which one of petitioner's hands to cuff up first. As petitioner was cuffed up respondent started punching petitioner in his lower back for no reason.

It was three other correction officers right their, respondent was the only one who attended to petitioner for no reason. As petitioner was being escorted to segregation respondent smashed petitioner against the hall way wall with excessive force, and bent his left wrist so hard that petitioner can not move it. And petitioner was refused medical attention and the video recording will prove this whole matter.

Respondent lied in this matter. Petitioner never once disrespected respondent and respondent never forced petitioner against the wall, which is the only way respondent force can be justified in this matter. Petitioner complied when he was told to put his hands on the wall, and the video will prove it. ALSO it was not stated no where in respondent declarations, or use of force reports that he pointed his finger telling petitioner to go back to the unit, or anything in that

nature, which the camera will prove. Petitioner made that fact clear to the District court in his motion for Summary Judgment, and in his opposition to respondent cross-motion that respondent turned toward Petitioner, ~~and~~ walked up on him pointing his finger telling Petitioner to go back to the unit for no reason. The magistrate Judge used that fact against Petitioner instead of just addressing the facts, especially when Petitioner was the one who submitted that fact, not respondent. Summary Judgment will not lie if there is a genuine dispute about material fact. *Anderson v. Liberty Lobby, Inc.* 477 U.S. 424, 248 (1986)

consistent with the law, respondent has lied in this matter, and the camera will prove that respondent turned toward Petitioner, called his name Petitioner stopped, respondent walked up to Petitioner pointing his finger telling Petitioner go back to the unit

Petitioner expressed the fact that he had to eat and kept walking to the second cafeteria. And as petitioner was about to enter the second cafeteria, that's when respondent told petitioner to put his hands on the wall, in which petitioner complied with out force being used. Petitioner made a genuine ~~dis~~ dispute.

In considering a motion for summary judgment, the court must resolve all ambiguities and draw all reasonable inferences in favor of the non-moving party. See Savinno v. City of New York, 331 F.3d 6371 (2nd Circuit 2003) citing Anderson 477 U.S. at 255

The District court and the United States Court of Appeals did not even consider or address petitioner's opposition to respondent cross-motion for summary judgment at all, which was supported ~~with~~ with enough evidence to defeat respondent cross-

motion for summary judgment.

The District court and the United States Court of Appeals failed to address the facts of the video recordings as this entire matter was captured on video. Petitioner's Verified complaint was signed under penalty of perjury making it clear that matters in the complaint was true, with an declaration that Petitioner provided in his opposition to respondent cross-motion for summary judgment which supported his verified complaint and his motion for summary judgment under Fed.R.Civ.P. 56(c)(4) and Cobell v. Norton 310 F. Supp 2d. 77 (D.D.C. 2004) Based on the facts Petitioner did introduce evidence to refute respondent evidence and create a genuine dispute of material fact. Petitioner's opposition to respondent cross-motion for summary was evidenced with detail factual allegations which supported his verified complaint.

The District court and the United States Court of Appeals adopted respondent version of events, when it was already clear from the record that respondent was not being truthful in light of the video and use of force reports. When opposing parties tell two different stories one of which is blatantly contradicted by a video record so that no reasonable jury could believe it- a court should not adopt that version of the facts for purposes of ruling on a ~~or~~ motion for summary judgment. Instead those facts should be viewed in a light depicted by the video tape

Scott v. Harris 550 U.S. 372, 380
127 S.Ct. 1769, 167 L.Ed.2d 686
(2007) Id at 381

Again in light of the video, and the fact the ~~the~~ District court and the United States Court of Appeals failed to address ~~to~~ the facts of Petitioner's opposition to ~~to~~

respondent motion for summary judgment. It's safe for petitioner to say that the courts factual findings are clearly erroneous and this matter should be overturned because a mistake has been made, citing *in re Search Warrants issued August, 29, 1994*, 889 F. Supp. 296 (S.D. Ohio 1995)

Based on the facts this court should grant certiorari

CONCLUSION

petitioner respectfully prays that this court address the obvious facts of this video matter and that

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jermeal G. white

Date: March 7, 2022