

21-8155

ORIGINAL

Supreme Court, U.S.
FILED

MAY 19 2022

OFFICE OF THE CLERK

No.

IN THE
SUPREME COURT OF THE UNITED STATES

CHAD MICHAEL VICE,

Petitioner,

-vs-

CITY OF FORT MADISON, ET AL.,

Respondents,

PETITION FOR A WRIT OF HABEAS CORPUS
TO THE UNITED STATES COURT OF
APPEALS FOR THE 8TH CIRCUIT

Chad Michael Vice, #1065118

Anamosa State Penitentiary

406 North High Street

Anamosa, Iowa 52205

Phone No. (319) 462-3504

QUESTION(S) PRESENTED

Whether a United States District Court has jurisdictional authority to dismiss [with prejudice] as untimely a previously adjudicated timely time-frame within State tort proceedings.

Whether the PHRA Screening process on its own and/or coupled with USCA 8th Cir. Rule 47A(c) violates similarly Situated Incarcerated Individuals Constitutional right(s) arising under the 1st Amend. right to be heard, 5th Amend. Access to the Courts, and equal protection of the law incorporated to the States through the 14th Amend.; as well as, to its citizens via Art. IV, § 2, Cl. 1, and the Constitution of Iowa, Art 1, §§ 7, 8, 6.

PARTIES

The petitioner is Chad Michael Vice, an Incarcerated Individual under the supervision of the Iowa Dept of Corr's, residing at: Anamosa State Penitentiary; 406 North High Street; Anamosa, Iowa 52205.

The respondents are the City of Fort

Madison, Fort Madison Police Department, Officer
Dustin Fullhart, Officer(s) John Doe(s), Lee
County, Lee County Sheriff Department, Lee
County Correctional Center, Sheriff Stacey
Wesser, Officer John Conicle, Officer Dusty
Young, Officer(s) John Doe(s), the State of
Iowa.

- Vice-vs- Lee Cnty., No. 4:19-CN-00071-JAJ-
SBJ (S.D. Iowa May 6, 2019)
- Vice-vs- City of Fort Madison, Et Al., No. 4:21-
CN-00354-RGE-SHL (S.D. Iowa Nov. 23, 2021)
- Vice-vs- City of Fort Madison, Et Al., No. 21-
3907 (8th Cir USCA Feb. 02, 2022)
- Vice-vs- Lee Cnty., CNEQ007022, Iowa Dist.
Ct. North Lee County (Iowa Oct. 5, 2021)
- Vice-vs- Stacey Wesser, et al., CNEQ007055,
Iowa Dist. Ct. North Lee County (Iowa 2021)

TABLE OF CONTENTS

Questions Presented.....	i
Parties.....	i, ii
Table of Authorities.....	v
Decisions Below.....	pg. 1
Jurisdiction.....	pg. 2
Constitutional & Statutory Provisions Involved.....	pg's 2, 3
Statement of the Case.....	pg's 4, 5
Reasons For Granting the Writ.....	pg's 5, 6, 7
A. Conflicts with Decisions of Other Courts.....	pg. 5
B. Importance of the Questions Presented.....	pg. 6, 7
Conclusion.....	pg. 7
Index to Appendices.....	iv

INDEX TO APPENDICES

Appendix A Order of the State Trial Court(s)
CWE0007022 & CWE0007055
adjudicating time-limits.

Appendix B Decision of the 8th Cir. U.S. Court
of Appeals.

Appendix C Order of the 8th Cir. U.S. Court of
Appeals Denying Rehearing

Appendix D Order of the U.S. Dist. Court
No. 4:21-cv-00354-RGE-SHL

Appendix E Order of the U.S. Dist. Court
No. 4:19-cv-00071-JAJ-SBJ

RECEIVED

MAY 25 2022

**OFFICE OF THE CLERK
SUPREME COURT, U.S.**

TABLE OF AUTHORITIES

Cases:

- Bazronix vs. Scott, 136 F.3d 1053, 1054 (5th Cir. 1998).....pg. 5
- Eades vs. Clark Distributing Co. Inc., 70 F.3d 441, 443-444
(6th Cir. 1995).....pg. 5
- Erie R.R. Co. vs. Tompkins, 304 U.S. 64, 58 S. Ct. 817, 82 L. Ed
1188 (1938).....pg. 4
- Grayson vs. Mayview State Hosp., 293 F.3d 103, 108-109,
S. Ct. 1827 (1989).....pg. 5
- James Rivers Ins. Co. vs. Rapid Funding, L.L.C., 658 F.3d 1202,
1216-1217 (10th Cir. 2011).....pg. 4
- Neitzke vs. Williams, 490 U.S. 319, 329, 109 S. Ct. 1827.
(1989).....pg. 5
- Royals Ins. Co. of Am. vs. Bu-Val Elec. Corp., 910 F. Supp
647, 652 (E.D.N.Y. 1996).....pg. 4
- Wellis vs. Simonds Abrasive Co., 345 U.S. 514, 73 S. Ct. 856,
97 L. Ed 1211 (1953).....pg. 485

DECISIONS BELOW:

That the decision of the Iowa Dist. Ct. in North Lee Cnty are unreported and are not cited other than the Case No's: Vice-vs-Lee Cnty, CNE0007022 Iowa Dist. Ct. North Lee Cnty (Iowa Oct. 5th, 2021); and, Vice-vs-Stacey Weber, Et Al, CNE0007055 Iowa Dist. Ct. North Lee Cnty (Iowa 2021). A Copy is attached as Appendix A to this petition.

That the decision(s) of the U.S. Court of Appeals for the 8th Cir are unreported and are not cited other than the Case No.: Vice-vs-City of Fort Madison, Et Al, No. 21-3907 (8th Cir. USCA Feb. 2nd & March 18th, 2022). Copies are attached as Appendix B & C to this petition.

That the Order of the U.S. Dist. Ct. for the Southern Dist. of Iowa is unreported and is not cited other than the Case No.: Vice-vs-City of Fort Madison, Et Al, No. 4:21-cv-00354-RGE-SHL (S.D. Iowa Nov. 23rd, 2021). A Copy is attached as Appendix D to this petition.

That the Order of the U.S. Dist. Ct. For the Southern Dist. of Iowa is unreported and is not cited other than the Case No.: Vice-vs-Lee Cnty, No. 4:19-cv-00071-JAJ-SBT (S.D. Iowa May 6, 2019) & (S.D. Iowa Sept. 3rd, 2019). A Copy is attached as Appendix E to this petition.

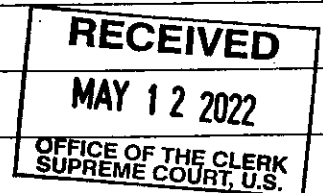
JURISDICTION

That the judgment of the United States Court of Appeals for the 8th Circuit was entered on Feb. 2nd, 2022. An order denying a petition for rehearing was entered on March 16th, 2022; and a copy of the judgment & Order is attached as appendices B & C to this petition. Jurisdiction is conferred by 28 U.S.C. § 1254(1).

That the U.S. Dist. Ct. for Southern Dist. of Iowa had Diversity jurisdiction under the general federal question jurisdiction conferred by 28 U.S.C. § 1332(a).

That the U.S. Dist. Ct. for Southern Dist. of Iowa had Supplemental jurisdiction under the general federal question jurisdiction conferred by 28 U.S.C. § 1367.

CONSTITUTIONAL & STATUTORY PROVISIONS INVOLVED



This Case involves Amendments I and ~~IV~~ to the United States Constitution incorporated to the States via XIV and to its citizens by way of Art. IV, § 2, Cl. 1, and the

Constitution of Iowa, Art. 1, §§ 7, 9 & 6.

which provides: The right to petition and be heard; no law shall be passed to restrain or abridge the liberty of speech (U.S. 1st & 4th Iowa); the right to access the courts with Due Process of law (U.S. 5th & 9th Iowa); The right thus incorporated via U.S. 14th, § 1 [Citizens of the United States] - Due Process of law & equal protection of the laws; as well as, Iowa Const. Art. 1, § 6 - Laws Uniform - All laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens.

These Amendments and Articles are enforced by Title 42, §§ 1983 & 1985, United States Code; as well as, Iowa Tort § 669: by which, allows redress for deprivations of a citizens rights, privileges or immunities secured by the Constitution(s) therein and laws thereof.

STATEMENT OF THE CASE

That the Petitioner [undersigned] seeks relief from the U.S. Dist. Ct. Order entered on November 23rd, 2021, (attached as appendix D) and subsequent judgments of the U.S. Court of Appeals for the 8th Cir., (attached as appendices B & C); in that, the Prison Litigation Reform Act in conjunction with Federal Rules of App. Pr. 8th Cir. Rule 47A(a) have violated the undersigned's access to the courts and right to be heard; whereby, he sought to enjoin the U.S. Dist. Ct. with Supplemental & Diversity Jurisdiction, with Iowa Tort 3669 proceedings, Cause No's: CWF0007022 & CWF0007055; under the Rules of Decision Act 28 U.S.C. §1652. The aforementioned Federal Courts lack jurisdiction to dismiss the State of Iowa's Tort proceeding, Cause No's: CWF0007022 & CWF0007055, as untimely: See, *James Rivers Ins. Co., vs. Rapid Funding, L.L.C.*, 658 F.3d 1207, 1216-1217 (10th Cir. 2011); *Royals Ins. Co. of Am. vs. Ru-Val Elec. Corp.*, 918, Fed. Supp. 647, 652 (E.D.N.Y. 1996); as Fed. Ct's must apply State Statute of limitations & tolling. *Erie R.R. Co. vs. Tompkins*, 304 U.S. 64, 58 S. Ct. 817, 82 L. Ed 1188 (1938); as well with Diversity Challenges: See, *Wells vs. Simonds Abrasive Co.*, [345] U.S. 514, 73 S. Ct. 856,

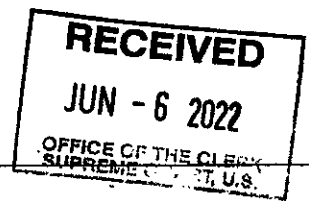
97 L.Ed 1211 (1953); Eades.-vs- Clark Distributing Co. Inc., 70 F.3d 441, 443-444 (6th Cir. 1995)

These proceedings; as well, have already been adjudicated under state tort 8669, by Order of the Iowa Dist. Ct. For North Lee County; to be, Dec. 3rd, 2021, under Cause No. CREF0007022 & CREF0007055.

REASONS FOR GRANTING THE WRIT

A. Conflicts with Decisions of Other Courts

That the holding of the Fed. Ct. is below; that the undersigned failed to state a claim in a timely-manner and thus dismissed with prejudice is directly contrary to the holding of three Federal Circuits, see Neitzke-vs-Williams, 490 U.S. 319, 329, 109, S.Ct. 1827 (1989); Grayson-vs-Mayview State Hosp., 293 F.3d 103, 108-09 (3d Cir. 2002); BazrowX-vs-Scott, 136 F.3d 1053, 1054 (5th Cir. 1998). In Addition, all three speak of opportunity to amend, even within the PLRA Screening process; as well as, denial of opportunity to amend is generally error. However, it is harmless error to dismiss without prejudice.



B. Importance of the Question Presented

This case presents a fundamental question in access to the courts, by petition to be heard, in redress by due process of law, equally protected by the laws to similarly situated pro-se and/or incarcerated individuals. This is because these questions are of great public importance because it affects incarcerated individuals and/or pro-se litigants within the 8th Circuit in a proper to the aforementioned.

These issues' importance are enhanced by the fact the PLRA screening process often times undermines an incarcerated individual(s) and/or pro-se litigant's ability to exercise their right(s) in redress.

That the USAC 8th Cir. local Rule 47A(c); as well hinders an incarcerated individual(s) and/or pro-se litigant's ability to exercise their rights therein; whereby, the Court may summarily dispose of any appeal, thus denying access etc...

Thus the Court below is in error for dismissing with prejudice the Complaint without an opportunity to amend. The undersigned prays this Court under 28 U.S.C. § 2106

Correct the decisions of the lower Courts with an appropriate remedy herein; as well,

the undersigned prays that judgment to include but not be limited to, a Change of Venue to Docket No. 1:22-cv-00020-LTS-XEM; wherein, a Declaratory Judgment has been prayed for in adjudication of his rights in accrual and enjoinder of multidistrict litigation in apropos to the subject matter herein; as well as, continuing wrongs thereafter to include, but not limited to denial of medical care and testing... The undersigned further requests Counsel be appointed to help with the complex issues in concerns [H]erein.

CONCLUSION

For the foregoing reasons, Certiorari should be granted in this case.

"I, the undersigned, declare under the penalty of perjury by the laws of the State of Iowa and pursuant to 28 U.S.C. §1746 that the information contained herein to be true & correct."

Respectfully Submitted


Chad Michael Vree #1065118

April 23rd, 2022

Date