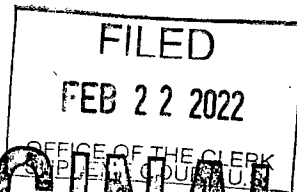


21-7801

No. USAP9 No. 21-71407

IN THE
SUPREME COURT OF THE UNITED STATES



ORIGINAL

In re: Richard E. Shreves — PETITIONER
(Your Name)

United States District Court for vs.
the District of Montana, Helena — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI

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

PETITION FOR WRIT OF CERTIORARI

RICHARD E. SHREVES
(Your Name)

700 CONLEY LAKE ROAD AO#45383
(Address)

Deer Lodge, Montana 59722
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. Did the District Court exceed its authority when it determined Pro-Se Inmate Litigants, forced to participate in the Montana State Prison E-Filing Program, were not entitled to one free copy of the filed document, per 28 U.S.C. §1914(8), disregarding the fact that for two years MSP Inmates had received a free copy of each of their filings sent to the prison with the Notice of Electronic filing and the practice only stopped when the Montana District Court Manager directed the prison officials to stop providing the free copy, referencing STANDING ORDER BMM-6.



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:

David William Harris

Wendy Zuber

Marisa Bostwick (Individual & Official Capacity)

Michael L. Fletcher (Individual Capacity)

Justin Pomeroy (Individual & Official Capacity)

Christopher Francom (individual & Official Capacity)

Ralph "Tony" Matter (Individual & Official Capacity)

Michael Bury (Individual Capacity)

Michael D. Zuber (Individual Capacity)

Thomas Wood (Individual Capacity)

Chris Conell (Individual & Official Capacity)

Daniel Ramirez (Individual Capacity)

Jeffrey McNabb (Individual & Official Capacity)

Kristy Cobban (Individual & Official Capacity)

Loraine Wodnik (Individual Capacity)

Brian Gootkin (Official and Individual Capacity)

Demetric "DJ" Godfrey (Official & Individual Capacity)

Cynthia Wolken (Individual & Official Capacity)



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APPENDIX D	US Dist. September 29, 2021, letter from Michelle Badaruddin and Copy of STANDING ORDER No. BMM-6 filed 10-15-2020
APPENDIX E	Doc. 200 NEFs (3- one no exhibits, one exhibits 1-19, and one all exhibits)
APPENDIX F	8-27-2019 STANDING ORDER DLC-46 for Pilot Program E-Filing at MSP



TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Am. Inmate Paralegal Ass'n v. Cline</u> 859 F2d 59 (8th Cir. 1988)	8
<u>Bauman v. U.S. Dist. Crt.</u> 557 F2d 650 (9th Cir. 1977)	10
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STATUTES AND RULES

28 U.S.C. §1914	Passim
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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 C to the petition and is

☒ reported at 2021 U.S. App. LEXIS 36104; 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 D to the petition and is

☒ reported at STANDING ORDER; 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 December 7, 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

First Amendment of the United States Constitution

Fourteenth Amendment of the United States Constitution

28 U.S.C. § 1914

STATEMENT OF THE CASE

On September 16, 2019, Incarcerated Pro-se Petitioner Shreves was forced to begin participation in the "E-Filing Pilot Project" at Montana State Prison (MSP) (App: F at 1). Shreves objected to mandatory participation because he was pursuing 42 USC §1983 claims against MSP library staff and they would be the officials taking custody of his legal documents for filing and also tasked with scanning the documents to the district court for filing (Dist. Crt. Doc. 14). The objections were denied on 10-10-19 (Doc. 18).

From the MSP E-Filing programs inception, Shreves was provided a copy of each document he filed in accordance with the Notice of Electronic Filing (NEF). The NEF contained the notice, in part, "*** NOTE TO PUBLIC ACCESS USERS *** Judicial conference of the United States Policy permits attorneys of record and parties in a case (including prose litigants) to receive one free electronic copy of all documented filed electronically, if receipt is required by law or directed by the filer" (App: E at 1). Authority for this statement derives from 28 U.S.C. §1914...Electronic Public Access Fee Schedule January 7, 2020...Free Access and Exemptions (8). This free copy was sent to the prison since the programs inception with each NEF and printed by the efilings prison staff and delivered to Shreves and all other inmate filers at MSP for each document filed in the relevant case.

From September 16, 2019 to November 1, 2021, Shreves always received the free copy printed out and delivered to him by the prison staff with only one exception. This incident was detailed in the Informal filed with the letter sent to the appellant court in cause no. 21-71407. Shreves explained he did not receive the free copy on 10-23-19, but after that incident, the free printed copy was delivered to Shreves for every filing.

After 2+ years of this practice delivering the free copy to Shreves, on 11-1-2021, Shreves received a copy of the letter sent to the prison from US Dist. Operations Manager Michelle Badaruddin dated September 29, 2021, and Shreves also received on 11-1-2021 a copy of STANDING ORDER No. BMM-6 filed on 10/15/2020 (App: D). On November 1 Mrs. Burnett, the prison employee, told Shreves, after handing him the letter and standing order, that he would no longer receive copies of the filed document, just the originals back and the NEF. After a brief discussion about the incident with Mrs. Zuber on 10-23-19 and the subject of the Informal, Mrs. Burnett said she would check to see if Shreves would be getting the printed filing again.

Subsequent to the 11-1-21 discussion, MRs. Burnett told Shreves on 11-12-21 that he would not be getting the print out of the NEF document the prison received, just the NEF and originals. Shreves had a pending grievance at that time against Mrs. Burnett for failing to hand deliver the originals to him after filing them through the efilng program. As a result of this substantial change, Shreves wrote the 9th Circuit Court of Appeals on

November 14, 2021 (App: A) to complain about the change and Mrs. Badaruddin exceeding her authority by discontinuing the practice at MSP of providing Shreves the one free copy printed out. The 9th Circuit construed Shreves' November 14th letter as a Petition for a Writ of Mandamus (App:B). Shreves wrote another letter on December 6, 2021 (App:A at 2) in response to the 9th Circuit Notice of a Petition for Mandamus being opened and in his Dec. 6 letter he explained he need a briefing schedule and would seek for appointment of counsel. then, before Shreves briefed anything, and even prior to the 9th circuit receiving his letter, the 9th Circuit summarily dismissed the action opened as a result of his letter (App:c Dec. 7 ORDER). Shreves does not even know if he was billed for the single page ORDER.

Part of the complaint for Mrs. Badaruddin also included the fact she was the clerk who filed Document 200 in Shreves District Court action. In that series of events the filing produced three different NEFs. One listed no exhibits, one listed 1-19, and one listed all exhibits (App:E). The aspect of the events with Doc. 200 that allowed Shreves to conclusively determine a mistake was made, but in the end the documents were all filed properly, was the copy provided to Shreves from the prison that was printed off from the NEF electronically sent to the prison officials. Now, due to Mrs. Badaruddin, that no longer takes place and the 9th Circuit refused to take any action or even allow briefing. Shreves files this Petition Under Rule 10, praying the Court would exercise its supervisory authority to correct this departure from usual procedure (rulling before they even allowed

briefing for a question of first impression).

REASONS FOR GRANTING THE PETITION

The most compelling reason to grant this petition is the newness of this issue and the complete lack of caselaw addressing the issue. Prisoners across the country are being required to participate in Efiling programs and risk having all filing rejected if they do not comply. However, though inmates are required to participate, they are not afforded the obvious benefit of a free copy of the filed document guaranteed to all parties using the efiling system per 28 USC §1914(8). Granting this petition provides the Court the much needed, and welcomes, opportunity to set forth guidance to lead the inmate population into the 21st century.

Numerous Courts have already determined inmates have no right to a typewriter, and, due to that bar, inmates have no right to a computer (Taylor v. Coughlin 29 F3d 39, 40 (2d cir. 1994); Sands v. Lewis 886 F2d 1166, 1169 (9th Cir. 1989); Am. Inmate Paralegal Ass'n v. Cline 859 F2d 59, 61 (8th Cir. 1988)), though prison populations consist of a largely illeterate and uneducated population and would benefit greatly from the tools available on computer for producing legal documents. Lewis v. Casey 518 US 343, 354 (1996). The last decision of this court extending the inmate's right to access the courts was Bounds v. Smith 430 US 817, 828 (1977), nearly 40 years ago. Since that time computers, smart phones, and all the wonders of the modern age ~~have~~ developed and transformed the modern era, leaving the pencil-pushing inmate litigant in the past. Meaningful filing in

Then, when Shreves filed the complaint to the 9th Circuit and they assigned a cause number, the panel summarily dismissed the petition before Shreves was even able to make any argument. Even a rudimentary glance at the Bauman v. U.S. Dist. Crt. 557 F2d 650 (9th Cir. 1977) factors demonstrate Shreves' question was of judicial substance: lack of any other means to seek adequate relief (Factor 1); Shreves being prejudiced by the Dist. Crt. action (Factor 2); The ORDER disregards pro-se parties rights (Factor 4); and the problem is important and of first impression (Factor 5). See Bauman 557 F2d at 654-55.


Though this issue may seem petty and that it lacks any relevance to a Court that handles such monumental issues that shape society, in a prison environment it is just these seemingly small things that influence the ease with which inmates may pursue their claims. It is not hard to imagine a time when all inmates will be forced to efile all documents. Now is the opportunity for the Court to outline what that moment will look like and how inmates will benefit from the program, rather than being the only party in most litigation that even utilizes hand written filings or a typewriter. This is one area the Court should address since it has been over 40 years since the right to access the courts has been "adjusted" to meet the evolution of a

technological world. At least having an exact copy of what is filed is the minimum such awe inspiring machines could benefit the incarcerated litigant.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: April 23, 2022