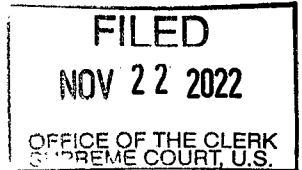


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22-6911

ORIGINAL

No. _____



IN THE
SUPREME COURT OF THE UNITED STATES

In Re:
Bradly M. Cunningham,
Petitioner,

On Petition for an Extraordinary Writ of Mandamus

To
The Oregon Supreme Court
Writ of Mandamus No. S069572

PETITION FOR AN EXTRAORDINARY WRIT OF MANDAMUS

Bradly M. Cunningham
10456927
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No Phone Number

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Bar No. 753239
ATTORNEY GENERAL
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1162 COURT STREET, NE
SALEM, OR 97301
503/378-6002

QUESTIONS PRESENTED

1. Is the Petitioner entitled to benefit from existing state law and state supreme court decisions that all clearly provide for a finding of VOID JUDGMENT based upon undisputed and admitted facts that his civil rights were substantially violated without any Due Process?
2. When the Government substantially violates the civil rights of a criminal defendant (Pretrial Detainee) without Due Process, is the judgment of conviction being sought, by law, void?

PETITIONER: BRADLY M. CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OR 97310

RESPONDENT: ELLEN F. ROSENBLUM, Bar No. 753239
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i.

TABLE OF CONTENTS

QUESTION PRESENTED	i
STATEMENT OF CASE	1
Jurisdiction.....	ii
Background.....	2
Points and Authority.....	3
EFFICIENCY (EXTRAORDINARY CIRCUMSTANCES)	7
CONCLUSION	8

TABLE OF AUTHORITIES

<u>Barber v. Gladden</u> , 210 Or. 46, 298 P.2d 986 (Or. 1956).....	3
<u>Brooks v. Gladden</u> , 226 Or. 191, 195 (1961), cert. denied, 366 U.S. 974 (1961).....	4,5,6
<u>Commander v. Bryan</u> , Tex.Civ.App., 123 S.W.2d 1008, 1015.....	5
<u>Dixie Meadows Indep.Mines Co. v. Kight</u> , 150 Or. 395.....	6
<u>Doggett v. Perez</u> , 348 F.Supp.2d 1169 (E.D. Wash. 2004).....	7
<u>Finch v. Pac. Reduction & Cheml Mfg. Co.</u> , 113 Or, 670, 673.....	5,6
<u>Frank v. Magnum</u> , 1915, 237 U.S. 309, 330-331, 336.....	4
1 Freeman on Judgments 5 th Ed., p.645.....	5
<u>Griffin v. Illinois</u> , 351 U.S. 12, 76 S.Ct. 585 (1956).....	3
<u>Holmberg v. Armbrecht</u> , 1946, 327 U.S. 392.....	6
<u>Horn v. Bailie</u> , 309 F.2d 167, 168 (9 th Circuit).....	6,7
<u>Johnson v. Zerbst</u> , 1938, 304 U.S. 458, 58 S.Ct. 019.....	54,6
<u>Shannon v. Gladden</u> , 421 P.2d 231, 245 Or.305 (Or. 1966).....	7
<u>Shriners Hosp.s for Children v. Woods</u> , 280 Or App. 127.....	5
<u>Skjelbred v. Shafer</u> , 15 N.D. 539.....	6
<u>Smallman, Appl. of</u> , 291 P.2d 749, 206 Or. 262 (Or. 1955).....	7
<u>Smith v. Hickey</u> , 188 Or. 539 (1950).....	5
<u>State v. Lyon</u> , 304 Or. 221, 744 P.2d 231 (Or. 1987).....	7
<u>Waley v. Johnson</u> , 1942, 316 U.S. 101, 62 S.Ct. 964,	6
<u>Walker v. Johnston</u> , 312 U.S. 275, 61 S.Ct. 574,	6
<u>Western Pattern & Manuf. Co. v. Am. Metal Shoe Co.</u> , 175 Wis.....	493, 185 N.W. 535
	5

<u>White v. Ladd</u> , 41 Or. 324, 330.....	5
<u>Wiles v. Wiles</u> , 315 P.2d 131, 211 Or. 163 (Or. 1957).....	5

STATUTES and OTHER AUTHORITIES

ORS 138.520 and 138.680	4
US Const. Amend 8 and 14.....	7,8

PETITIONER'S PRO SE OPENING BRIEF

STATEMENT OF CASE

This Petition for an Extraordinary Writ of Mandamus is based on the following uncontested facts and evidence that was presented to the Oregon Supreme Court, and is now before this Court:

- The state of Oregon concedes my civil rights, as a pretrial detainee, were significantly violated without Due Process when I was forced to endure 200-days of punitive, dark isolation.
- There was no cause, justification, hearing, nor Due Process of any kind prior to severely violating my civil rights.
- The long-term sensory deprivation I suffered caused permanent injury to me.
- As a result of this civil rights violation without Due Process, my criminal judgment of conviction is void.
- There is no statute of limitations for a void judgment (a nullity), and a claim can be brought before any court at any time.

Relatively few federal cases on *void judgment* (losing jurisdiction) were found in my research. Comparatively, the Oregon Supreme Court has a very large number of consistent decisions in both civil and criminal cases over a span of more than 60 years that find in criminal cases: violations of civil rights without Due Process, render any criminal judgment of conviction void (loss of jurisdiction).

It is clear these types of constitutional violations are meant to be addressed or resolved in the state court system. It is the failure of the Oregon Supreme Court to follow its own laws that makes it now necessary to seek this Extraordinary of Mandamus before the Supreme Court of the United States.

Unlike a claim for a civil rights violation, I am asking this Court to compel the state of Oregon to comply with its current, well-established law: **significant civil rights violations without Due Process render the judgment of conviction void.**

The State of Oregon must be compelled by this Extraordinary Writ of Mandamus to comply with its current law, the matter is resolved without further federal court time or resources.

Points and Authority

The state of Oregon admits to a substantial violation of my civil rights (torture) all without any Due Process. The long-term, punitive isolation I suffered was intentional by the State of Oregon to cause extreme sensory deprivation. The prosecution wanted to inflict permanent and irreparable injury to me, which they did. This injury, crippled me at trial and prevented me from making this claim any sooner.

Barber v. Gladden, 210 Or. 46, 298 P.2d 986 (Or. 1956), **“In the pending case the plaintiff brought habeas corpus, which necessarily involved claims of violation of his constitutional rights rendering the judgment of conviction not only erroneous, but void.** (emphasis added) We feel forced to the conclusion that the United States Supreme Court, as at present constituted, would hold that the case at bar presented more potent ground for relief than appeared in Griffin v. Illinois. (Emphasis added) ...If a pauper who appeals to a state supreme court from alleged ordinary non-constitutional errors of law is entitled, under the Equal Protection Clause, to such assistance as will make possible the fair presentation [210 Or. 54] of his case, then surely the United States Supreme Court would hold that a pauper who claims that he is imprisoned under a void judgment would be entitled under the same clause to the waiver of the requirement of a bond for costs if such waiver is necessary to the presentation of his appeal. It may be that a distinction will be suggested between the two cases, because Griffin v. Illinois was a criminal appeal whereas Barber's appeal is in a civil action for habeas corpus. But the argument cuts the wrong way. To be sure, habeas corpus is in form a civil proceeding, but it is one based upon provisions of the Oregon Constitution. Its function, as applied to persons imprisoned for crime, is to afford relief from confinement under a void judgment, a wrong which transcends in seriousness mere errors of law at a trial.”

Wiles v. Wiles, 315 P.2d 131, 211 Or. 163 (Or. 1957) (page 134) ...“It is this very absence of vitality in a void judgment from the moment of its rendition that tends to explain why defendant's appearance in the matter, be it called general, cannot operate retroactively to give it life. A void judgment has been variously and picturesquely described many ways as wanting in any value or substance which can be revived. It has been termed: 'mere waste paper.' Commander v. Bryan, Tex.Civ.App., 123 S.W.2d 1008, 1015; 'the mere image of a judgment.' Western Pattern & Manufacturing Co. v. American Metal Shoe Co., 175 Wis. 493, 185 N.W. 535, 536, 20 A.L.R. 264, cited in Finch v. Pacific Reduction & Chemical Mfg. Co., 113 Or. 670, 673, 234 P. 296. In White v. Ladd, 41 Or. 324, at page 330, 68 P. 739, at page 741, this court, using the words of others, refers to a void judgment as 'a dead limb upon the judicial tree, which should be lopped off. * * * It can bear no fruit to the plaintiff, but it is [211 Or. 170] a constant menace to the defendant.' Also see 1 Freeman on Judgments, 5th Ed. p. 645, where substantially the same description is used.”

Shriners Hosps. for Children v. Woods, 280 Or.App. 127, 380 P.3d 999 (Or. App. 2016)”**Likewise, we observed in *Hutchins* that the definition of a void judgment is one that is “absolutely , without legal efficacy * * * and [is] incapable of confirmation, ratification or enforcement in any manner or to any degree.” 188 Or.App. at 469, 72 P.3d 638 (internal quotation marks omitted). In other words, estoppel cannot lend validity to a judgment that has never existed.” (emphasis added)**

Smith v. Hickey, 188 Or. 539, 214 P.2d 805 (Or. 1950) ... In Finch v. Pacific Reduction & Chemical Mfg. Co., 113 Or. 670, 234 P. 296, 297, a proceeding to set aside a judgment, the court--Justice Brown speaking--said: 'It is a well-established rule of law that relief from a judgment which is void for want of service of process upon the defendant may be had without regard to the time when the

where the trial court had jurisdiction initially but lost it by departing from due process of law, thus rendering the judgment void.” My conviction, caused by the intentional and criminal violation of my civil rights without Due Process by the state of Oregon, is void.

The acts of the state of Oregon violated my civil rights. US Const. Amend 8 and 14, as well as Oregon law. See also, Smallman, Application of, 291 P.2d 749, 206 Or. 262 (Or. 1955); Shannon v. Gladden, 421 P.2d 231, 245 Or.305 (Or. 1966); State v. Lyon, 304 Or. 221, 744 P.2d 231 (Or. 1987); Doggett v. Perez, 348 F.Supp.2d 1169 (E.D. Wash. 2004); and, Horn v. Bailie, 309 F.2d 167, 168 (9th Circuit) (void judgment/no statute of limitations).

JUDICIAL EFFICIENCY

The State of Oregon concedes to the primary fact of this Petition: they violated my civil rights without Due Process. State laws and state supreme court decisions already exist to require the State of Oregon to void my judgment of conviction in State v. Cunningham, Washington County Circuit Court Case No C930434CR, but now, an Extraordinary Writ of Mandamus from the United States Supreme Court is necessary in order to provide Due Process and equal justice under the law.

The political corruption in the State of Oregon caused this injustice, and if it were not for this corruption, the Oregon Supreme Court would be expected to follow its own laws and render my criminal conviction void. Now, no other Court has the authority to compel the Oregon Supreme Court.

No other Court has the jurisdiction to Order the State of Oregon to comply with its own laws and State Supreme Court decisions. A 2254 civil rights claim under FRCP 60b requires among other things, leave of court (9th Circuit) in order to amend, vacate, or alter an existing judgment, then up to an additional 4 to 5 years of court resources to vacate the judgment of conviction.

IN THE SUPREME COURT FOR THE UNITED STATES

USSC NO. _____

IN RE:

BRADLY M. CUNNINGHAM,

/ Petitioner.

IN RE:
Oregon Supreme Court
Case No. S069572

AFFIDAVIT OF BRADLY M. CUNNINGHAM
(VOID JUDGMENT)

STATE OF Oregon)
) ss.
County of Marion)

BEING FIRST DULY SWORN, I DEPOSE AND SAY:

1. This Petition for an Extraordinary Writ of Mandamus arises from my petition for Writ of Mandamus to the Oregon Supreme Court, Case No. S069572, addressing the State of Oregon refusing to comply with its own law and more than 60 years of state supreme court decisions that find: when civil rights were substantially violated without Due Process the judgment of conviction is VOID.
2. This Extraordinary Writ of Mandamus, is the most judicially efficient manner to address a void judgment when the state statutory and State Supreme Court laws already exist, and are crystal clear.

12. Despite admitting these facts, the state Court refuses to honor its own law and release me from custody.
13. I have no 'holds' or any other felony record that would cause the state to not release me.
14. I suspect, due to my age and deteriorating health, the state is simply delaying my release, hoping and waiting for me to die.
15. The housing records of the Washington County Jail show I was treated differently from all other pretrial detainees by being forced to suffer punitive, dark isolation for 180+ days, all without cause, justification, hearing, or any Due Process.
16. Washington County Jail records show I was held for more than 180 days in a small concrete box cell with no windows, no television, no radio, and a solid steel door, with only a lockable slot for a food tray and a small, locked, inspection window.
17. The Washington County Jail records do not show there was any Due Process provided, of any kind, for these civil rights abuses and violations.
18. Washington County Jail records also show I was never allowed to see or be in daylight for the entire time I was isolated.
19. Washington County Jail records show I suffered extreme sensory deprivation from this long-term isolation.
20. This denial of sensory stimulation resulted in injury so significant that immediately prior to the start of my criminal trial, the trial court's psychologist saw me, administered numerous written tests and interviews over 3 or 4 days, and in his professional opinion he testified [and wrote a report - which was given to the prosecution, but withheld from me or my attorneys] that the forced isolation I suffered was so severe, he deemed in his professional opinion I was "unable to aid and assist in my own defense".
21. The records of the Washington County Jail also show I was also intentionally awakened every night by jail staff.

IN THE SUPREME COURT FOR THE UNITED STATES

USSC NO. _____

IN RE:

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Petitioner.

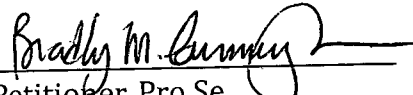
IN RE:
Oregon Supreme Court
Case No. S069572

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I certify that the petition for an extraordinary writ of mandamus contains 2234 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct,

Executed on February 16, 2023.


Petitioner, Pro Se

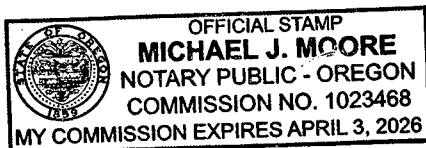
STATE OF Oregon)
) ss.
County of Marion)

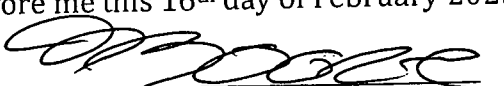
BEING FIRST DULY SWORN, I DEPOSE AND SAY:

I HEREBY CERTIFY the word count on the Opening Brief is 2,234 words.


Brady Cunningham

SUBSCRIBED AND SWORN TO before me this 16th day of February 2023.




Notary Public
Commission Expires: April 3 2026

CERTIFICATE OF COMPLIANCE/

AFFIDAVIT OF BRADLY M. CUNNINGHAM