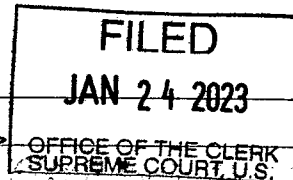


22-6948

IN THE  
SUPREME COURT OF THE UNITED STATES  
JANUARY TERM 2023  
No. \_\_\_\_\_



7<sup>th</sup> CIRCUIT COURT OF APPEALS NO. 22-1991

ROBERT E. SPIKER, #57409-018  
(A/K/A MELISSA ANNE SPIKER)  
PETITIONER.

- AGAINST -

ROBERT E. ERSKINES, ET AL.  
RESPONDENTS.

PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE 7<sup>th</sup> CIRCUIT

Petitioner: ROBERT E. SPIKER, #57409-018  
UNITED STATES PENITENTIARY - FLORENCE  
P.O. BOX 7000  
FLORENCE, COLORADO. 81226

ENC

### QUESTION PRESENTED

that neither the District court nor the seventh circuit court of appeals looked past the alleged claim that Petitioner attempted to defraud the court by not providing a full litigation history he/she does not have access to, and hold trial for Petitioner's claim of eighth amendment constitutional violations for excessive use of deadly force, deliberate indifference of serious medical need.

### PARTIES

the Petitioner is Robert E. Spiker, a validated transgender female known as Malissa Anna Spiker, a prisoner at United States Penitentiary - Florence in Florence, CO. 81226

the Respondents are: Robert E. Erskines, a Lieutenant who used to work at the United States Penitentiary - Thomson facility in Thomson, Illinois, six unknown U.S.P. Thomson staff, warden Andrew Ciolli (whom is now the complex warden at the Federal Correctional Complex in Florence, CO. Nurse V. Garcia and Nurse C. Horst who were nurses at U.S.P. - Thomson, Associate Warden D. Gonzales, JR. at U.S.P. Thomson

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(Docket statement / status sheet showing decision)

TABLE OF AUTHORITIES:

N/A

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## Decisions Below

the decision of the United States Court of Appeals for the 7th circuit is unreported and is a nonprecedential decision (December 14, 2022).

A copy is attached as Appendix A to this Petition.

The decision of the United States District Court for the Western District of Illinois is unavailable due to Prison staff's intentional disposal of Petitioner's Property.

## Jurisdiction

The Judgment of the United States Court of Appeals for the 7th Circuit was entered on December 14, 2022. Jurisdiction is conferred by 28 U.S.C. § 1254(1).

## Constitutional and Statutory Provisions

The case involves Amendment VIII to the United States Constitution, which provides:

The Eighth Amendment to the United States Constitution guarantees that no Prisoner shall be subjected to cruel and unusual Punishment.

The Amendment is enforced by Title 42, Section 1983, United States Code:

"Every Person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other Person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia."

## Statement of the Case

The Petitioner's complaint alleged he was attacked by LT. Robert E. ERSKINES and six unknown United States Penitentiary Thomson staff in an unnecessary and excessive use of deadly force where Petitioner's Right No. 3 6-7-8-9 & 10th Ribs were broken. Petitioner was then pushed to the Special Housing unit - face down on a medical gurney then placed in Full Hard Ambulatory restraints then placed in a steel restraint chair for over twenty (20) hours, with no food, water or bathroom breaks.

The next day Petitioner was removed from restraints and put in a cell where he was denied medical attention for 59 days.

Finally on August 19, 2021 Petitioner was given several x-rays which showed five broken ribs. X-rays were compared to x-rays taken on June 15, 2021, five days before the excessive use of deadly force which happened on or about June 20, 2021 (Sunday). The x-rays on June 15, 2021, showed no broken ribs, and no incidents took place while in the Special Housing unit before August 19, 2021.

## Basis for Federal Jurisdiction

This case raises a question of interpretation of cruel and unusual punishment and deliberate indifference of a serious medical need of the Eighth Amendment to the United States Constitution. The district court had jurisdiction under the General Federal Question Jurisdiction conferred by 28 U.S.C. § 1331.

## REASONS FOR GRANTING THE WRIT

- 1.) The the District court as well as the court of appeals for the 7th circuit were Relieved against Petitioner based on Alleged Prior Perjury in Filing a civil suit while in state custody

### CONCLUSION

For the Forgoing reasons, writ should be granted in this case

Date: January 17, 2023

Respectfully submitted,



Robert E. Spiker, #57409-018  
United States Penitentiary - Florence  
P.O. Box 7000  
Florence, CO. 81226

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