

22-5674

ORIGINAL

Supreme Court, U.S.
FILED

JUN 09 2022

OFFICE OF THE CLERK

No. 21AG70

IN THE
SUPREME COURT OF THE UNITED STATES

CHAD MICHAEL VICE,
Petitioner,

-vs-

LEE CNTY, 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

RECEIVED

MAY 19 2022

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SUPREME COURT, U.S.

QUESTION(S) PRESENTED

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

Whether the PLRA Screening Process on its own and/or coupled with USCA 8th Cir. Rule 47A(c) violates similarly situated incarcerated individuals constitutional rights 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 State citizens via Art. IV, §2, Cl. 1, to the Constitution of Iowa, Art. 1, §§ 7, 9 & 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.

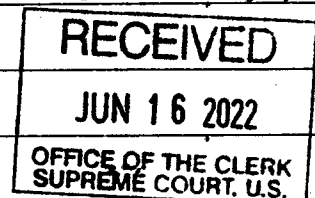
The respondents are the County of Lee, Lee County Sheriff Department, Lee County Correctional Center, Sheriff Stacey Weber,

officer John Canida, Dr. Jane Doe, Nurse Jane Doe.

- Vice-vs- Lee Cnty., Et Al., No. CNE0007059, Iowa Dist. Ct. North Lee Cnty (Iowa Oct 5, 2021)
- Vice-vs- Lee Cnty., Et Al., No. 4:21-ex-00355-RGE-SHh (S.D. Iowa Nov. 24, 2021)
- Vice-vs- Lee Cnty., Et Al., No. 21-3909 (8th Cir. USCA Feb. 02, 2022)

TABLE OF CONTENTS

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



INDEX TO APPENDICES

- Appendix A Order of the State Trial Court(s)
CVE0007059 adjudicated time-limit
- 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 Mandate of the 8th Cir. U.S. Court
of Appeals is Issued in Accordance
with its Judgment
- Appendix E Order of the U.S. Dist. Court
No. 4:21-cv-00355-RGE-SHL

TABLE OF AUTHORITIES

Cases:

BazzowX-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. 4

Erie R. R. Co.-vs-Tompkins, 304 U.S. 64, 58 S. Ct. 817, 82 L.Ed 1188 (1938)..... pg. 4

Grayson-vs-Mexview 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 1207, 1216-1217 (10th Cir. 2011)..... pg. 4

Neitzke-vs-Williams, 490 U.S. 319, 329, 109 S. Ct. 1827 (1989)..... pg. 5

Royal's Ins. Co. of Am.-vs-Bu-Vol Elec. Corp., 918 F. Supp. 647, 652 (E.D.N.Y. 1996)..... pg. 4

Wells-vs-Simonds Abrasive Co., 345 U.S. 514, 73 S. Ct. 856, 97 L.Ed 1211 (1953)..... pg. 5

DECISIONS BELOW:

That the decisions of the Iowa Dist. Ct. in North Lee County are unreported and are not cited other than the Case No.: Vice-vs-Lee Cnty., CV#0007059 Iowa Dist. Ct. North Lee Cnty (Iowa Oct. 5th, 2021); A copy is attached as Appendix A to this Petition.

That the decisions of the U.S. Court of Appeals For the 8th Cir. are unreported and are not cited other than the Case No.: Vice-vs-Lee Cnty., Et. Al., No. 21-3909 (8th Cir. USCA Feb 2nd, March 22nd, and March 31st, 2022). Copies are attached as Appendices B, C & 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., Et Al, No. 4:21-cv-00355-RGE-SHL (S. D. Iowa Nov. 24th, 2021). 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 February 12nd, 2022. An Order denying a petition for rehearing was entered on March 22nd, 2022. A mandate in accordance with the judgment was issued on March 31st, 2022;

and a copy of the judgment, Order & Mandate is attached as Appendices B, C & D 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 & XIV to the United States Constitution incorporated to the States via XIV and to its citizens by way of Act. IV, § 2, C. 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 & 7th Iowa); the right to access

the Courts with Due Process of law (U.S. 5th & 9th Iowa); the right thus incorporated via U.S. Const. XIV, § 1 [Citizens of the United States] Due Process of law & Equal Protection of the laws; as well as, Iowa Constitution 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(s); as well as, Iowa Tort § 669: by which, allows redress for deprivations of a citizens rights, privileges or immunities secured by the respected U.S. & Iowa Constitutions and laws [therein].

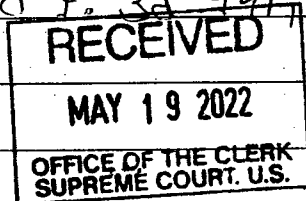
STATEMENT OF THE CASE

That the Petitioner [undersigned] seeks relief from the U.S. Dist. Ct. Order entered on November 24th, 2021, (attached as Appendix E) and subsequent judgements of the U.S. Court

of Appeals for the 8th Cir. (Attached as Appendix B, C & D); 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 §669 proceedings, Cause No.: CVEQ007059, 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.: CVEQ007059, 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 §669, by Order of the Iowa Dist Ct. for North Lee County; to be, Dec. 3rd, 2021, under Cause No. CWFQ007059.

REASONS FOR GRANTING THE WRIT

A. Conflicts with Decisions of Other Courts

That the holding of the Fed. Ct's below; in 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, 108-109 (3d Cir. 2002); *Bazrowl vs-Scott*, 136 F.3d 1053, 1054 (5th Cir. 1998).

In Addition, all three speak of an 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 Questions 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 and/or these questions are of great public importance because it affects Incarcerated Individuals and/or pro-se litigants within the 8th Circuit in apropos to the aforementioned.

These issue's importance are enhanced by the fact the ALRA screening process often times undermines an Incarcerated Individual(s) and/or pro-se litigants ability to exercise their right(s) in redress.

That the USAC 8th Cir. local Rule 47A(a); as well hinders an Incarcerated Individuals and/or pro-se litigants ability to exercise their rights [t]herein; whereby, the Court summarily dispose of any appeal, thus denying access & right to be heard in redress.

Thus the Court below is in error for dismissing with prejudice the complaint without an opportunity to amend. The Undersigned prays this Court under

"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 Vice #1065118
Anamosa State Penitentiary
406 North High Street
Anamosa, Iowa 52205
In Propria Persona

April 23rd, 2022

Date