

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Anthony Andrews — PETITIONER
(Your Name)

vs. IN RE: Andrews

U.S. District Court — RESPONDENT(S)
(E.D.N.C.)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

Anthony Andrews
(Your Name)

Federal Prison Camp, P.O. Box 1000
(Address)

Butler, N.C. 27509
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

What Are "Civil Actions" under
the Prisoner Litigation Reform Act,
PLRA 1995?

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TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

Banks v. Hornak, 698 Fed. Appx. 231 (4th) - (4.)
Circuit 2017 (unpublished)

STATUTES AND RULES

28 USC 1915(b), PLRA, 1995 4, 5.
28 USC 1915(g), PLRA, 1995 4, 5
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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 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☐ is unpublished.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 C 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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.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 April 11th 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: May 24th, 2022, and a copy of the order denying rehearing appears at Appendix B.

☐ 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

Prisoner Litigation Reform Act of (1995)
Judicial Conference Privacy Policy (2008)
Bivens v. Six Unknown Named Officers
Federal Tort Claim Act.

STATEMENT OF THE CASE

Petitioner a three strikes litigant under 28 USC 1915(g) sought review by Petition for Writ of Mandamus to review the district court's denial under 28 USC 455(a) to recuse from a civil proceeding in Case No. 5:21-cv-3072-D (E.D.N.C.) where three US Attorneys violated the Judicial Conference Privacy Policy (2008) by placing "Confidential Information" on PACER "without seal" in the public domain. The Appeals court entered a provisional In Forma Pauperis grant on Feb. 21, 2022 and started collecting payments and the initial filing fee. The Appeals court collected the funds under PLRA. The Fourth Circuit "intentionally" did not make a finding I had three strikes so it would not have to under 28 USC 1915(g) had those filings placed me in "imminent danger" in prison and thus an "In Forma Pauperis" grant. Due to the 4th Circuit's unpublished opinion in Banks v. Hannik, 698 Fed. Appx. 731 (4th Cir. 2012), it found the PLRA does not define "Civil Actions" but found a test in determining whether it fell under PLRA. If it, the filing arose from a Criminal Action it does not fall under PLRA. If it falls under a "Civil Action" it falls under PLRA. I filed a Breach and Tort Action which is now under F.R. Civ. P. 55(d) proceedings. Both the district and Appeals court erred in not finding recusal was warranted when the court found at the district level, I didn't show "imminent danger". The 4th Circuit did not address the IFP Application for the mandamus Action, just collected the money under PLRA, with no review under 28 USC 1915(g). 4.)

REASONS FOR GRANTING THE PETITION

IN Banks v. Hornak, 698 F. Appx. 731, 738 (4th Cir.) (2017) (unpublished) cert denied, 138 S.Ct. 483 (2017) the 4th Circuit found Section 1651(a) Petitions for Writ of Mandamus are subject to the PLRA and its "three strikes rule". The 4th Circuit due to its "unpublished opinion" operates in a grey Area. It allows itself not to make a finding under the three strikes rule and not even address the In forma Pauperis Application altogether. "I Conceded when faced with the fact that 3 US Attys have clearly violated the Judicial Conference Privacy Policy and my rights, I used its Provisional grant of In forma Pauperis without recission of the 4th Circuit was required to make a finding of three strikes, then proceed to 1915(g) to see if I can meet the "imminent danger exception. If Not, I must pay the filing fee upfront for the Mandamus. I have 3 strikes, either I met the exception or not. I was allowed to make the initial filing fee and payments until full payments, even though a "three strikes litigant, so the 4th Circuit would not have to make a ruling against 3 US Attorneys who placed me in "imminent danger" by their filings on PACER. A precedential ruling is needed for the US Courts "what is a "Civil Action" so the 4th Cir. is not allowed to pick what cases it will hear, no matter who it affects.

REASONS FOR GRANTING THE PETITION

Courts must adhere to the Prisoner Litigation Reform Act of 1995. The 4th circuit did not review the Petition for Writ of Mandamus under 28 USC 1651(a) as a "Civil Action" but collected the Payments under 28 USC 1915(b). The district court on August 6th, 2021 clearly found I had three strikes under PLRA. In the IFP Application to the Appeals court, I conceded the three strikes. The 4th Cir would not make a finding I had the three strikes as the district court did, and intentionally avoided a finding under 1915(g). The 4th circuit states in its order under Rule 59(e) was partially granted. I filed the 59(e) reconsideration motion to allow 21 days to pay the \$402.00 filing fee for the complaint in the district court. The 4th circuit has its own IFP Application. The court is required to find first before Any appeal or Civil Action is filed. Does the prisoner have 3 strikes? If not proceed. If so, pay the filing fee upfront or make the 28 USC 1915(g) exception. The 4th circuit did neither. It allowed its provisional IFP to collect the \$500.00 in payments and even though I have And conceded 3 strikes, the provisional IFP grant was not rescinded. Petitions for Writ of Mandamus are "Civil Actions" arising from "Civil Proceedings".

* clarity is needed from the court (5)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

GG ^H 15965-056

Date: August 19th, 2022

Resubmitted 9/7/22

Priority Mail

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to Court