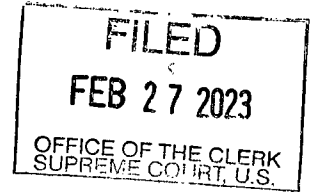


No. 22-7006 ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

Marylin Monroe Porter — PETITIONER
(Your Name)

vs.

Luke Pettigrew et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals — Tenth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Marylin Monroe Porter #744047
(Your Name)

P.O. Box 97
(Address)

Maalester, OL 74502
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

- ① If there is evidence (facts) that shows prison officials thwarted an Inmate's Grievance Procedure through Machination, Can the "Failure to Exhaust" P.L.R.A. (42 U.S.C.A. § 1997e) Defense be entered? If Yes, Shouldn't the Non-Movant be able to produce evidence at a hearing to show Machination?
- ② Does the Due Process Clause and Equal Protection Clause of the 14th Amendment to the U.S. Constitution, require State Prison officials to allow Same sex couples Inmate-To-Inmate marriages?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- (1) Luke Pettigrew - Warden at Joseph Harp Correctional Center
- (2) A. Monden, Unit Manager at Joseph Harp Center (JHCC)
- (3) Leo Brown - A General Chaplain for Oklahoma Department of Corrections (O.D.C.)

RELATED CASES

~~REDACTED~~

- ① Johnson v. Pettigrew, No. 5:20-cv-00764-K
U.S. District Court for the Western District of Oklahoma
Judgment entered: Jan. 10, 2022
- ② Porter v. Pettigrew, No. 22-6015, U.S. Court of Appeals for the Tenth Circuit, Judgment entered: Nov. 30, 2022

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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☒ is unpublished.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 B 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 NOV. 30, 22.

☒ 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: _____, 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. § 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).

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- ① U.S.C.A. Const. Amend. XIV Section 1,
- ② 42 U.S.C. § 1983
- ③ 42 U.S.C. § 1997e(a)

STATEMENT OF THE CASE

On September 1st, 2018, The Petitioner entered a monogamous relationship with Marcus Porter. They are Common Law married. They made a agreement to be Husband and wife. They Cohabited together. They were both Committed to each other and everyone openly knows them both as Husband and wife. In fact Petitioner legally changed her last name to "Porter" to make the Commitment official. Now this would be okay to Anyone if these two individuals wanted to go a step further and have a civil marriage ceremony at a local Courthouse with appropriate jurisdiction. What You Haven't been told? IS that the Petitioner is a MTF (male to female) Pre-Op Transgender woman. Her Husband of Common Law marriage is Bisexual cisgender male. They are both incarcerated in the Oklahoma Department of Corrections (O.D.C.).

Respondents disagree with this civil marriage Commitment so much? They denied Petitioner and her spouse's Petition for Marriage at a local Courthouse. But they didn't stop there. A few Prior to the request for marriage, Petitioner was placed on a "grievance restriction". This "grievance restriction" was utilized as a defense weapon to thwart the Petitioner's Grievance Process through machination. To later claim the P.L.A Defense. In support of this Petitioner states the following:

Timeline of Factual events:

On 4-24-20 Petitioner Submitted a request to staff (The beginning of the O.D.C. Grievance Process) ^{See Appendix D, Pgs 3-7-9} To ask for a "grievance log" (A log that list all grievances ever filed). ^(See Appendix D, Pgs 20-21) So that she may pursue a Successful Grievance Process. On that same day, Respondent Luke Pettigrew's Assistant K. Caskey responded "I don't have any Past Grievances for You in the Past 12 months here @ JHJ. You will need to request from other Facility's about any other grievances. That is Your responsibility" However As earlier noted? This contradicts Policy for the grievance Procedure. ^(See id. Appen D, Pg 20, 21) "I Confidentially and Use A. File maintenance and Access to All inmate/offender grievance records" will be treated as restricted and will be maintained in a file separate from the Inmate/offender file and medical record. 2. Access will be limited to Corrections employees who need such information in the Performance of their duties (such as Staff members preparing responses to grievances and investigations." (Internal quotations added) K. Caskey denied the Petitioner a Copy of her Grievance log.

K. Caskey responded that Sameday Petitioner filed a grievance (see Appendix 1-3). She also seen in C.D.O.C. Grievance Policy that she could file a "Sensitive" Grievance. If the Complaint was on Staff Personnel such as the Facility Head? (K. Caskey - Luke Pettigrew's Assistant) Then a "Sensitive Grievance" can be filed to the Administrative Review Authority (ARA) (see Appendix D. Pg. 17.) However a written response is required within 18-72 hours. (see Appendix D. Pg. 18.) Petitioner filed a Sensitive Grievance to the ARA she never received a response from the ARA let the record reflect Petitioner has still to this day, time and place have still not received any documents for Sensitive Grievance NO. 20-085.

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Grievances Filed

- ① Grievance NO. 20-085: Was apparently decided on May 17, 2020. Its Disposition is still unknown.
- ② Grievance NO. 20-067: Is the Grievance that was filed on behalf of the KTS where Petitioner requested a grievance

by and it was denied apparently
on (1) Petitioner did not include sensitive
Grievance 20-055 (2) The issue is
not grievable to the O.D.O.C. Petitioner
appealed apparently but did not get a response
(3) Grievance No. 20-065 was appar-
ently denied on the grounds of (1) Petitioner
did not include sensitive Grievance
20-055 (2) because the forms provided
to her by the facility Law Library were
out-of-date. (3) For the response on
the PTS was provided by the Chaplain.
Petitioner appealed to the ARA whom
stated that her appeal was improper
for not listing Grievance 20-055
and that the back page was not
notarized. The ARA gave Petitioner pg: 6
ten days to re-submit her appeal.
Petitioner resubmitted her appeal July 10th
2020. However the Grievance Policy has
a "No Mailbox" Rule (It doesn't go
by the date the grievance is placed
in the mailbox, it goes by the date they
receive it and stamp it.) So the appeal
was allegedly received on July 22 by the
P.I.A.A. (Personal Identity Administrative
Review Authority) who then
forwarded via email to the Administrative
Review Authority (A.R.A.) on July
27, 2020 who then ruled that (1)

① ~~Petitioner~~ grievance affidavit was inaccurate missing Sensitive Grievance 20-085 (2) That Petitioner's Grievance was allegedly out of time.

Grievance No 20-090: Petitioner submitted a LTR to the Chaplain at JREC (Joseph Ruff Center) asking for a list of LG BTG - Friendly Chaplains clergy who perform wedding ceremonies on May 11th. The Chaplain responded May 17, 2020 stating I don't have a list, you would have to find one. I don't have that information. Petitioner then submitted Grievance No 20-090. She did not include Sensitive Grievance 20-085, But she did submit an grievance Affidavit to the reviewing Authority (RA). The Grievance was returned unanswered. ① Plaintiff/Petitioner did not include Sensitive Grievance 20-085 (2) It was not a grievable issue. Petitioner then submitted a grievance appeal to the ARA on June 30th, again.

again there is a "No Mailbox Rule"
so I alleged date that the ARA
received it was July 23. The ARA
returned the appeal unanswered
(1) The affidavit did not include
sensitive Grievance 20-085 (2) the
appeal was "out-of-time". Petitioner
inquired the Mailroom why her appeal
was delayed. They stated they were working
from home due to Covid-19 lockdown.
So Petitioner filed an appeal-out-of-
time for a Grievance Appeal stating just
that, and was denied another appeal.

Grievance No. 20-131 Plaintiff submitted
a LTR to the warden asking to be allowed
to correspond with her fiancé so that
she could send him a marriage
application for him to fill out his
portion. The warden denied her request
citing the Correspondence Policy which
prohibits inmate to inmate correspondence
unless the inmates are immediate
family (See Appendix F, Pg. 16).
Petitioner and her "fiancé" fall under Oklahoma's

Common Law Marriage Rules See: In Re
Matter of Estate of Whitehouse 479 P.3d
230, (2020, OK CIV APP 519); Petitioner grievance
was then filed stating her last name as "Parker"
Sufficiently Proves their Common law marriage
and under the Correspondence Policy? Are immediate fam-
ily "Spouse" (See Appendix F Pg 10) The KA denied
the grievance on the same grounds. However did not
refuse Petitioner's grievance affidavit for not including
Sensitive Grievance 20-055. Petitioner then filed a Grie-
vance Appeal to the AKA, whom responded the Grievance
was submitted improperly because of Sensitive Grievance
20-055 missing. The AKA gave Petitioner ten days
to resubmit her grievance Appeal. Petitioner confused
on how she could "Properly" resubmit her
grievance appeal without knowledge of
the grievance 20-055 date, number, description
in opposition, did not resubmit her grievance
appeal.

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ADDITIONAL FACTS: The Respondent's
thwarted the Petitioner's Grievance Process
through Machination by not returning the
Sensitive Grievance 20-055 as their Policy
States. (See Appendix D, Pg 6) Upon receipt
of a grievance marked "Emergency" or "Sensitive"
the AKA will provide an "expedited response"
to all verified Sensitive Grievances within 72
hours of the receipt of the grievance. You may
ask why or how could the respondents

Withholding the sensitive Grievance No 20-085 result in "thwarting through machination"? As earlier mentioned, The Retiree was Placed on a "grievance restriction" Prior to her request for Marriage. The Placement reasons? are always a lie and are unconstitutional forms of retaliation, Machination of Grievance Process, and Interference with Access to Courts Due Process. However this specific Restriction Placement (Nov. 25 2019) Is being Challenged in a Pending case, Johnson V. Sanders et al, CIV-19-269-JFH-SPS (E.O. of OKla.) So the inclusion of it, is only for factual benefits. The Grievance Restriction requirements are as follows:

"X. Abuse of the Process

A. Determining Abuse of the Grievance Process:

(1) The appropriate reviewing authority (RA) may determine there is abuse or misuse of the grievance process and may restrict the inmates/offenders ability to submit a grievance. Types of abuse include but not limited to:

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(a.) Grievances intended to Harass another.

(b.) The Continual and repeated Submitting of frivolous grievances (frivolous grievances are those with no basis in fact or law.)

(C.) The repeated Submitting of grievances or "inmate/offender Grievance Process Request to Staff" ... about an issue previously addressed by Staff in their written response.

(d.) Grievances about de minimis (small, trifling, no available remedy) issues

(e.) Repetitive Grievances by multiple inmates/offenders about the same issue.

(f.) An inmate/offender writing letters instead of utilizing the grievance process and failing to bring complaints by formal Grievance and

(g.) Continued Procedural defects, such as submitting additional pages, after having been previously warned ... (see Appendix D, Pg 19)

There is multiple US Constitution Violations in this above list, let's first examine (d.) Pg: 11

"Grievances about de minimis issues."

The Eighth Amendment to the US Constitution does not protect Prisoners from medical malpractice. Also referred to as "medical negligence". So these claims could be State Claims, filed in "State tort action" which

handles "de minimis" claims of medical negligence. However as the Policy states, A inmate ~~could~~ be barred from pursuing these claims because they will be placed on a "grievance restriction" for an attempt to exhaust administrative remedies. The "grievance restriction" now imposes a retaliation tactic (or an extra hurdle) for utilizing the grievance process, which then would conclude that the State is using The Prison Litigation Reform Act (P.L.R.A.) 42 U.S.C. § 1915(e)(1)(A)(2006) to infringe on Inmates State Constitutional rights and U.S. Constitutional rights to Access to the Courts, which is not the P.L.R.A. intent.

Next, let's examine (e) "Relative Grievances by multiple inmates/offenders about the same issue."

A class action is a lawsuit brought on behalf of a group of people who experience the same harm or have the same complaints. However, under Pg 12 Subsection (e) of the O.D.C. Grievance Policy? An group of inmates could not exhaust their administrative remedies on the same complaint or they would "abuse" the "grievance process". See: 2. Here, yet again, the "grievance restriction" is threatening a retaliatory tactic for exhausting a complaint about a violation of a U.S. Constitutional right. That is effecting multiple inmates, multiple inmates will and have been

Placed on grievance restrictions for this subsection. (c) To make it harder for the class to successfully litigate as a class in court. We yet again, we conclude that the P.L.R.A. is being ~~decried~~ and manipulated by residents, as a "get out of lawsuit free card". Which infringes on the purpose of so many rights, actions that are available to the ~~used~~ Inmate Population, ~~Access~~ to the courts and the initial violation that the Class attempted to exhaust about.

Lastly, let's examine (f) "An inmate/offender writing letters instead of utilizing the grievance process and failing to ~~bring~~ complaints by formal Grievance..."

Now on it's face, This requirement seems acceptable, until you apply the facts of how the O.D.C. Prisons are organized and operated. The "facility head" is the warden or wardens designee, whom runs the prison facility. Such as resident Luke Pettigrew. Pg. 13 Everyone else whom works at the facility except for the medical and mental health branch are under his Authority. The Law Library Supervisor is whom the ~~RTS~~ (request to staff's) must be submitted to. (See Appendix O, Pg. 7, 8-9.) Whom will submit it to the "appropriate Staff member" This has caused delays within

exhausting the first step due to (1) The Law Library Supervisor delaying, "Processing" and Stamping the "date of receipt on the original submission" of the request to staff, Perorders from the Facility's Administration Body. Once Inmates are aware of this? They attempt to write letters or sensitive Grievances (id pg. 17) to the ALH or ALAKA (Medical Administrative Review Authority) only to have their letters rejected or sensitive grievances not answered or not returned, such as the case in this Petition.

How do the Petitioner knows that the P.L.R.A is being weaponized and manipulated by the respondents? By the FACTS set out, (1) By the fact that sensitive Grievance was submitted prior to Petitioner's Grievance 20-090, 20-065, 20-131, yet those ~~grievances~~ were answered, returned and apart of the court record. The only "evidence" that 20-085 even exist is a "Sticky Note" attached to the other Grievances 20-065, 20-090, 20-131, Petitioner never signed a Grievance response for 20-085, never received a response, seen a response of sensitive Grievance 20-085. (2) The Scenarios set out with regard to the "Abuse of the grievance process" are actual events that have and continue to transpire, Subpoenas to numerous of inmates incarcerated and released.) will easily prove these facts

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As well as certain staff members whom are willing to testify to the facts here within. (3) The respondents cite U.S. Supreme Court case law within their references, they understand that the grievance policy controls exhaustion determination. However when the policy is unconstitutional on its face and facts show machination? Petitioner is excused because the "remedies" were not "available" to her.

What are the requirements of utilizing the grievance process while on "grievance restriction"? The requirements are as follows:

"Restriction Process".

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(1) The grievance restriction may be imposed not longer than 12 months. Further abuse's are grounds for extending the restriction. An extension will not exceed 12 months from the date of notification of restriction extension.

(2) For all grievances and appeals submitted during the Restriction Period, the inmate/offender is required to show cause as to why they should be permitted to grieve. Cause will be shown as follows:

(a) The inmate/offender will submit a duly

Verified affidavit, Made under Penalty of discipline for lying to staff, attached to the grievance and appeal stating that All contents of the grievance are true and correct to the best of the inmate's/offenders knowledge. The Affidavit will also contain a complete, accurate and legible list by Grievance number, date, description, and disposition at each level of all grievances previously submitted by the inmate/offender within the last 12 months. Each page ~~must~~ of the Affidavit must be legible and signed verified and Notarized at the end of text. Copies of Notaries will not be accepted. " (See Appendix D, Pg. 26)

First, let's examine why these ~~two~~ respondents implemented this "Grievance Restriction". The "Determination of Abuse Process" already points out that the State Targets inmates whom make de minimis Claims (medical negligence/malpractice) of State Tort Inmates whom are eligible for a "Class action" due to the same issue experienced by multiple inmates. Inmates whom know or want to expose the Facility's, ARA, MARA etc. Machination tactics of thwarting Inmates grievance process. by writing to the Director Directly or to outside agencies,

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If the grievance restriction was imposed for "frivolous grievances" and "procedural defects"

Then why does the restriction process involve more difficult procedure? Shouldn't these procedures be more simplified, on a simple form? There is no form for the "restriction process". The residents expect an inmate whom "procedural defects" were consistent on a formatted approach? To then achieve a non formatted approach? It seems the restriction process adds more requirements on top of the process that the inmate consistent "procedural defects" were ruled on? What sense does that make?? That's like punishing a child for ~~stealing~~ stealing. Then taking him/her on a Robbery spree? No sense at all. What does this restriction process correct? What lesson will an inmate understand or take from this process? The only way to know? Is to ask an inmate whom has experienced this "restriction process". Luckily, The Petitioner has experienced said process.

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The Petitioner is studying to receive her G.E.D. So she can then go apply for her Paralegal Certificate and then her advanced Paralegal Certificate. However, the Petitioner considers herself a "Jailhouse Lawyer". The Petitioner sees everyday the ways in which numerous of inmates rights are violated. If corrected? Would better the inmates perception of the States system. Could lead the inmate to seek out advice of rehabilitation, Re-entry, Education etc. The residents refuse to acknowledge

or accommodate or right, If their personal
biased opinion? Contradicts with that right.
For example, Better healthcare for inmates.
"Oh, No, They'll think it's a holiday
inn and will come back." States have been
saying this for years, yet still the "re-offense"
numbers steady increase in the Tens of thousands
every year? Can we please debunk that out
dated theory? It's too "extensive". If the State
spent it's money on more nutritional food, it would
lower the healthcare needs of inmates by the majority
of it's prison population, But that's not what the State
cares about, the State cares about leasing inmates
as "assets" and cattle. Because if they provide nutritional
value foods? Who'd buy the cattle? How'd
the State bring in revenue from the independent
private contracted distribution corporations? The
"restriction Process," co-exist in the above facts.
If inmates rights are strengthened by litigation
of exposing the violations of the state department
of corrections. The State's "Free Reign" will then be
limited, No more running as they see fit. They'd have
to follow standards, and fine if those standards
not followed. The "restriction Process" targets
the "Jailhouse Lawyers" ~~removes~~ such as petitioners, who
sees the truth in the violations. The requirements
that must be met target these inmates whom
are occasionally filing grievances about constitutional
violations, by requiring them to list all grievances
within a 12 month period. Think of it this way, If

everyday your US Constitutional rights were violated by someone whom has authority over you, but before you could file "one complaint"? It had to go through a 40 day process of jumping through hoops and avoiding roadblocks, then add a 2 year wait on a civil jury trial. How can you then as a "Jailhouse Lawyer" litigate those 365 Constitutional violations? You can't, so you educate other's of their rights, in hope that they'll too stand up for their rights by removing the veil of ignorance? That 365 violations are now down to zero. (This is why State D.O.C. don't provide "Paralegal" as an offered "career trait".) In other words, the average Jailhouse Lawyer files close to 30-~~55~~ grievances a year. Where is the statistic? The Petitioner's grievance log (See Appendix F, Pg. 4) If given the opportunity to show, this court will see that none of those 36 grievances had "Procedural defects", or were "frivolous". In fact, Petitioner has been placed on a current grievance restriction because of her eyes losing vision. She filed a RTS, Grievance, Grievance Appeal to the MARA. The MARA placed her on grievance restriction because allegedly she was "out of time". (See Appendix F, 110 A-E) ON 12-1-21 Petitioner filed her RTS, ON 12-6-21, The CHSA (Correctional Health Service Admin.) responded. ON 12-9-21 Petitioner filed a grievance ON 12-14-21, The CHSA responded to grievance ON 12-27-21 Petitioner received the response. ON 12-27-21 Petitioner sent her grievance appeal

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to the MARA, on Jan 4, 2022. The MARA received the ~~request~~ appeal, hence, the stamped printed date at the bottom right corner is 8 days after Petitioner sent her grievance appeal. The MARA issued a decision on the appeal on Feb 3, 2022 alleging she was "out-of-time" and that a grievance restriction was being imposed. That "90 days" has passed since the initial request to staff? Dec 1st - Feb 3rd, is 2 months and two days, Furthermore the Appeal was received in the MARA office, Jan 4, 22. The date that is stamped, is the day they go off of? However Petitioner has been on this grievance restriction a year next month. Petitioner would have to list 56 grievances to file one complaint of a grievance, then she must have each page notarized "at the end of text". (Notaries are \$1.00⁰⁰ a Notary Stamp.) So 2-3 Pages (\$3.00) and the notaries will not be accepted if they are copies of notaries. $\$3.00 \times 56 = \168.00 , to file 56 grievances is \$168.00⁰⁰ not including postage and envelopes to send for every appeal. (Postage at 50¢ x 56 = \$28.00, envelopes at 5¢ a piece? \$2.80 Total of \$198.80 to file 56 grievances in one year.) Most inmates are indigent the little money their family and friends send from time to time? Wouldn't even amount to such a high amount! This is Pre-lawsuit, This Process was designed for two reasons. (1)

Pg. 12d

to make money off the inmates whom are
brave enough to do such a thing and (2) To
stop meritorious litigation uprisals so the state's
could have its "free reign". Not to "correct"
any "procedural defects" or stop "frivolous grievances"

How does this all have to do with this case?

The respondents set out and planned a system
as set out, to deter inmates from successfully
exhausting their administrative remedies on non-
frivolous, meritorious claims of violations to U.S.
and state constitutions. This is Machination. If
respondents did that? What stops them from
withholding sensitive grievance to-oss? Withholding
grievances then citing "o.o.p.s. You are out-of-time,
we have a "no mailbox rule" (See Appendix F, Exhibit
110A-110E, Appendix D, pg. 5) "we win, ~~our~~ Grievance
Procedures determine if you exhaust." how can this
stand? What the tenth circuit Court of Appeals
failed to apply is that, when there is evidence that
machination is present? You must then examine a case
in a "machination manner". Not just "credit" the point
proven of machination. The Court of Appeals kept
referring to petitioner's "grievance appeals" what
about the "grievance"? What if the sensitive grievance
to-oss was returned within 22 hours? Would the
petitioner had filed a successful "grievance"?
That would have lead to a successful
"grievance appeal"? Let's look at the "grievances".

Grievance 20-065 was returned for (1) Petitioner did not include Sensitive Grievance 20-085 (2) The forms provided to her by the facility's Law Library were out-of-date. (3) Response on the request for staff was provided by the Chaplain.

We already know if Sensitive Grievance was returned within 72 hours, Petitioner would've deleted that claim.

Next, The forms provided by the Law Library Supervisor were out of date. Is this Petitioner's fault? What does the Policy state? "A. Availability of material forms: Materials and forms will be available through the Law Libraries, general Circulation Libraries, Facilities, Probation and Parole offices, and Staff. "Staff" or inmate/offender Research assistants in the 'Law Library' may provide assistance as to the proper procedure for 'submitting a grievance' or appeal." (See Appendix D, Pg. 5, internal annotations added) So it is the Law Library's responsibility, not the Petitioner. If the Law Library (most likely through miscommunication) would've provided her with the correct form? She would have successfully exhausted her grievance. The third part is nowhere in Policy. It just reaffirms that the chaplain responded, which is inconsistent with Petitioner's requested relief. "Affirm my private marriage ceremony with my fiance!"

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and help obtain a marriage License." So her right to file a grievance? was ~~corrected~~ She did not receive requested relief. When she appealed to the ARA, It was allegedly returned for (1) not including Sensitive Grievance 20-085 and not having the back page notarized.

Again, we know if Sensitive Grievance was returned as Policy States? Petitioner would be met that claim.

The Petitioner addressed the FAET that respondents own evidence in their Special Report Shows that even Page was Notarized (See Dec 28, Ex 20, Pg 4-9)

See also Petitioner's opposition to Respondent's Motion to Dismiss.) So the Petitioner would be successfully exhausted her grievance appeal "if" the respondents would be never Planned to interfere with her exhaustion of administrative remedies.

Is there more "direct evidence"? To prove that Pg 23 there was machination to prevent this marriage right from being recognized and heard by Federal Jurisdictional Courts? Yes there is AS Respondent A. Monden Stated to Petitioner "The Warden said there will not be a inmate LGBT marriage at O.P.O.C." This Statement revealed to Petitioner that the marriage application was going to be denied SO Appellant Submitted a RTS to the Facility's Chaplain asking was the marriage denied due to what A. Monden Stated, That is when the Petitioner

Received the denial. (See Doc# 28-17, Bates# 0195) The "key" to seeing the respondent's conduct is to pay attention to all the nearest that A. Monden answered. She reveals through an Invincible Arrogant Personality, what respondent's motives are. (See Doc# 1-8, Pg. 1-10, Doc# 1-9 Page 1 of 2, Petitioner's legal name change order.) Petitioner name is legally changed in the Cleveland County district Court to Marilyn Monroe (first name) Montegh-mezelle (middle) Green-Porter (last) on Pg 1 of 12 (Doc# 1-8). The ~~the~~ Petitioner filed out an request to get education classes to prepare her for her GED exam. The respondent A. Monden refuses to sign Petitioner's request for education because it contains her legal name, which is the name that Petitioner wants to appear on her diploma because she is a transwoman whom employer's might discriminate when hiring her, ~~to~~ a background check could reveal the Petitioner status of a trans woman. Next see Pg 2 of 12, Petitioner simply asked for visiting forms because there was none on the unit and was harassed again about her name. The ~~invincible~~ "invincibility" The respondent's think that they are above state law. The Court ordered name change clearly states all agencies shall adhere the name change. How can the respondent's tell Petitioner what her name is, when the Court ordered and recognized the name change? (See Doc# 1-9, Pg 1 of 2) Next Pg 3 of 12. Petitioner asked for a phone call so that she may speak to

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A Supervisor so that so can get a social security card to reflect her legal name. So that she will have a successful reentry with no hurdles. Again, the ~~resident~~ resident thinks she is going to tell petitioner what to do. Petitioner informed the resident that her name is already legally changed in the courts. The resident stated that petitioner's documents were fraudulent. ~~After~~ Petitioner filed a KTS to resident (Pg 5 of 12) about her response to the "inmate request" on Pg 3 of 12. She lied and stated "Policy" says "You cannot write outside of lines" Yet of 090124 Grievance Procedure says no such thing. Next, Petitioner filed a "follow-up" KTS on the Education Application issue. (Pg 1, 7, 8 of 12) ~~Next~~ Next, The Petitioner writes about obtaining help finding two LGBT friendly Clergy's or ordained ministers for her marriage ceremony. (Pg 9 of 12) Resident's response was that Petitioner had to "research" this "info" on her "own". Yet Petitioner was on the resident's unit, which makes resident her "unit manager". That unit belongs BmU (Behavioral management unit) where there is 23 hour lock down, NO access to phones, computers, Facebooks, Directories. So how could the Appellant/Petitioner "research" this info? Furthermore, The Inmate marriage Policy of 090125, I.C. Staff assistance. States "At institutions, the facility head will designate staff to assist the inmate in meeting the prerequisites for acquiring a marriage license." (See Appendix E, Pg 2 of 6) Yet Staff was not assisting the Petitioner? Why not? Discrimination. This is also proved by the last response Resident sent back (See Doc 1-5, Pg 10 of 12) Petitioner asked her to fill out the "Authorization for Correspondence" form, because it needed a letter head. That as the evidence shows. Petitioner was ridiculed for following the Grievance Procedure. By filling out "Tons" of request "daily" to try to resolve the marriage situation. Then came the "Plot", "Scheme", "Plan" also known as machination, to take action of course. The Resident then conspired with resident Luke Pettygrew by lying and stating on the "Authorization for Correspondence form" that she told the Petitioner to "Fill out yourself" (See Pg 9 of 12, see also Pg 1, Doc 1-5), that the records "do not" reflect her as marriage's Porter's common law wife. That was marked already by Petitioner, as "do" reflect. (Due to common law marriage laws and Petitioner's name change) They stated that they "did not" support Petitioner's request to send her marriage application to her fiancée common law husband. In support of their position, they cite the Inmate marriage Policy that applies to Civilian - Inmate marriages not Inmate - Inmate marriages. Furthermore, The Inmate marriage Policy has nothing to do with Correspondence approval. (See Appendix F, Exhibit 67) The Correspondence form is to be approved to immediate family members defined in 09030118 Visitation Policy. (See Doc 1-4, Pg 2 of 14) If any-thing has to be taken out of the Marriage Policy and applied, it should've been "Formerly Married Inmates (Common law or civil marriage) must submit a cert of a valid divorce decree with their request for marriage unless the inmate's fiancé is also the person listed as a common law spouse." (See Pg 2 of 6, Appendix E, Doc 1-1) Yet Resident Leo Brown denied on the ground "3. Johnson did not submit a request." As well as "Johnson is a current Inmate." And (1) Johnson is not on Porter's visiting list. The Resident's defense from their own Policy's to make sure that a Inmate - Inmate LGBT marriage would not sufficing her plan.

REASONS FOR GRANTING THE PETITION

Rule 10. Considerations Governing Review on Certiorari

(A) United States Court of Appeals has entered a decision in conflict and... has so far departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's Supervisory Power" (See Supreme Court of the United States Rules, Rule 10) As well as Section (C) Rule 10, "a United States Court of Appeals has decided an important federal question in a way that conflicts with relevant decisions of this Court." *id.* (C)

Under these Subsectional Parts, This Court's decision is applied whether to grant or not to grant the Petition.

I. A DECISION DEPARTING FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS:

Statutory interpretation begins with the text. See *Hardt v. Reliance Standard Life Ins. Co.*, 560 U.S. 242, 251 (2000) Section 1047 (a) (42 U.S.C. § 1997e(a)) States "No action shall be brought with respect to prison conditions under section 1983 of this title, or any other federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." It is well understood that exhaustion is mandatory. See *Woodford v. Ngo*, 548 U.S. 81, 185 (2006) Jones v. Bock, 549 U.S. 199, 211 (2007) ("There is no question that exhaustion is mandatory under the P.L.A.") That mandatory language means a Court may not excuse a failure to exhaust, even to take such circumstances into account. ~~See Ross v. Blake~~ (see *Ross v. Blake*, 578 U.S. 632, 639 (2016) *Quelting Miller v. French*, 530 U.S. 327, 337 (2000)). The P.L.A. contains its own, textual exception to mandatory exhaustion. *id.* *Ross v. Blake* 578 U.S. at 642. An inmate that "must exhaust available remedies but need not exhaust unavailable ones. The ordinary meaning of the word 'available' is 'capable of use for the accomplishment of a purpose,' and that which 'is accessible or may be obtained.'" See *Booth v. Churner*, 532 U.S. 731, 737-38 (2001) (*Quelting Miller v. French*, 530 U.S. 327, 337 (2000) Webster's Third New International Dictionary 150 (1993))

See also Random House Dictionary of the English Language 42 (2d ed. 1967) ("suitable or ready for use"); Oxford English Dictionary 812 (2d ed. 1984) ("Capable of being made use of, at one's disposal, within one's reach"); Black's Law Dictionary 135 (6th ed. 1940) ("useable"; "present or ready for immediate use").
Accordingly, an inmate is required to exhaust those, but only those, grievance procedures that are "capable of use" to obtain some relief for the action complained of. *Beeth*, 532 U.S. at 138. Given Prison's own incentives to maintain functioning remedial processes, we expect that these circumstances will not often arise. See Woodford, 518 U.S. at 1020. But when one (or more) does, an inmate's duty to exhaust "available" remedies does not come into play.

This U.S. Supreme Court has previously ruled that remedies are not "available" in three circumstances. (1) "An administrative procedure is unavailable when (despite what regulations or guidance materials may promise) it operates as a complete dead end - with officers' unhelpful or consistently unwilling to provide any relief to aggrieved inmates." (2) "an administrative scheme might be so opaque that it becomes practically speaking incapable of use. In this situation, some mechanism exists to provide relief, but no ordinary prisoner could discern or navigate it." (3) "When prison administrators thwart inmates from taking advantage of a grievance process through machination, misrepresentation, or intimidation." See *Ross v. Blake*, 578 U.S. 643, 644. If these are (or are not) the inmate then *Shawler* (aka "Rosemarie")'s Petitioner's circumstances fit into all 3 exceptions of mandatory exhaustion.

(c) Officer ~~was~~ "unwilling to provide any relief." As the "Statement of Case" section of this Petition sets out on 4-24-20 Petitioner submitted a RTS for a grievance log so that she may pursue a successfully grievance process. The Respondent's Bulke Pettigrew's Assistant was "unwilling" to provide the Petitioner with her requested relief, gave an excuse and lie to prevent Petitioner from successfully exhausting her Administrative Remedies. That excuse and lie contradicts with the Grievance Process Policy (See Appendix D, pg. 20, 21). Petitioner then filed two Grievances on this issue (1) Grievance No. 20-085 and ~~Grievance~~ Grievance No. 20-067 to 20-085 was a Sensitive Grievance because it was a complaint against Facility Head Staff. (See Appendix D, pg. 17) It was filed with the Administrative Review Authority (Ad. R. pg. 115) (ARA). The ARA did not return a response to the Petitioner as of this day, June 20.

Grievance No's 20-0670 Is the Grievance that was filed on behalf of the LTS to K. Caskey grievance denial log. In this Grievance it was consistent with the ~~has~~ relief. A grievance log. It was denied apparently on (1) Petitioner did not include Sensitive Grievance 20-085 (2) The issues is not grievable to the C.O.C.C., This machination practice constantly continued throughout the grievance process of Grievance No's 20-065, 20-040, 20-131 and As the Appendix F Set's out, constantly continues in the ARA, MADA, "unwilling to provide relief" to an Inmate who constantly requested her grievance log, response from Sensitive Grievance, So she could fully comply and complete the grievance process. See Ross v. Blake 578 U.S. 632, 644 (2016) (collecting cases)

(ii) Some mechanism exists to provide relief, but no Ordinary Prisoner can discern or navigate it. As also set out in the "Statement of Case" section of this Petition The C.O.C.C. Grievance Policy is unconstitutional, It threatens Prison inmates willingness to exhaust due to the "Grievance Restriction, Determination of Abuse Case" (see Appendix D, Pg. 19.) (Listing reasons to be placed on grievance restriction.) The cost, the hurdles to trip up all inmates who aren't intelligent enough to navigate through it, who can't read, who wish to use state remedies to recover "de minimis" claims relief, which interferes with The Right to Access the Courts. See Lewis v. Casey, 518 U.S. 343, 350 (1996) (collecting cases protecting inmates right to access the courts.) Inmates with the same complaint, that qualify as a class Action see: Comcast Corp. v. Behrend, 579 U.S. 27, 33 (2013) (collecting cases of class action interpretations.) See Fed. R. C. v. P. 23.

(iii) Prison Administrator's thwart inmates from taking Advantage of a grievance process, through machination, misrepresentation or intimidation. As the "Statement of Facts" set out, The Respondents, employers,

Subsequent's Administrator's Withheld Sensitive Grievance's 20-055, then alleging that Petitioner wasn't complying with Grievance Policy, when it is in fact them who were not following their own Policy's. See: *Shifflett v. Rors Z'niak*, 434 F.3d 356, 365 (3rd Cir. 2014) (Collecting cases where Prison Officers did not follow their own Policy's they implemented but inmates do.)

The Word "Thwart" means "to prevent the accomplishment of." The Word "Machination" means "To scheme or Plot." The Word "Scheme" means "To Plan or Plot." The Word "Plot" means "To Plan secretly." The Word "Plan" means "To formulate a Plan (a method for achieving an end)." Official Scrabble Dictionary, 5th Ed. 2015, Pg. 639, 845, 465, 462.)

The Respondent's Thwarted the Petitioner's Grievance Process by Planning/Acting to not return her Sensitive Grievance 20-055 and by not issuing a Grievance log, so that the Petitioner could not enter the "Grievance Number, date, disposition" (Appendix D, Pg 20, 21) so that they may continue to deny her exhaustion of administrative remedies Certificate to file her 42 U.S.C. 1983 for their denial of her marriage ceremony. This type of machination is not "unheard of." See: *Graham v. Pennsylvanian Department of Corrections*, 2022 WL 287 4724 at 2, 3, 8, 10, FN. 8. (March 21, 2022)

Barnes v. Lawrence, 2019 WL 6117721 at 1, 2, 3 (S.D. Illinois, Nov. 16, 2019) The Respondent's withheld Other Grievance Appeals Claiming that they were "out-of-time"

As Appendix F, Pg. Exhibit 110A-110E shows this practice is common in the Oklahoma Dept of Corrections. A search for "Exhaustion of Administrative Remedies" with a narrowing down to "Oklahoma Dept of Corrections, on Westlaw Next, shows results of 71 cases filed in Oklahoma Federal district courts, 5% of 71 cases make it to trial Pre-PLRA. This is very disturbing. The most disturbing thing is that the 10th Circuit Court of Appeals stated that The district Court "credited" Petitioner for evidence showing machination claims alleged by her

Regarding Sensitive Grievance 20-085. That the "facts" did not affect its Summary Judgment Analysis.
How is this possible? Through trial, discovery Petitioner could be shown machination through a bigger light bell a simple hearing with subpoenaed witnesses could be proved that, but the court refused to "entertain" Petitioner facts.
See Rule 78(a), Fed. R. Civ. P. 78(a) - This Petitioner provided with her Complaint, Sufficient Inmate request, request to staffs of the respondent's hostile attitudes towards her helping her obtain marriage ceremonial persons to conduct the ceremony as set out in "Statement of facts" to respondents A. Monden, Luke Pettigrew, Leo Brown. The district court did not take into account the Complaint exhibits of the objections that Petitioner claimed all along that "road blocks" were "set up" to interfere with her exhaust of Administrative Remedies. See Appendix B, pg 9, FN-7 (Appendix A, II. Discussion, B. Lack of knowledge of the missing Sensitive Grievance, FN. 2 pg. 11) and Law suit. See: ~~Adickes~~ Adickes v. Kress & Co., 398 U.S. 144, 157 (1970). The facts were not viewed in the light most favorable to Petitioner. Id.

II. A UNITED STATES COURT OF APPEALS HAS DECIDED AN IMPORTANT QUESTION OF FEDERAL LAW THAT HAS CONFLICTS WITH RELEVANT DECISIONS OF THIS COURT. This court and numerous circuit courts have declared that appeals from an involuntary dismissal without prejudice see: *Robinson v. Federal Nat. Mortg. Ass'n*, 673 F.2d 1217, 1249 (11th Cir. 1982) (collecting cases) are grounds of an appeal through the Involuntary Dismissal effect. See Fed. R. Civ. P. Rule 41(b) - The Tenth Circuit refused to decide on the underlying merits which would be shared machination, it affirmed the practice of machination, not looking at the claims of the Complaint's exhibits that shared the hostile

Environmental circumstances of LGBT hate, clear as day/
Racial hate inmate's right to marry. See: *Ross v. Blake*
578 U.S. 632, 644 (2016); *Obergefell v. Hodges* 576 U.S. 644,
681 (2015); *Bostock v. Clayton County, Georgia* 140 S.Ct. 1731,
1746 (2020); *Komer v. Evans*, 517 U.S. 620, 632-35 (1996)
; *Johnson v. California*, 543 U.S. 499 (2005); *Turner*
v. Safley 482 U.S. 78 (1987). These known factories?

Shows an unvariable remedy. "Given Prisons' own
incentives to maintain functioning remedial processes
we expect that these circumstances will not often arise."
But when one (or more) does an inmate's duty to exhaust
"Available" remedies does not come into play." *Ross v. Blake*
578 U.S. 643. It is clear from the exhibits in the record
that machination of the grievance procedure leaves
because of the Petitioner's nearest to legally
marry her common law spouse see *Turner*, 482 at 78 100

10) *Obergefell* 576, at 681. (see Appendix F, Pg 47)
The Officials Respondents Stated they would
"not allow" an "LGBT Inmate-to-Inmate marriage"
(id App. F, Pg. 47) They denied under 3 "Cover-up grounds."
(1) Petitioner is an Inmate, (2) Petitioner is not on
her Common Law Spouse Visiting list (3) Petitioner
did not submit a request. Pg. 31

(1) Petitioner is a current Inmate. In 1987 this Court
decided *Turner v. Safley* 482 U.S. 78 (1987) that
Inmates right to marry ^{survive} incarceration, that
the right to marry doesn't effect the Prison, State,
Its a Private right. The Court held that a Prison
regulation will only be upheld if it passes the *Turner*
Test (1) "There must be a 'Valid, National Connection'
between the Prison regulation and the legitimate
Governmental interest put forward to justify it"

(2) "Alternative means of exercising the right that remain open to prison inmates." (3) "Whether the right impacts guards and other prison inmates through a 'ripple-effect' (4.) "Absence of ready alternatives is evidence of the reasonableness." by the same token, the existence of obvious, ^{id} ~~least~~ alternatives may be evidence that the regulation is not reasonable but an exaggerated response" Turner 482 at 89-910

(1.) Valid Rational Connection: The respondents attempt to manipulate the "Turner Standard" by combining O.D.O.C. Marriage, Visitation, and Correspondence Policy. As stated in the "Statement of Case" The respondents planned/plotted through personal prejudicial beliefs (classism, homophobia, transphobia, bigotry.) To not approve and to use hurdles to make sure that an inmate "lost marriage" would not happen. Petitioner and her common law spouse requested to marry, not visit. The only correspondence that was requested was to send her common law spouse an application to her spouse so that he may fill out and send to respondent to her spouse as that he may fill out and send to respondent to the local court house for marriage ceremony. This is clearly not an issue. The respondents already offer this transportation to inmates (See Appendix F, Pg 3) as well as the marriage ceremony taking place other than the facility (id ~~at~~ App. F, Pg. 3) wherefore, the respondents failed the first factor of the Turner Standard.

(2) Alternative Means of exercising. The right that remain open to prison inmates: The alternative of being transported to the courthouse for a private ceremony, is to have the ceremony at the facility. Which in respondent's words could be a "security issue" so this alternative would be inomic for respondents to choose. See Jones v. North Carolina Prisoners' Union 433 U.S. 119, 131 (1977) Furthermore, "The agency having custody is responsible for taking care of prisoners' needs and those that wouldn't be taking care of. See Estelle v. Gamble 429 U.S. 97 (1976) The respondents fail the second factor.

(3) The effect the right has on other inmates and prison staff: As stated earlier, the O.D.O.C. marriage Policy clearly say that transport is not a problem, as long as inmate's pay for the transport before transport takes place. There is no "ripple effect" on staff. If the marriage takes place at a local courthouse? Then other inmates will be

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Inmates will not be effected, even if at the facility, the right to marry, "The decision to marry... is a private one," id. 90. Wherefore The respondents failed the third factor,

(4) "The Absence of Viable alternatives is evidence of the reasonableness of a prison regulation, by the same token the existence of 'obvious' easy alternatives may be evidence that the regulation is not reasonable, but is an 'exaggerated response' to prison concerns... if an inmate claimant can point to an alternative that will accommodate the prisoner's right at de minimis cost to valid penological interests, a court may consider that as evidence that the regulation does not satisfy the reasonable relationship standard. An easy alternative that is obvious is having the local district courthouse issue a writ to bring petitioner and her spouse to the courthouse for the ceremony. By the Sheriff Department (See attached Exhibit 200 in Appendix F) Petitioner is not experienced in state law to do such a writ and would require communication with a Judge. Wherefore, The respondents failed all (4) factors of the "Turner Standard."

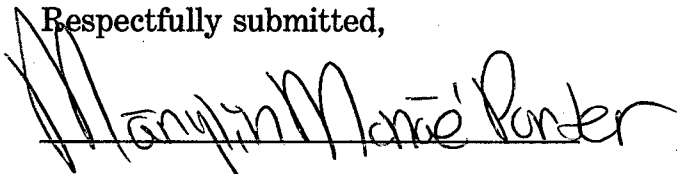
Wherefore, The denial of an LGBT Inmate-to-Inmate Marriage was not reasonably related to a Penological interest.

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,


Monique Marie Ponder

Date: 7-20-23