

No. 21-7781

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.
FILED

APR 25 2022

OFFICE OF THE CLERK

Jorge Palacios

(Your Name)

— PETITIONER

vs.

Kevin Smith (only)

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Court of Appeals for the Ninth Circuit

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

PETITION FOR WRIT OF CERTIORARI

Jorge Palacios, PJ8961

(Your Name)

(MCIC/D-17-B-104) 4001 State Hwy 104

(Address)

P.O. Box 409089

Tone CA 95640-9089

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Why the 9th Circuit Court denied to me an expert testimony witness to clarify doubts and to support my argument? Why the 9th Circuit Court denied to me the attorney assistance? Was legal my assistive device contrisration by respondent, despite my complexity of my medic condition and serious medical need? Was legal denied to me by respondent an Yw. walker with seat when my painful inguinal hernia grow worse almost 7cm.? Was legal delaying my inguinal hernia surgery for (2) two years? Was legal commit few oversight to send to hospital, prolonged my suffering by (2) years for my hernia surgery? Was legal that due the my hernia surgery delay, now I suffer for post surgery side effects like Chronic pain.

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

Berney v. Rulsipher, 143 F.3d, 1299, 1311 (10th Cir. 1998), cruel and unusual punishment. Wilson v. Senter, 501 U.S. 294 (1991).
 serious risk of injury in the future. Ferner v. Brennan, 511 U.S. 825 (1994) doctor refuse to take action to protect. Vance v. Peters,
 7, F.3d. 987 (7th Cir. 1996) Expert testimony to verify. Foster v. Runnels, 554 F.3d. 87 (9th Cir. 2009) violating Eighth Amendment
Bradley v. Pucket, 175 F.3d. 1022 (5th Cir. 1998) Right to adequate med. care in prison. Estelle v. Gumble, 429 U.S. 97, 103 (1976)
Hill v. Dekalb Reg'l Youth Det. (Cir. 40, F.3d. 1176 (11th Cir. 1994) Excessive pain by deliberate indifference. Smith v. Carpenter, 311
 F.3d. 178 (2d Cir. 2003) failure to treat prisoner's med condition. Brock v. Wright, 315 F.3d. 758 (2d Cir. 2003) mental anxiety
Frost v. Agnes (9th Cir. 1988); Serrano v. Francis (9th Cir. 2003) 345 F.3d. 1071; Sandin v. Conner (1995) 515 U.S. 472, 488, 115 S.
 Ct. 2593; L.Ed. 418; Ashker v. California Dept of Corrections (9th Cir. 112 F.3d. Deliberate indifference; Plus, Brandon v. Holt
 (1985) 469 U.S. 464, 473, 105 S.Ct. 973; 83 Ed. 978; Connor v. City of Santa Ana (9th Cir. 1990) 897 F.2d. 1487, 1492 n.9. 2nd
Estelle v. Gumble (1976) 429 U.S. 97, 104-105 (97 S.Ct. 285; 50 L.Ed. 251, 252), 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.
Hill v. Dekalb Reg'l Youth Det. (Cir. 40 F.3d. 1176-1178 (11th Cir. 1994) Plus Vance v. Peters, 97, 3.
 987 (7th Cir. 1996). Schmidt v. Odell, 64 F. Supp. 2d. 1014 (D. Kan. 1999) (ell by lack of assistive device Coleman v. Rahija, 114, F.
 3d. 778 (8th Cir. 1997) elder abuse. Jett v. Penner (9th Cir. 2006) 439 F.3d. 109, 1096;

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Ermer v. Brennan	511, U.S. 855 (1994)
Vance v. Peters, (7th (r. 1996)	97, F. 3d. 987
Foster v. Runnels (9th cir. 2009)	559, F. 3d. 87
Estelle v. Gamble (1976)	429, U.S. 97, 104, -105
Lally v. County of Orange (9th cir. 2003)	351, F. 3d. 410, 418, 481
Allen v. City and County of Honolulu (9th cir. 1994)	39, F. 3d.
Schmith v. Odell, Supp 22. 1014, (D. Kan 1999)	64 F.
Hill v. Deked Reg'l Youth Det. (11th (r. 1994)	(tr. 40, F. 3d. 1176

STATUTES AND RULES

Rules 10-14	Rule 29	Rules 33.2 and 34
Rule 39	Rule 10	Rules 13.1 and 13.3, Rule 29.2
		Rule 29

Deliberate indifference Gov. code 844.6(d), 895.6
 tort - Gov. Code 810 et. Seq.
 Violation to Eighth Amendment by wanton of cruel and unusual punishment
 American Disability Act. U.S. 12101-12213 → Elder Abuse
 Civil Rights 1983

OTHER

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 _____ 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 Jan 26 - 2011.

☒ 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

Violation to Eighth Amendment by wanton or cruel and unusual punishment along (2) two years

A.D.A. 42, U.S. 12101-12213, American Disability Act, Elder abuse

Tort. Gov. Code 810 et. Seq.

Deliberate indifference Gov. Code 844.6(d), 845.6.

Civil Rights 1983

STATEMENT OF THE CASE

I was faced substantial serious harm or death by the complexity of my health conditions that Kevin Smith disregarded and failing to take reasonable measures to address: Farmerv. Brennan, 511, U.S. 825 (1994) the respondent knew that I was in danger after, two heart attack, cancer, Hodgkin lymphoma, chemotherapy side effect, hypertension, chronic dizzy, coronary arterial disease, few vertebrae and R. hip damaged, my cane support was indispensable, and K. Smith refuse to take action to protect me violating the Eighth Amendment by his deliberate indifference to my serious health condition when confiscate my cane on 4-26-17, resulting/exacerbating my painful inguinal hernia as bodily injury. Three fell, missing my regular meals ten weeks by lack of safety displacement, until 7-13-17, when LT. Perez order cane devolution because Respondent Smith denied my cane although I submit grievance, Smith allege "no medically necessary" my inguinal hernia result by lack of my cane support. My hernia grow worse almost 7 centimeters with serious complications Smith denied to me an 4w. Walker with seat affecting seriously my health and safety, my hernia surgery was delay since 4-30-17, until, 1-29-19: Borney v. Pulsipher, 143, F. 3d. 1299, 1311 (10th Cir. 1998) as wanton of cruel and unusual punishment/torture, with serious risk for suffering injury in the future due the Smith's deliberate indifference: Wilson v. Senter, 51 U.S. 294 (1991). Smith knew my medical condition and did not respond to it reasonable manner Farmerv. Brennan, 511, U.S. 825 (1994). necessary expert testimony witness to proving that my health condition was so obvious, and was fully ignored despite my grievances exhaustion: Vance v. Peters, 97, F. 3d. 987 (7th Cir. 1996) although I brought to Smith's attention, resulting in my physical injury, painful inguinal hernia, impediment to my safe displacement, deprivation of my life's necessity and violating Eighth Amendment: Foster v. Runnels, 554, F. 3d. 87 (9th Cir. 2009) by denial of a adequate assistive device: Schmidt v. Odell, 64, F. Supp. 2d. 1014 (D. Kan 1999); Smith denial hand restraint modification, medical chronic because "black box", tort device provoke unsafe displacement, wrist injury "black box" add on hand cuff: Bradley v. Puckett, 157, F. 3d. 1022 (5th Cir. 1998). I rely in prison doctor Smith who fail to do so my needs will not be met: Estelle v. Gamble, 429, U.S. 97, 103 (1976); Like when my hernia grow worse in endless suffering by excessive acute pain constipation, mobility impaired: Hill v. Detalle [Reg.] Youth Det. (Cir. 40, F. 3d. 1176 (11th Cir. 1994). Respondent failure to treat my condition resulting in significant injury and wanton infliction of pain: Estelle v. Gamble, U.S. at, 104; Jett v. Penner, 439, F. 3d. 1091, 1096 (9th Cir. 2006) plus my preexistent existence of a serious medical needs Smith v. Carpenter, 316, F. 3d. 178 (2d Cir. 2003) like chronic hypertension, coronary arterial disease, chronic dizziness, cancer in remission that amount serious medical needs and/or conditions that significantly affect my daily activities, plus serious chronic pain: Brock v. Wright, 315, F. 3d. 758 (2d Cir. 2003) Plus anxiety, depression even suicidal thoughts along of two years, Respondent was capable of repetition amounting obviously deliberate indifference violating my right to be free of cruel and unusual punishment guaranteed by the Eighth Amendment with multiples "no medically necessary" that can never be justified, causing unsafe life condition: Frost v. Agnes (9th Cir. 1988) 152, F. 3d. 1124; Serrano v. Francis (9th Cir. 2003) 345, F. 3d. 1071; Sandin v. Conner (1995) 575, U.S. 475, 488, 115, S. Ct. 2293; L.Ed. 418; Ashker v. California Dept. of Corrections (9th Cir. 1990) 879, F. 2d. 1487, 1492, n. 9; Brandon v. Holt (1985) 469, U.S. 469, U.S. 464, 473, 105, S. Ct. 973; 83 Ed. 978; Conner v. City of Santa Ana (9th Cir. 1990) 897, F. 2d. 1487, 1492, n. 9; Multiple violations forbids by Eighth Amendment, the most important for prisoners for my right to a adequate medical care in prison, and my right to be free of cruel and unusual punishment, respondent is liable for...

STATEMENT OF THE CASE

Liability for unnecessary or wanton infliction of pain: Estelle v. Gamble (1976) 429, U.S. 97, 104-105 (97, S. Ct. 285; 50 L. Ed. 251; Jett v. Penner (9th Cir. 2006) 439, F.3d. 109, 1096; Lally v. County of Orange (9th Cir. 2003) 351, F.3d. 410, 418, 421; Clement v. Gomez (9th Cir. 2002) 898, 904; Young v. Harris (S.D.N.Y. 1981) 509, F.Supp. 1111, 1113, 1114; Johnson v. Harris (S.D.N.Y. 1976) F.Supp. 333; Dayne v. Lynneugh (5th Cir. 1988) 848, F.2d. 177; Tolbert v. Eymen (9th Cir. 1970) 434, F.2d. 625. Furthermore I exhaust all remedies, grievance to request assistive devices and adequate medical care as my painful inguinal hernia surgery: Allen v. City & County of Honolulu (9th Cir. 1994, 39, F.3d; that amount deliberate indifference by denial: Hill v. Dekalb Reg. Dist. (11th Cir. 1994), 973 F.3d. 1176, 1178, (11th Cir. 1994); Vance v. Peters, 973 F.3d. 987 (7th Cir. 1996); Respondent ignored my medical problem once it was brought to their attention, causing to me a physical injury by unduly acts: Schmidt v. Odell 64, F.Supp. 2d. 1014 (D. Kan 1999). I wish clarify that now I'm 68 years old, and also I do know about of laws and English language, I supplicate tolerance to my mistakes, please

REASONS FOR GRANTING THE PETITION

Because the Supreme Court held that prison doctors may be held liable under Eighth Amendment when they know a prisoner faces substantial risk by complexity of health condition of serious harm and risk of death, and disregard that risk by failing to take reasonable measures to address it. And because the doctor knew that I was in danger and refuse to take action to protect me, violating the Eighth Amendment to act with deliberate indifference to my health conditions that exposes to me to an unreasonable risk of serious harm since my cane confiscation on 4-26-17 that result in my painful R. inguinal hernia, three (3) fell, missing my regular meals by ten (10) weeks from 4-30-17, to 7-13-17, until a health care Lt Perez order my cane devolution. On 1-11-18, I request an Y.W. Walker with seat for safe displacement because my inguinal hernia grow worse in pain and size, the walker was denied by Kevin Smith and my hernia surgery delay by two (2) years since 4-30-17 to 1-29-19 resulting in deprivation of my basic human needs by lack of safety displacement.

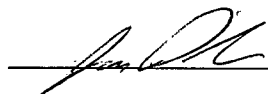
Because the Eighth Amendment's prohibition of cruel and unusual punishment also protect my right to safe and humane conditions in prison that are unsafe or that deprive my basic human needs, such as shelter safe displacement, access to regular meals, exercise by safety displacement. Prison Dr. Smith knew I were being harmed by consequences of his deprivations, denials, oversights etc. and did not respond reasonably, plus I was exposed to serious harm as malnutrition by (10) ten weeks, 3 fell and my painful inguinal hernia as bodily injury that grow worse by two (2) years due Smith's usual deliberate indifference that put me on serious risk even for premature death. I can show by proving that my condition was so obvious that Smith must either know about it or be purposefully ignoring it, the Court will also consider any complaints or grievance reports that I have filed, as well prisoner medical records and indispensable expert witness testimony to clarify and refer/decipher to the problem. The Eighth Amendment protect my right to adequate medical care because the Constitution guarantee's prisoners this right, even though it does not guarantee medical care to people out of prison. Plus the Supreme Court explained that is because "an inmate must rely on prison authorities/doctor to treat his medical needs, if the doctors fail to do so those needs will not be met" and amount deliberate indifference. I can show that I had have serious medical needs as totally disabled, permanent since 11-13-14 with verification on 10-5-15 and exacerbate on 4-26-17 for my cane confiscation, walker denial on 1-11-18 and delay surgery since 2017, until 1-29-19 two (2) years plus post surgery effect as result I suffered is suffering and I will continue suffering and disability by identifiable harm. The Court described serious medical need as "one that has been diagnosed by a physician as mandating treatment or one that is so obvious that even a lay person would easily recognize the necessity for a doctor's attention (surgery) I believe that an expert witness testimony to clarify doubts, and attorney assistance must be indispensable because I litigate against the Department of Justice to denounce an injustice in unequal litigation although I to complete with all request possible, and because I require compensatory damage I invoke this Court to issue an injunction to relief according to my original relief request that is for the quantity,

quantity of \$146,000.00 dls, One Hundred forty six thousand dollars, that is to say \$200.00 dls two hundred dollars for each day of suffering along of two(2) years since 4-26-17, to 1-29-19 two(2) years of significant torture Gov. Code 810. et. Seq. in multiples manner by Kevin Smith's evil acts until result in disability by identifiable harm as inguinal chronic pain for hernia surgery delay, A DA, 41, U.S. 12101-12213, and all previously explained and because I suffer an actual physical injury as result of Kevin Smith's actions that as responsible should pay for my physical permanent harm and pain, and psychological harm that exacerbate my anxiety, depression and even suicidal thoughts, by loss of future wages for permanent physical impaired functions result from Smith's deliberate indifference, which can not be replace or restored for me as disability by chronic pain, lost of physical functions. I believe that 9th circuit was erroneous because denied to me and there knowingly my lack of knowledge of the laws and English language, plus denied to me expert witness testimony to clarify doubts and support my argument about deliberate indifference and my post surgery chronic pain etc. Just I trust in the U.S.A Justice and I hope this court grant to me this lawsuit. Thanks

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 4-19-22